

SEASIDE PLANNING COMMISSION AGENDA
989 Broadway - City Hall Council Chambers
March 5, 2013
7:00 p.m.

- 1. CALL TO ORDER:**
- 2. PLEDGE OF ALLEGIANCE:**
- 3. OPENING REMARKS:**
- 4. DECLARATION OF CONFLICT OF INTEREST OR EXPARTE CONTACTS:**
- 5. APPROVAL OF MINUTES:** February 5, 2013
- 6. PUBLIC HEARING:**

A.) 13-001VRD is a request by Patrick Morrisey for a **Three (3)** bedroom Vacation Rental Dwelling Permit within the Residential Medium Density (R-2) zone. The property is located at **2020 Beach Dr.**

B.) 13-003NCU: An enlargement of a non conforming use request by Ralph Rogers. The subject property is located at 750 Avenue B and it is zoned General Commercial (C3). This request will allow a 32 sq. ft enlargement to match the existing roof line and foundation height.

- 7. ORDINANCE ADMINISTRATION:**
- 8. PUBLIC COMMENTS:** Not related to specific agenda items:
- 9. PLANNING COMMISSION & STAFF COMMENTS:**
- 10. ADJOURNMENT**

MINUTES SEASIDE PLANNING COMMISSION
February 5, 2013

CALL TO ORDER: Chair Tom Horning called the regular meeting of the Seaside Planning Commission to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Steve Winters, Virginia Dideum, Ray Romine, Tom Horning, Chris Hoth, Bill Carpenter, and Dick Ridout, Staff Present: Debbie Kenyon, Administrative Assistant, Absent: Kevin Cupples, Planning Director

OPENING REMARKS & CONFLICT OF INTEREST/EX PARTE CONTACT: Chair Horning asked if there was anyone present who felt the Commission lacked the authority to hear any of the items on the agenda. There was no response. Chair Horning then asked if any of the Commissioners wished to declare a conflict of interest or ex parte contact. There was no response.

APPROVAL OF MINUTES: Motion to approve the December 4, 2013 minutes; Commissioner Carpenter made a motion to approve the minutes as submitted. Commissioner Romine seconded. The motion was carried unanimously.

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Chair Horning:

1. The applicable substantive criteria for the hearing items are listed in the staff report(s) prepared for this hearing.
2. Testimony and evidence shall be directed toward the substantive criteria listed in the staff report(s) or other criteria in the plan or land use regulation, which you believe applies to the decision.
3. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.
4. The applicant will testify first, then any opposition will testify, and then the applicant will be given time for rebuttal.

PUBLIC HEARING:

A.) 11-031CU: EXTENSION REQUEST OF: A conditional use request by Harry Henke that will allow the development of a 45 unit apartment complex on the property former utilized by Western Oregon Waste (WOW). The subject property is divided into two distinct areas referenced in the request as Lot 1 on the SW corner of Jackson St. & Avenue M (a compilation of tax lots 8300, 8301, 8500, & 8600 of T6, R10, 21DA) and Lot 2 on the SE corner of Jackson St. & Avenue M (a compilation of tax lots 8700, 8800, 8900, & 9000 of T6, R10, 21DA). The residential development of Lot 1 would consist of three nine-unit apartment buildings and Lot 2 would include two nine-unit apartment buildings. The property is currently zoned General Commercial (C-3) and apartments are conditionally permitted in the zone. In conjunction with the conditional use, the applicant is also requesting a variance (**11-032V**) that will allow a reduction in the required number of off-street parking spaces from 2 to 1.5 spaces per apartment unit.

Debbie Kenyon, Administrative Assistant, read the request from Mr. Henke requesting a one year extension.

Chair Horning asked if there was anyone who would like to offer testimony in favor of the request. There was no response

Chair Horning asked if there was anyone who would like to offer testimony in opposition. There was no response

Chair Horning closed the public hearing and the issue was opened for Commission discussion. Commissioner Dideum wanted to make sure that the tree that Commissioner Hoth had requested be moved was still on the conditional use. Commissioner Hoth stated that yes it was still on there in condition #7.

Commissioner Ridout made a motion to approve a one year extension of the conditional use. Commissioner Carpenter seconded and the motion was carried unanimously.

ORDINANCE ADMINISTRATION:

COMMENTS FROM THE PUBLIC:

COMMENTS FROM COMMISSION/STAFF: Elections of Officers. Chair Horning stated that he wouldn't mind stepping down from his post and let someone else take over.

Commissioner Winters made a motion to nominate Commissioner Romine. Commissioner Carpenter seconded, and the motion was carried unanimously.

Commissioner Dideum nominated herself as Vice Chair. Chair Horning seconded, and the motion was carried unanimously.

ADJOURNMENT: Adjourned at 7:15pm.

Tom Horning, Chairperson

Debbie Kenyon, Admin. Assistant

CITY OF SEASIDE STAFF REPORT

To: Seaside Planning Commission
From: Administrative Assistant, Debbie Kenyon
Date: February 25, 2013
Applicant: Patrick Morrissey
1900 Bryant Rd
Lake Oswego, OR 97034
Owner: Patrick Morrissey
Location: 2020 Beach Dr., T6-R10-S 21CD TL#7400
Subject: Conditional Use 13-001VRD; Vacation Rental Dwelling Permit

REQUEST:

The applicant is requesting a conditional use that will allow the establishment of a Vacation Rental Dwelling (VRD) at **2020 Beach Drive**. The subject property is zoned **Medium Density Residential (R-2)** and the **applicant is** requesting a maximum occupancy of **nine (9)** within the existing **three** bedroom dwelling.

The review will be conducted in accordance with Article 6 and Article 10 of the Seaside Zoning Ordinance which establishes the review criteria and procedures for a Conditional Use. The specific review criterion for Vacation Rental Dwellings is included in Section 6.137 of the Ordinance.

DECISION CRITERIA, FINDINGS AND CONCLUSIONS:

The following is a list of the decision criteria applicable to the request. Each of the criteria is followed by findings or justification statements which may be adopted by the Planning Commission to support their conclusions. The Commission may include conditions which they consider necessary to protect the best interests of the surrounding area of the city as a whole. Although each of the findings or justification statements specifically applies to one of the decision criteria, any of the statements may be used to support the Commission's final decision.

DECISION CRITERIA # 1: Pursuant to Section 6.137, Vacation Rental Dwellings (VRDs) within the R-2 and R-3 zones shall be reviewed by the Planning Commission whenever the surrounding VRD density is 20% or greater. A permit shall be issued as an accessory use provided the applicant can demonstrate by written application that all of the following standards are met:

- A. Parking.** One 9' x 18' off-street space will be provided for each bedroom in the unit, but in no event shall fewer than two spaces be provided.
- B. Number of Occupants.** The maximum number of occupants cannot exceed three persons (over the age of three) per bedroom. The maximum

occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations.

The number of overnight renters or the maximum number of occupants may be reduced by the Code Enforcement Officer or Fire Marshal at the time of inspection for valid code reasons.

C. **Residential yard areas.** Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area which is not occupied by buildings must be landscaped in some fashion so that parking will not dominate the yard.

D. **Local responsible party.** A local responsible party that permanently resides within the County must be identified by the owner. The responsible party will serve as an initial contact person if there are questions regarding the operation of the VRD. The owner shall provide the telephone number of the local contact person to the City, and to the immediate neighbors within the notification area (within 100' of the subject property).

E. **Spatial distribution requirements.** Within the medium density residential (R-2) zones and high density residential (R-3) zones, not more than 20% of the properties within 100' of the subject property can be currently licensed for VRD use without Planning Commission review based on the following additional criteria:

A. The use of the property as a VRD will be compatible with the surrounding land uses.

B. The VRD will not contribute to excessive parking congestion on site or along adjacent streets.

A decision by the Commission to approve a VRD request may include conditions that would restrict the number of renters or total occupants in the VRD.

FINDINGS & JUSTIFICATION STATEMENTS:

1. The applicant is requesting a conditional use that will allow the establishment of a Vacation Rental Dwelling (VRD) at **2020 Beach Drive**. The subject property is zoned **Medium Density Residential (R-2)** and the **applicant** is requesting a maximum occupancy of **nine (9)** within the existing **three** bedroom dwelling.

The applicant's submitted justification is adopted by reference and summarized below:

- a. The applicant's plot plan indicates there are **four** off-street parking spaces that are available on the site; **two inside the garage and two in front of the garage**.
- b. The existing **three** bedroom residence will have a limited occupancy of **nine people**.
- c. The plot plan shows that parking will not take up more than 50% of the front, side or rear yard areas.

- d. **Vacasa Rentals (850 2nd Avenue, Seaside OR 97138)** will be the local manager for the VRD. **Emma Poulsen** will be the local contact and she can be reached at **(503) 713-5851**. The after hours number is **(425) 802-7514**.
- e. The owner/applicant, **Patrick Morrissey** has read all of the standards and conditions applicable to VRDs.

2. The proposed VRD is located within a developed residential neighborhood primarily consisting of single family dwellings. Currently **24%** of the surrounding dwellings are licensed for VRD use and all of the property is zoned **Medium Density Residential (R-2)**.

3. All property owners within 100 feet of the subject property were notified of the applicant's request. The Community Development Department **has not** received written comments about the applicant's request.

4. The proposed use is located within the tsunami inundation zone identified by the State of Oregon.

5. The City of Seaside Planning Commission adopted a list of policies and a uniform list of conditions they believed should be incorporated into the vacation rental dwelling review process. These were reviewed with the City Council prior to adoption and they are consistent with the provision in Section 6.031 which in part states: "...the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area of the city as a whole."

CONCLUSION TO CRITERIA #1:

The Vacation Rental Dwelling requirements have been adequately addressed by the applicant and the request can be approved subject to the following list of special and standard conditions of approval:

1. **Compliance Inspection:** The proposed vacation rental dwelling (VRD) must pass a compliance inspection conducted by the Community Development Department prior to any transient rental. This inspection will verify compliance with all VRD standards and conditions of approval and the applicant is hereby advised that failure to meet certain standards can result in a reduction in the maximum occupancy. The final occupancy will be noted in land use file **(13-001 VRD)** and reflected on the City of Seaside Business License. The license is not valid until the appropriate occupancy has been established by the approval of a final compliance inspection by the Community Development Department.
2. **Parking spaces: THREE (3) off-street parking spaces (9' X 18' per space) are required on site.** These spaces shall be permanently maintained and available on-site for use by the vacation rental occupants. Vacation Rental Dwelling (VRD) tenants are required to park in the spaces provided on site for the VRD. No on-street parking associated with this VRD is allowed at this location. Vehicles parked at VRDs may not project over the sidewalk and block pedestrian traffic. A parking map shall be posted inside the dwelling for the VRD tenants.

3. **Maximum number of occupants:** **NINE (9) persons over the age of three years.** The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations. If the number of occupants is less than the original number requested, it may have been reduced for valid code reasons.
4. **Applicability of Restrictions:** Properties licensed for VRD use will be expected to adhere to the VRD standards and rules throughout the entire year even when they are not being rented for profit. This will not apply to the dwellings when members of the owner's family are present.
5. **Open Yard Areas:** Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area that is not occupied by buildings must be landscaped in some fashion so parking will not dominate the yard.
6. **Vacasa Rentals (850 2nd Avenue, OR 97138) will be the local manager for the VRD. Emma Poulsen** will be the local contact for the VRD and she can be reached at **(503) 713-5851** during normal business hours. After hours number is **(425) 802-7514.**
7. The contact person must be available 24 hours a day to address compliance issues while the property is rented. Upon any change in the local contact, the owner must provide formal notice of the updated contact information to the City and all of the neighboring property owners within 100'. Managers are encouraged to notify the City any time they stop representing a VRD.

Local contact information is available at the Community Development Department (503) 738-7100, City Hall (503) 738-5511, or after business hours at the Seaside Police Department (503) 738-6311.
8. **Compatibility:** A VRD will be compatible with the surrounding land uses and shall not contribute to excessive parking congestion on site or along adjacent streets.
9. **Ordinance Compliance & Solid Waste Pick-up:** All vacation rentals must comply with City ordinances regarding noise, smoke, dust, litter, odor, and solid waste collection. Weekly solid waste pick-up is required during all months.
10. **Required Maintenance:** It is the property owner's responsibility to assure that the vacation rental dwelling remains in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes, Traveler's Accommodation Statutes, and with the Uniform Housing Code. **Owners are hereby advised that Carbon Monoxide detectors must be installed and maintained in all newly established transient rental occupancies.**
11. **Permit Non-transferability:** Vacation rental dwelling permits are personal in nature and accordingly are not transferable. Upon transfer of the property, the new owner, if he or she so desires, may apply for a new permit in accordance with City Ordinance.

- 12. Business License, Room Tax Requirements, & Revocation for Non Payment:** A City Business License is required and all transient room tax provisions apply to VRD's. The business license must be obtained prior to any rental of the property. Renewals must be made in January of the permit year. If the business license fee or the transient room tax payments are thirty (30) days past due, the VRD Permit will be revoked unless a written extension is granted by the Finance Director.
- 13. Conflicts & Potential Denial for Non Compliance:** Upon receipt of two written complaints from two or more occupants of different residences who claim to be adversely affected by the use of the property as a vacation rental dwelling, or by notice from the City Code Compliance Officer that requirements or conditions of approval are not being met, the Planning Department will work with the parties involved to settle any conflicts. If the problems are not resolved, the permit will be reviewed by the Planning Commission as provided in Subsection 5 of this Section. Failure on the applicant's part to meet the standards or conditions will result in modification or denial of the permit.
- 14. Complaints:** Applicants are hereby advised the City Code Compliance Officer routinely follows-up on individual complaints if there is a valid code issue that needs to be addressed by the owner and/or manager of a VRD. Staff does not wait until the occupants of two different residences submit written complaints before they take action to achieve compliance. The VRD complaint procedures are outlined in an attachment to the notice of decision and the forms can also be accessed on the City of Seaside's web site <http://www.cityofseaside.us/sites/default/files/docs/VRD-COMPLAINTFORM.pdf> This should be used to report alleged violations that are not being addressed by the local contact or property manager.
- 15. Time Period for Approval, Required Re-inspection:** This VRD approval shall be limited to 5 calendar years unless the dwelling is re-inspected (subject to the applicable fee) for compliance with the VRD policies and ordinances applicable at the time of the re-inspection. Re-inspection notices will be provided to the owners at the time business licenses are issued for the 5th calendar year. If the re-inspection is not completed during the 5th year, the permit will expire and a new VRD application must be approved prior to obtaining a new business license for the 6th calendar year. Compliance with the re-inspection requirements will reauthorize the VRD for an additional 5 calendar years.
- 16. Tsunami Information & Weather Radio:** The owner shall post or otherwise provide a tsunami evacuation map in a conspicuous location within the VRD. In addition, a NOAA weather radio, with automatic alert capabilities, must be permanently affixed in a central part of the VRD along with an informational sheet that summarizes the warning capabilities of the radio in the event of a distant tsunami.
- 17. Grace Period:** If a currently licensed VRD sells to another party, staff is allowed to grant a temporary grace period of not more than 60 days in which current

bookings can be cleared without being recognized as a violation. The manager or owner must provide staff with a list of the bookings during the grace period and no additional bookings can be taken during that time.

FINAL STAFF RECOMMENDATION

Conditionally approve application **13-001VRD** allowing the establishment of a Vacation Rental Dwelling (VRD) with a maximum occupancy of **Nine (9)** at **2020 Beach Drive**. This decision can be supported by the Commission adopting the findings, justification statements, and conclusions in this report subject to the previously stated conditions.

Although they are not conditions of approval, the following is a list of reminders to applicant.

- This approval will become void one (1) year from the date of decision unless final plans are submitted or an extension of time is approved in the manner prescribed under the Seaside Zoning Ordinance.
- As with any permit, the applicant must meet all applicable standards in the Seaside Zoning Ordinance and any other applicable City of Seaside Ordinances.

The information in this report and the recommendation of staff is not binding on the Planning Commission and may be altered or amended during the public hearing.

Attachments: Applicant's Submittal

**CITY OF SEASIDE
VACATION RENTAL DWELLING (VRD) APPLICATION**

The City of Seaside requires approval for short term (less than 30 day) rental of certain types of residential property. These uses are referred to as vacation rental dwellings (VRDs) and they must be approved in accordance with the conditional use provision in Chapter 6.137 of the Seaside Zoning Ordinance (see attached). Although most requests can be reviewed by the Planning Director; in some cases, the requests require a public hearing before the City Planning Commission. In both cases, VRD applicants must provide the following information and submit it for review along with their business license application.

In addressing the following questions, additional information and supporting evidence can be referenced and attached to the submittal.

SUBMITTAL INFORMATION

1. Applicant's Name: PATRICK MORRISSEY
2. Mailing Address: 19000 BRYANT RD, LAKE OSWEGO, OR 97034
3. Telephone #: Home 503-766-3325, Work 25, Fax _____
4. If the applicant is not the current owner, the applicant must also submit a signed statement from the owner that authorizes the VRD application.
5. VRD Street Address: 2020 BEACH DR, SEASIDE
6. Tax Map Ref.: Township __, Range __, Section __ __ __, Tax lot # __ - *see attached*
7. What is the total number of off-street parking spaces (9' X 18') that will be available for VRD occupant use? 4 *The VRD ordinance states: One 9' X 18' off-street space will be provided for each bedroom in the unit, but in no event shall fewer than two spaces be provided.*
8. How many bedrooms are in the dwelling? 3 Is the applicant requesting that all the bedrooms be used to calculate the maximum occupancy, and if not, how many are being proposed? 9 Please multiply the last number by three (3) to indicate the requested maximum occupancy for the VRD 9. *The VRD ordinance states: The maximum number of occupants cannot exceed three persons (over the age of three) per bedroom. The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations. The number of overnight renters or the maximum number of occupants may be reduced by the Code Enforcement Officer or Fire Marshal at the time of inspection for valid code reasons.*
9. All off street parking spaces must be clearly indicated on the applicant's site plan. Will the existing parking spaces or any planned expansion of parking take

up more than 50% of the property's yard areas? _____. The VRD ordinance states: Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area which is not occupied by buildings must be landscaped in some fashion so that parking will not dominate the yard.

10. Who will be acting as the local responsible party for the VRD owner? Name: VACASA RENTALS - EMMA POULSEN Phone # 503-713-5857. Address:

850 2nd AVE, SEASIDE, OR 97138. The VRD ordinance states: A local responsible party that permanently resides within the county must be identified by the owner. The responsible party will serve as an initial contact person if there are questions regarding the operation of the VRD. The owner shall provide the telephone number of the local contact person to the City, and to the immediate neighbors within the notification area (within 100' of the subject property).

11. What is the zone designation of subject property? R-2. The VRD ordinance states: Within the medium density residential (R-2) zones and high density residential (R-3) zones, if more than 20% of the dwelling units within 100' of the subject property are currently licensed for VRD use, a public hearing and review by the Planning Commission is required.

12. Provide a site plan, drawn to scale, which indicates the following: the actual shape and dimensions of the lot, the sizes and locations of buildings and off street parking spaces (existing & proposed). In addition to the site plan, a floor plan(s) must be included which clearly indicates the intended use of all interior areas (e.g. bedrooms, kitchen, living room, storage etc.).

13. The following is a list of standard conditions that apply to VRDs:

- Vacation rentals must comply with City ordinances regarding noise, smoke, dust, litter, odor, and solid waste collection. Weekly solid waste pick-up is required during all months.
- Prior to issuance of a vacation rental dwelling permit, the building in question must be inspected and be in substantial compliance with the Uniform Housing Code.
- It is the property owner's responsibility to assure that the vacation rental dwelling remains in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes; and Traveler's Accommodation Statutes, and with the Uniform Housing Code.
- Vacation rental dwelling permits are personal in nature and accordingly are not transferable. Upon transfer of the property, the new owner, if he or she desires, may apply for a new permit in accordance with the VRD ordinance.
- A City Business License is required and all transient room tax provisions apply to VRD's. The business license must be obtained prior to any rental of the property. Renewals must be made in January of the permit year. If the business license fee or the transient room tax payments are thirty (30) days

past due, the VRD Permit will be revoked unless a written extension is granted by the Finance Director.

- Upon receipt of two written complaints from two or more occupants of different residences who claim to be adversely affected by the use of the property as a vacation rental dwelling, or by notice from the City Code Compliance Officer that requirements or conditions of approval are not being met, the Planning Department will work with the parties involved to settle any conflicts. If the problems are not resolved, the permit will be reviewed by the Planning Commission as provided in the VRD ordinance. Failure on the applicant's part to meet the standards or conditions will result in denial of the application. This would be in addition to any violation procedures specified in Article 12 of the Seaside Zoning Ordinance.

Has the owner or the duly authorized applicant read all the standard conditions and answered all of the questions honestly based on their understanding of the VRD request? YES.

By signing this application, the applicant is also acknowledging that if the request requires review by the Planning Commission (Ordinance Provision 6.137E), the Applicant or a duly Authorized representative must attend the Public Hearing.

Applicant's Signature: *Emma Riley* Date: 11/15/12

-----For Office Use Only-----

At the time of submittal, the applicant must pay the annual business license fee based on the proposed occupancy of the VRD: 1-5 occupants \$75.00, 6-10 occupants \$100.00, 11+ occupants 150.00. This fee must be accompanied by a one time filing fee of \$20.00.

In addition to the business license fee, a \$430.00 planning review fee must be submitted with this application. If the surrounding density of VRDs (see question 11) requires a Planning Commission review, an additional fee of \$240.00 must be paid before staff will schedule the public hearing to review the application.

If the VRD application is not approved, only the business license fee will be refunded.

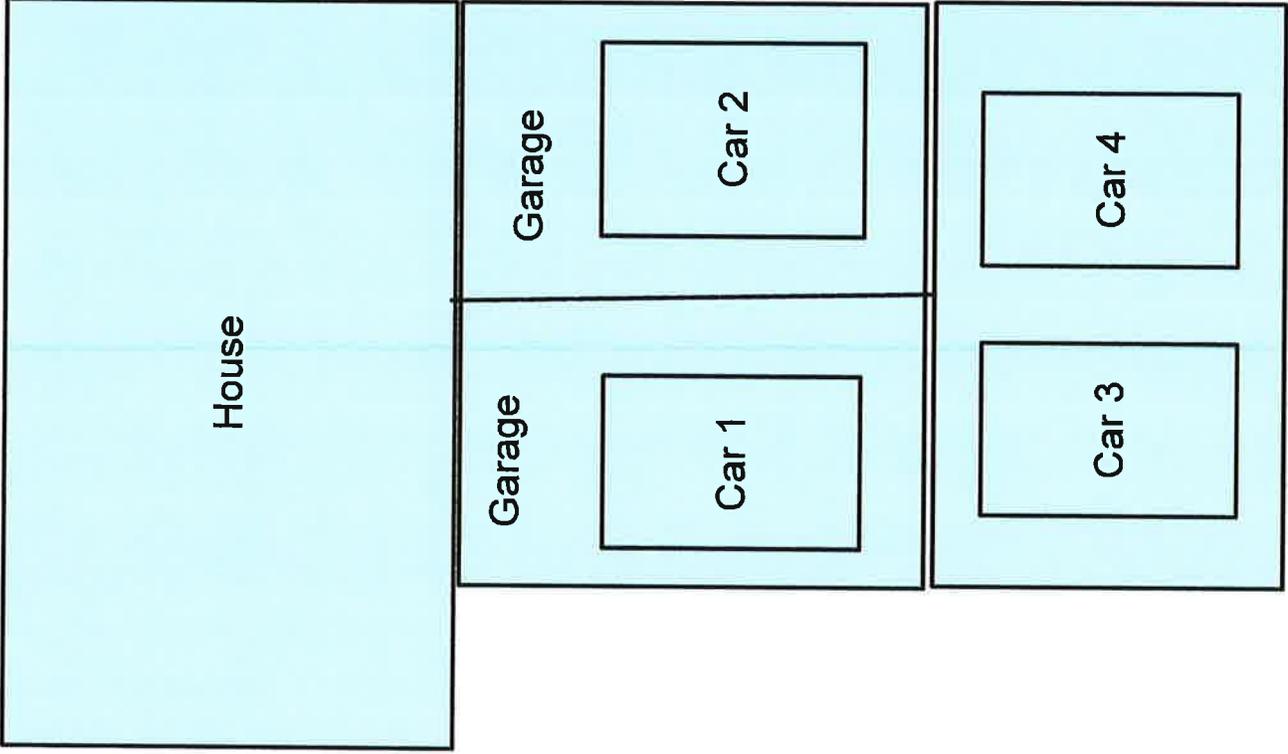
Submittal Date: _____ Amount Paid: _____

~~~~~ For Community Development Use ~~~~~

Date application was received at Community Development: \_\_\_\_\_

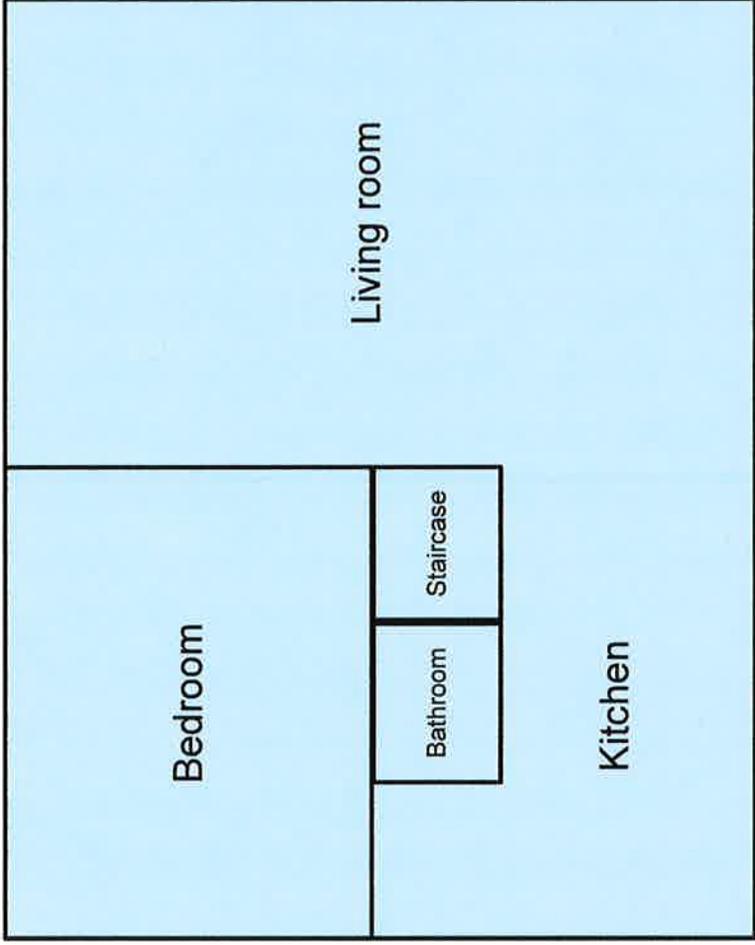
File Reference # \_\_\_\_\_ Date determined to be complete: \_\_\_\_\_

If applicable, date for Planning Commission Hearing: \_\_\_\_\_



All cars must be parked on the property, please do not park on the street.

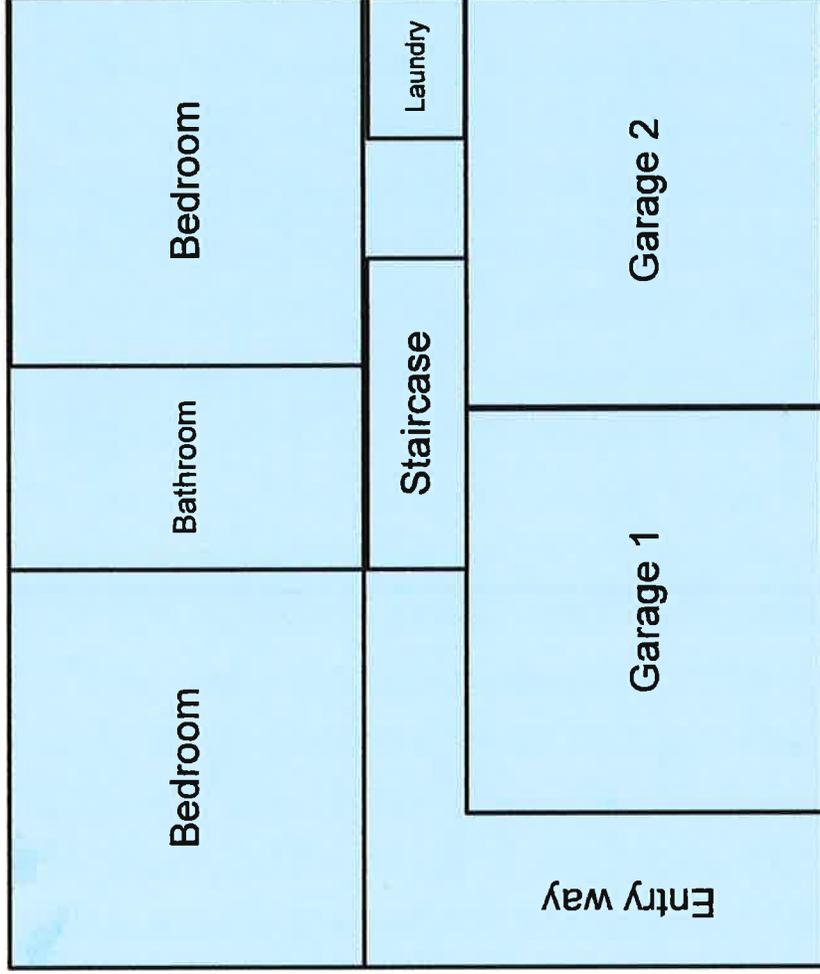
North



Upper Level

2020 Beach Dr, Seaside, OR 97138

North



2020 Beach Dr, Seaside, OR 97138

**CITY OF SEASIDE STAFF REPORT**

**To:** Seaside Planning Commission

**From:** Planning Director, Kevin Cupples

**Date:** March 5, 2013

**Applicant:** Ralph Rogers  
**Owner:** 1505 N Prom  
Seaside, OR 97138

**Location:** 750 Avenue B, Seaside OR: T6, R10, S21AD, TL #13300

**Subject:** 13-003NC, Expansion of a Nonconforming Use

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**REQUEST:**

The applicant is requesting approval to expand the existing dwelling by approximately 32 square feet in order expand an existing bedroom and make the space more livable. The subject property is located at 750 Avenue B and the property is zoned General Commercial (C3).

The request requires Planning Commission approval because the existing use is not permitted in the C-3 zone. Under the provisions of Article 8 in the Seaside Zoning Ordinance, the use is considered nonconforming, and as such, expansion of the use requires Planning Commission authorization pursuant to Section 8.020.

**DECISION CRITERIA, FINDINGS, AND CONCLUSIONS:**

The following is a list of the decision criteria applicable to the request. Each of the criteria is followed by findings or justification statements which may be adopted by the Planning Commission to support their conclusions. The Commission may include conditions which they considers necessary to protect the best interests of the surrounding area of the city as a whole. Although each of the findings or justification statements specifically apply to one of the decision criteria, any of the statements may be used to support the Commission's final decision.

**DECISION CRITERIA #1: Section 8.020 CONTINUATION, ENLARGEMENT, OR RELOCATION OF A NONCONFORMING USE**

**A use allowed prior to the adoption of Ordinance 83-10 but which is no longer permitted in the zone in which it is located may continue after it becomes nonconforming so long as it complies with all the following requirements:**

- 1. A nonconforming use shall not be enlarged or extended to occupy a greater portion of the lot, parcel or structure except as follows:**

**In case of practical difficulty and unnecessary hardship, the Planning Commission may grant the enlargement or expansion of a nonconforming use up to:**

**25% in floor area where the use occurs within a structure where the use and structure existed on the effective date of this ordinance or,**

**10% in land area where the use occurs outside of a structure and where the use existed on the effective date of this ordinance.**

**2. Except as provided in one (1) above, a nonconforming use shall not be moved to any other portion of a lot, parcel or building.**

**FINDINGS & JUSTIFICATION STATEMENTS:**

1. The applicant is requesting approval to expand a bedroom by adding to the area (approximately 2'X16') outside the footprint of the existing dwelling; and because the use is not permitted in the General Commercial (C-3) zone, it is classified as nonconforming and requires authorization by the Planning Commission in accordance with Section 8.020 in the Seaside Zoning Ordinance.

The thirty-two square foot addition will expand the floor area of the existing structure by approximately 4.3% and the expansion will not create any new nonconformance. The applicant's submitted site plan and justification is adopted by reference and summarized below:

- The area utilized for two off-street parking spaces (approximately 20'X20') will be retained.
- The existing structure covers approximately 738 square feet of the 2500 square foot lot. The current lot coverage is 29.5% and the proposed coverage would be approximately 30.8%.
- The space inside the existing dwelling is very tight and the proposed expansion will improve the livability of the space and eliminate an unnecessary hardship. In conjunction with this expansion, the floor level and roof line will be made consistent so there won't be a need to duck down just to enter the room.

2. The County Assessor's Office has been assessing a residential structure on the property since 1955.

3. According to the County Assessor's Office, the structure is being assessed as a single dwelling.

4. The addition to the room will not significantly impact the current use of the property and it will remain dedicated to residential use.

5. Future commercial use consistent with the zone will be problematic due to the small size of the lot and it is likely it would need to be assembled with other property in order for it to be utilized for some other use permitted in the zone.

### **CONCLUSION TO CRITERIA #1:**

The proposed expansion is a minor addition to the existing structure and it will maintain the structure's functional use. This is a reasonable allowance under the provisions in Article 8 provided the following conditions are included:

1. The parking area and access need to be surfaced prior to final inspection.

This condition is intended to require an upgrade to upgrade the parking in conjunction with the expansion of the existing dwelling and help reduce the potential impacts to public streets by reducing the risk of gravel being deposited into the adjacent street.

### **FINAL STAFF RECOMMENDATION**

Approve the request to expand the non-conforming use (13-003NC) at 750 Avenue B subject to the previously stated condition. This decision can be supported by the Commission adopting the findings, justification statements, and conclusions in this report.

Although they are not conditions of approval, the following is a list of reminders to applicant.

- This approval will become void one (1) year from the date of decision unless final plans are submitted or an extension of time is approved in the manner prescribed under the Seaside Zoning Ordinance.
- As with any permit, the applicant must meet all applicable standards in the Seaside Zoning Ordinance, obtain all the required development permits (structural, mechanical, plumbing, electrical, etc.) and comply with any other applicable City of Seaside Ordinances.

*The information in this report and the recommendation of staff is not binding on the Planning Commission and may be altered or amended during the public hearing.*

### **Attachments:**

Applicant's Submittal



# City of Seaside, Planning Department

989 Broadway, Seaside, OR 97138 (503) 738-7100 Fax (503) 738-8765

## Land Use Application

Kevin Cupples, Director

PLEASE PRINT OR TYPE

|                                                              |                               |                          |
|--------------------------------------------------------------|-------------------------------|--------------------------|
| NAME OF APPLICANT<br><b>RCI</b><br><b>RALPH ROGERS</b>       | ADDRESS<br><b>1505 N PROM</b> | ZIP CODE<br><b>97138</b> |
| STREET ADDRESS OR LOCATION OF PROPERTY<br><b>750 "B" AVE</b> |                               |                          |

|                   |               |                      |                    |                        |                         |
|-------------------|---------------|----------------------|--------------------|------------------------|-------------------------|
| ZONE<br><b>C3</b> | OVERLAY ZONES | TOWNSHIP<br><b>4</b> | RANGE<br><b>10</b> | SECTION<br><b>21AD</b> | TAX LOT<br><b>13300</b> |
|-------------------|---------------|----------------------|--------------------|------------------------|-------------------------|

### PROPOSED USE OF PROPERTY AND PURPOSE OF APPLICATION(S):

**SINGLE FAMILY DWELLING**  
**ADD APPROXIMATELY 32 SQFT**

(PLEASE INCLUDE THE APPROPRIATE PLOT PLAN.  
IF ADDITIONAL SPACE IS NEEDED OR SUPPLEMENTAL INFORMATION IS REQUIRED PLEASE ATTACH)

|                                                     |                                                     |
|-----------------------------------------------------|-----------------------------------------------------|
| <b>OWNER:</b>                                       | <b>APPLICANT/REPRESENTATIVE (OTHER THAN OWNER):</b> |
| PRINT NAME OF PROPERTY OWNER<br><b>RALPH ROGERS</b> | PRINT NAME OF APPLICANT/REPRESENTATIVE              |
| ADDRESS<br><b>750 "B" AVE</b>                       | ADDRESS                                             |
| PHONE / FAX / EMAIL<br><b>503-312-2646</b>          | PHONE / FAX / EMAIL                                 |
| SIGNATURE OF PROPERTY OWNER<br><i>Ralph Rogers</i>  | SIGNATURE OF APPLICANT/REPRESENTATIVE               |

**FOR OFFICE USE ONLY - DO NOT WRITE BELOW THIS LINE**

### CHECK TYPE OF PERMIT REQUESTED:

- |                                                  |                                                    |                                          |                                                |
|--------------------------------------------------|----------------------------------------------------|------------------------------------------|------------------------------------------------|
| <input type="checkbox"/> CONDITIONAL USE         | <input checked="" type="checkbox"/> NON CONFORMING | <input type="checkbox"/> SUBDIVISION     | <input type="checkbox"/> ZONING CODE AMENDMENT |
| <input type="checkbox"/> LANDSCAPE/ACCESS REVIEW | <input type="checkbox"/> PLANNED DEVELOPMENT       | <input type="checkbox"/> TEMPORARY USE   | <input type="checkbox"/> ZONING MAP AMENDMENT  |
| <input type="checkbox"/> MAJOR PARTITION         | <input type="checkbox"/> PROPERTY LINE ADJUSTMENT  | <input type="checkbox"/> VACATION RENTAL | <input type="checkbox"/> APPEAL                |
| <input type="checkbox"/> MINOR PARTITION         | <input type="checkbox"/> SETBACK REDUCTION         | <input type="checkbox"/> VARIANCE        | <input type="checkbox"/>                       |

|                                             |                 |
|---------------------------------------------|-----------------|
| <b>PLANNING DEPARTMENT USE:</b>             |                 |
| DATE ACCEPTED AS COMPLETE<br><b>1-25-13</b> | BY<br><b>DK</b> |
| CASE NUMBER (S)<br><b>13-003 N.C</b>        |                 |
| HEARING DATE<br><b>3-5-13</b>               | P.C. ACTION     |

|                              |                    |
|------------------------------|--------------------|
| <b>OFFICE USE:</b>           |                    |
| FEE<br><b>675</b>            | RECEIPT            |
| DATE FILED<br><b>1-25-13</b> | BY<br><b>Ralph</b> |

# ENLARGEMENT OR EXTENSION OF A NONCONFORMING USE

**SECTION 8.020**

**\$675.00**

At the time the Zoning Ordinance is adopted or amended, some of the existing uses may no longer conform to the newly adopted use provisions. These are known as nonconforming uses. In order to feasibly adopt the new Ordinance and not cause undue economic hardship to owners of nonconforming uses, structures are allowed to continue to be utilized under the following provision of Article 8 of the City of Seaside Zoning Ordinance.

## **Section 8.020 CONTINUATION, ENLARGEMENT, OR RELOCATION OF A NONCONFORMING USE**

A use allowed prior to the adoption of Ordinance 83-10 but which is no longer permitted in the zone in which it is located may continue after it becomes nonconforming so long as it complies with all the following requirements:

1. A nonconforming use shall not be enlarged or extended to occupy a greater portion of the lot, parcel or structure except as follows:
  - In case of practical difficulty and unnecessary hardship, the Planning Commission may grant the enlargement or expansion of a nonconforming use up to:
  - 25% in floor area where the use occurs within a structure where the use and structure existed on the effective date of this ordinance or,
  - 10% in land area where the use occurs outside of a structure and where the use existed on the effective date of this ordinance.
2. Except as provided in one (1) above, a nonconforming use shall not be moved to any other portion of a lot, parcel or building.

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**Proposed Alteration:** The Planning Commission will make a determination on the proposed enlargement or extension of a nonconforming use that would occupy a greater portion of a lot or parcel based on the applicant's justification of the following statements:

A. Please explain the proposed plan to expand or enlarge the existing nonconforming use. In addition to the written explanation, the applicant must provide supplemental plans, drawings, and/or photos that will clearly show the Commissioners how and where the existing structure will be modified.

- 
- #1 ADD 32 sq ft ADDITION TO THE EXISTING 738 sq ft HOME.
- 
- #2 ROOF LINE TO MATCH EXISTING
- 
- #3 FOUNDATION HEIGHT TO MATCH EXISTING
-

B. Please explain the practical difficulty and unnecessary hardship that is the basis to justify the request to enlarge or expand the existing nonconforming use.

THE EXISTING AREA WHERE THE PURPOSED ADD ON IS TO TIGHT. THE EXISTING FLOOR AND CEILING DROPS DOWN FROM THE MAIN PART OF THE HOUSE (YOU HAVE TO DUCK TO ENTER) BY ALLOWING THIS 32 SQ FT ADDITION WE ELIMINATE OUR HARDSHIP BY GIVING US A BETTER LIVING SPACE AND WOULD NO LONGER APPEAR AS AN ADD ON

C. Provide the existing nonconforming use's lot coverage area, the area of the subject property, and the area of the proposed expansion or enlargement. Each area calculation should be represented in the form of square feet.

A<sup>1</sup> Area of Existing Nonconforming Use: 738 SQ FT

A<sup>2</sup> Area of the Subject Property: 2500 SQ FT

A<sup>3</sup> Area of Proposed Expansion or extension of use: 32 SQ FT

D. What is the percentage of the proposed expansion or enlargement in relation to the area of the existing nonconforming use: 4.3 %  
(A<sup>3</sup> Expansion divided by A<sup>1</sup> Existing Use)\* 100

E. Is the percentage equal to or less than 25% for a structural expansion or 10% for a use that is outside of a structure? YES

F. Will the existing nonconforming use be moved to any other portion of the subject property? No

G. Provide a site plan, drawn to scale, which indicates the following: the actual shape and dimensions of the lot, the sizes and locations of buildings and other structures (existing & proposed), the existing and intended use of each building (include floor plans), and other information need to determine conformance with the development standards in the ordinance (e.g. setbacks, parking spaces, fences, accesses, landscaping, neighboring buildings, or uses, etc.)

ATTACH EXTRA SHEETS IF NEEDED IN ADDITION TO THE SITE PLAN,

H. I certify the information prepared for this submittal is true and accurate to the best of my knowledge.

Signature: Ralph Rogers Date 1-24-13

Printed Name: RALPH ROGERS

770 proposed on 30.8%



EXISTING PLOT F  
 ADDRESS:  
 750 B AVE.

FOUND 5/8" REBAR WITH  
 YELLOW PLASTIC CAP  
 MARKED "HLB & ASSOC. IN

RAISING ROOF LINE  
TO MATCH EXISTING

NEW FOUNDATION  
TOO MATCH HEIGHT  
OF EXISTING



32 SQ. FT.  
ADDITION TO  
THE WEST



