

SEASIDE PLANNING COMMISSION AGENDA
989 Broadway - City Hall Council Chambers
May 7, 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:** April 2, 2012
- 6. PUBLIC HEARING:**

A.) 13-011VRD is a request by **Tom & Mary Herche** for a **three** (3) bedroom Vacation Rental Dwelling Permit with a maximum occupancy of not more than **nine** (9) people. The property is located at **1131 S Prom** and it is zoned Medium Density Residential (R-2).
- 7. ORDINANCE ADMINISTRATION:**

Reconsideration of Outdoor Lighting Ordinance:
 - 1.) Open Discussion
 - 2.) Public Comments
 - 3.) Consider Recommendation to City Council
- 8. PUBLIC COMMENTS:** Not related to specific agenda items:
- 9. PLANNING COMMISSION & STAFF COMMENTS:**
- 10. ADJOURNMENT**

MINUTES SEASIDE PLANNING COMMISSION
April 2, 2013

CALL TO ORDER: Chair Ray Romine 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, Bill Carpenter, and Dick Ridout, Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director, Absent: Chris Hoth

OPENING REMARKS & CONFLICT OF INTEREST/EX PARTE CONTACT: Chair Romine 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 Romine 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 March 5, 2013 minutes; Commissioner Carpenter made a motion to approve the minutes as submitted. Commissioner Horning seconded. The motion was carried unanimously.

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Chair Romine:

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.) 13-005VRD is a request by **The Sand Chateau I LLC** for a **four (4)** bedroom Vacation Rental Dwelling Permit within the Residential Medium Density (R-2) zone. The property is located at **1317 N Prom.**

Kevin Cupples, City Planning Director, presented a staff report reviewing the request, decision criteria findings, conditions and conclusions.

Chair Romine asked if there was anyone who would like to offer testimony in favor of the request. Reynold Roeder stated that this home was previously a vacation rental with an occupancy of 12 and we will continue to use it as a vacation rental with an occupancy of 10. The city has done the inspection and it passed. There were a couple of corrections that were noted in the inspection but they have been taken care of. No neighbors have contacted him regarding this continuing to be a vacation rental.

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

Chair Romine closed the public hearing and the issue was opened for Commission discussion.

Commissioner Ridout asked if the issue of 10 versus the 12 occupancy is that what the planning commission is going to start seeing on all the vacation rentals? Mr. Cupples stated, not necessarily because if someone chooses to put in a sprinkler system or the home has a sprinkler system then they can have an occupancy of more than 10.

Commissioner Ridout asked about the children under the age of three not counting in a vacation rental. He asked, how does this work with the fire code? Mr. Cupples stated that with the new way of counting heads there is a maximum occupancy of 10 people and children count as people, and that is specifically how the report was written.

Mr. Roeder stated that they have lost a couple of bookings because of the occupancy not being able to accommodate the 12 people with the new rules. Commissioner Carpenter asked if this is a new amendment to the public or is it something that we have chosen to enforce. Mr. Cupples stated that Bob the building official has taken over the inspections and knows all the codes and said that these need to be treated under the transient occupancy provisions. Commissioner Dideum asked when the 10 people came into effect? Mr. Cupples stated that it was when Bob Mitchell started doing the vacation rental inspections.

Commissioner Carpenter made a motion to approve the VRD under the guidelines that staff has presented.

Commissioner Ridout seconded and the motion was carried unanimously.

ORDINANCE ADMINISTRATION: Lighting Ordinance Draft

Mr. Cupples went over the draft ordinance that was discussed at the previous work session. One of the things brought up was the amount of lumens that should be allowed per light fixture.

The Federal Trade Commission's Lumen vs. Watts Chart

- 40-watt incandescent bulb = 450 lumens
- 60-watt incandescent bulb = 800 lumens
- 100-watt incandescent bulb = 1600 lumens

Commissioner Horning was saying that with 100 watt light bulbs you screen them in your home, in other words if your lamp has a 100 watt light bulb you usually have a shade over it.

Mr. Cupples stated that what you decide to bring to the council is what you need to figure out. How many lumens would be considered appropriate and allowable.

Chair Romine stated that he understands that this new ordinance would only be required with new construction but not a homeowner just needing to get a fixture fixed or replaced. He wouldn't need to get a permit or make this new or replacement fixture code compliant. Mr. Cupples stated that if you didn't get a permit for this new fixture, technically it would be an ordinance violation. If your yard light went out and you went down to the hardware store to get a new fixture, this new fixture must be code compliant. How are we going to find these new fixtures and make sure they are compliant, Mr. Cupples really isn't sure how that will work out at this time. Do people go get accessory buildings at home depot and put them 2 feet from the property? Yes, they do and we only find out about it from complaints or just driving by and noticing these things. Then at that point we can say you need to bring this accessory building compliant and move it to within 5 feet of the property line. So the same thing would probably happen with the lighting ordinance. But all new dwellings or commercial buildings would need to place these new lights on their buildings and be code compliant. If someone was to put a new yard light up and didn't get a permit or use the correct light for shielding we wouldn't know about it if we didn't get a complaint.

Commissioner Winters stated that something will be done even without a complaint. Let's say that someone has a wind chime out side their window and it sounds beautiful but my neighbor doesn't like the sound of it. I'm considered a bad neighbor because of noise pollution. We have this new thing called light pollution. The point is where does it stop? Because what this ordinance does is create problems for everybody in our community for the very few that it bothers. It is such a small minority of people that it bothers, it shouldn't even be registered on the scale. But if you spend 15 years chasing something that bothers you, then the city needs an ordinance for that? It just doesn't make sense. The example of the wind chimes is the same thing, it's up to the interpretation of the person that doesn't like what the neighbor is doing. Today its lights and it's going to cost money to change the lighting fixtures in my backyard. I like going out in my backyard and being able to see when I go outside. My neighbors don't complain. But if someone drives by and finds my backyard light offensive then he can do something about it and make me change my light. This is going to cost me money because he doesn't like it. Light pollution should not constitute being a bad neighbor. If I have a problem with my neighbors lighting I will go over and to talk to them. I won't go over there and unscrew their light bulb like some people. When I talk to my neighbor and he wants me to fix it or make it not so bright I will do that. We don't need an ordinance to do this. Commissioner Winters just had a \$6500. trailer that was stolen that was parked in front of his house. He is going to put up new lighting so that it hopefully won't happen again. When the economy is as bad as it is and we start passing ordinances like this it just costs more money for the community.

Commissioner Romine asked if anyone else wanted to comment. Commissioner Ridout stated that he has looked at this ordinance, with all the "where as"s in the document, and he doesn't see any issues with the way things are. The benefit of living in a city is having lighting. If he wanted to live out in the country where there is no lighting then that's where he would live. But he likes living in the city where there is lighting so he can walk down the street and have it lit up. Commissioner Ridout stated this is just too much. How do you enforce something like this? Can we pass an ordinance that people will ignore and other people will say why do you have an ordinance that you're just going to ignore. Commissioner Ridout stated that he will be voting against sending this to the City Council. Commissioner Winters stated that this is an infringement on people's rights.

Commissioner Carpenter stated that if this existed today, it wouldn't impact anybody. You can't complain against somebody that has a light on that is existing today. Mr. Cupples stated that this ordinance clarifies the position that you can consider a light that is clearly shining on someone else's property, directed at their property, you can identify that as a public nuisance. You can actually do that today under the nuisance ordinance that says anything that you do that annoys or causes problems that is out of character could be identified as a nuisance. Commissioner Carpenter asked if he could complain about the lights on the Lanai right now. Mr. Cupples stated that yes, he could, under nuisance ordinance 96. The problem is that when you are dealing with a nuisance ordinance it's all very judgmental. That's why we have enumerated nuisances and un-enumerated nuisances. The enumerated nuisances are: you can do construction in a residential neighborhood after 6pm with permission from the City Manager, and then he can grant it for 10 days. There are other provisions listed in the nuisance ordinance. For example, you can't have a cesspool, and there is a list of things that can be considered a nuisance. Then at the end of the ordinance is a catch all that basically states that anything that annoys anyone can be declared a nuisance. For example your neighbor has a 600 watt spotlight shining in your window. That is annoying. Commissioner Carpenter stated that he understands the neighbor to neighbor situation, but what about the Lanai and the other hotels that have their lights shining down on the beach. Mr. Cupples stated that would be a judgment call to the council at that point. Commissioner Winters asked if that is a problem or a nuisance he could take that to council right now and we don't need this ordinance. Mr. Cupples stated that yes he could take it to council now.

Commissioner Winters stated that with all this lighting stuff, what is the problem, really? Who is saying this is a problem, when did it become a problem? Commissioner Winters would challenge anybody. How many walks do you go on at night and say that's a problem, I'm not going there because there's too much lighting. I'm not going to drive down that street because that light bothers me. It just doesn't exist. Commissioner Horning stated a few months back he made a presentation at a joint work session between the City Council and the Planning Commission and the majority of the people agreed with him. That determination alone is the basis needed to put this forward to the City Council. Commissioner Winters stated that this should go to the people to vote on it. Mr. Cupples stated that when this gets Planning Commission approval it will go to the City Council for the public hearing.

Chair Romine asked if there were any other comments. Commissioner Horning stated that item J on the last page needs to be changed. Mr. Cupples made a suggestion to exempt fixtures with less than 1800 lumens which is the 100 watt light bulb. Commissioner Horning feels that a 100 watt light bulb on the front door 10 ft from the sidewalk is a little obnoxious. A 40 watt light bulb would be sufficient and/or shielding. Commissioner Winters asked where is the problem with what we have. Commissioner Horning stated that this was brought to a joint work session and the City Council has asked the Planning Commission to come up with something that they can look at, and that's what we're doing, giving the City Council something to look at. Commissioner Romine stated that we are here to discuss the lighting ordinance and what needs to be done. We have a nuisance ordinance that can take care of most of the issues here, and making another ordinance would make things more confusing to people.

Commissioner Horning stated that the whole idea is not to go back and impose these changes on homeowners. This gives them the opportunity to keep what they currently have but when the current light fixtures rust away then they can put a new light with the new standards. This would also go with new homes, new commercial construction, and any new fixtures. We will be making our community more aesthetically pleasing.

Commissioner Carpenter stated that there are two things that we need to get taken care of, 1 is the text acceptable, 2 is do we want to move this on to council.

Commissioner Horning stated that the text is not acceptable, item J is bad it should be 40 watts or 450 lumens.

Commissioner Dideum stated that on the 2020 visioning commission 5 years ago and this was discussed and we have discussed this over the last two years. This has been a long time coming. Mr. Cupples has done a lot of research on this subject and has tried to find a middle ground. The City Council has asked the Planning Commission to bring something to them. It is at a time that we let the

citizens have their time for public comment. We are going to a more green society, we are trying to save energy and this is right in line with this type of thinking.

Commissioner Horning made a motion change item J from 100 watts or 1600 lumens to 40 watts or 450 lumens. Commissioner Dideum seconded the motion. The vote was three to three. Commissioner Winters, Commissioner Ridout, and Chair Romine voted no. Commissioner Horning, Commissioner Dideum and Commissioner Carpenter voted yes. There was a tie and the motion failed.

Commissioner Carpenter made a motion to forward the lighting ordinance to the City Council. Commissioner Dideum seconded the motion. The vote was three to three. Commissioner Winters, Commissioner Ridout, and Chair Romine voted no. Commissioner Horning, Commissioner Dideum and Commissioner Carpenter voted yes. There was a tie and the motion failed.

Mr. Cupples stated that he will notify City Council and let them know that action was taken, so that they know and can pick it up if they want to. But as far as having a document formally forwarded from the Planning Commission, that will not happen. Commissioner Dideum asked if this could be brought up at another time. Mr. Cupples stated yes, it could.

COMMENTS FROM THE PUBLIC: Erin Barker stated that from her background in Fine Arts, there are basically two types of lighting. One is to illuminate the action on stage and then the other is for broader lighting for safety issues. There has to be a happy medium and she feels that that can happen.

COMMENTS FROM COMMISSION/STAFF: Commissioner Horning would like to bring this up at the next planning commission meeting. Chair Romine stated that is what we will do.

ADJOURNMENT: Adjourned at 8:00 pm.

Ray Romine, Chairperson

Debbie Kenyon, Admin. Assistant

CITY OF SEASIDE STAFF REPORT

To: Seaside Planning Commission
From: Administrative Assistant, Debbie Kenyon
Date: April 26, 2013
Applicant: Tom & Mary Herche
2621 42nd Avenue West
Seattle, WA 98199
Owner: Bennett & Kathleen Hull
Location: 1131 S Prom, T6-R10-S 21DB TL#15500
Subject: Conditional Use 13-011VRD; Vacation Rental Dwelling Permit

REQUEST:

The applicants are requesting a conditional use that will allow the establishment of a Vacation Rental Dwelling (VRD) at **1131 S Prom**. The subject property is zoned **Medium Density Residential (R-2)** and the **applicants are** 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 applicants are requesting a conditional use that will allow the establishment of a Vacation Rental Dwelling (VRD) at **1131 S Prom**. The subject property is zoned **Medium Density Residential (R-2)** and the **applicants are** 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. **Four spaces behind the home.**
- b. The existing **three** bedroom residence will have a limited occupancy of **nine (9) people.**
- c. The plot plan shows that parking will not take up more than 50% of the front, side or rear yard areas.

- d. **Paulina Winkler (2200 Lewis and Clark Rd, Seaside OR 97138) will be the local contact for the VRD and she can be reached at 503-440-4408.**
- e. The future owners/applicants, **Tom & Mary Herche** have read all of the standards and conditions applicable to VRDs.

2. Mary Herche contacted the office to clarify the dwelling actually has four bedrooms and not three as indicated in their submittal. Staff explained that notices had already been sent out concerning the number of bedrooms and proposed occupancy, so that number could not be altered at this point in time. Staff also explained the building code provisions applicable to the transient occupancy. Although the number of bedrooms and parking spaces would permit an occupancy of 12 based on the provisions in the Zoning Ordinance, the Building Code would require an approved sprinkler system for an occupancy over ten (10). The applicant's occupancy will remain at 9 persons over the age of three with a total maximum occupancy of not more ten (10) in order to avoid the building code requirement to protect the building with an approved sprinkler system.

3. The proposed VRD is located within a developed residential neighborhood primarily consisting of single family dwellings. Currently **23%** of the surrounding dwellings are licensed for VRD use and all of the property is zoned **Medium Density Residential (R-2)**.

4. 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.

5. The Hulls originally obtained a VRD permit in 2006 (06-073VRD) and the Commission limited the occupancy to 8 persons over the age of three (3). An increase in their occupancy was later approved by the Commission for twelve (12) persons over the age of three (3) in 2010 (10-019VRD). That license will remain valid until the property is purchased by applicants.

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

7. 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 (13-011 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) people over the age of three with an overall maximum occupancy of not more than ten persons.** 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. **Local Contact: Paulina Winkler (2200 Lewis and Clark Rd, Seaside OR 97138) will be the local contact for the VRD and she can be reached at 503-440-4408.** 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'. Local Contacts are required 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.
7. **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.

- 8. 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.
- 9. 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.**
- 10. 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.
- 11. 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.
- 12. 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.
- 13. 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.
- 14. 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.

15. 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.

16. 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 **13-011VRD** allowing the establishment of a Vacation Rental Dwelling (VRD) with a maximum occupancy of **NINE (9)** people over the age of three (3) with an overall maximum occupancy of not more than ten (10) persons at **1131 S Prom**. 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

04-23-13 400132 P013

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: TOM & MARY HERCHE
2. Mailing Address: 2621 42nd AVE WEST Seattle 98199
MAR 24
3. Telephone #: Home 206 285-1231 Work 206 595-2491 Fax 206 682-3564
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: 1131 S. PROM
6. Tax Map Ref.: Township 4, Range 10, Section 21 & B, Tax lot # 15500
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? 3 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

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VRD Application updated 5-5-11

9606

CITY OF SEASIDE

MAR 29 2013

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R-2

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up more than 50% of the property's yard areas? NO. 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: PAVLINA WINKLER Phone # 503 440 4408 Address: 2200 LEWIS AND CLARK ROAD SEASIDE 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? _____.

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: [Handwritten Signature] Date: 3/29/13

-----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: 4-3-13

File Reference # 13-011VRD Date determined to be complete: \_\_\_\_\_

If applicable, date for Planning Commission Hearing: 5-7-13

## Section 6.137 VACATION RENTAL DWELLING (VRD)

1. **Purpose.** The Vacation Rental Dwelling Permit is in recognition of the desire of many people to rent their property on a short term basis. These standards and procedures are in addition to City ordinances and Federal and State laws and regulations.
2. **Standards.** In all zones allowing Vacation Rental Dwellings, a permit shall be issued as an accessory use in accordance with the administrative conditional use provisions 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.

Failure to meet this standard will require a public hearing and review by the Planning Commission under the provisions of Subsection 5.
3. **Notice and Administrative Decision.** Upon submittal of a complete application, notice of the request shall be mailed to all property owners within 100 feet in accordance with Section 10.031 (2). The notice and final decision by the Planning Director must comply with the provisions in Section 10.032 through Section 10.035 of the Ordinance.

4. **Appeals.** Within fifteen (15) days of the administrative decision, the decision may be appealed in accordance with the provisions in Section 10.037 and 10.040 of the Ordinance
5. **Planning Commission review.** The Planning Commission will review VRD's which do not conform with the provisions of Subsection 2.E., in accordance with the conditional use procedures in Section 6.030 through 6.050 of the Ordinance. The applicant must address the following criteria in addition to the standards in Subsection 2.A-D of this Section. 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.
  - 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.
6. **Approval conditions.** All approval must include the following conditions:
  - A. 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.
  - B. 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.
  - C. 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.
  - D. 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 this Section.
  - E. 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.
  - F. 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

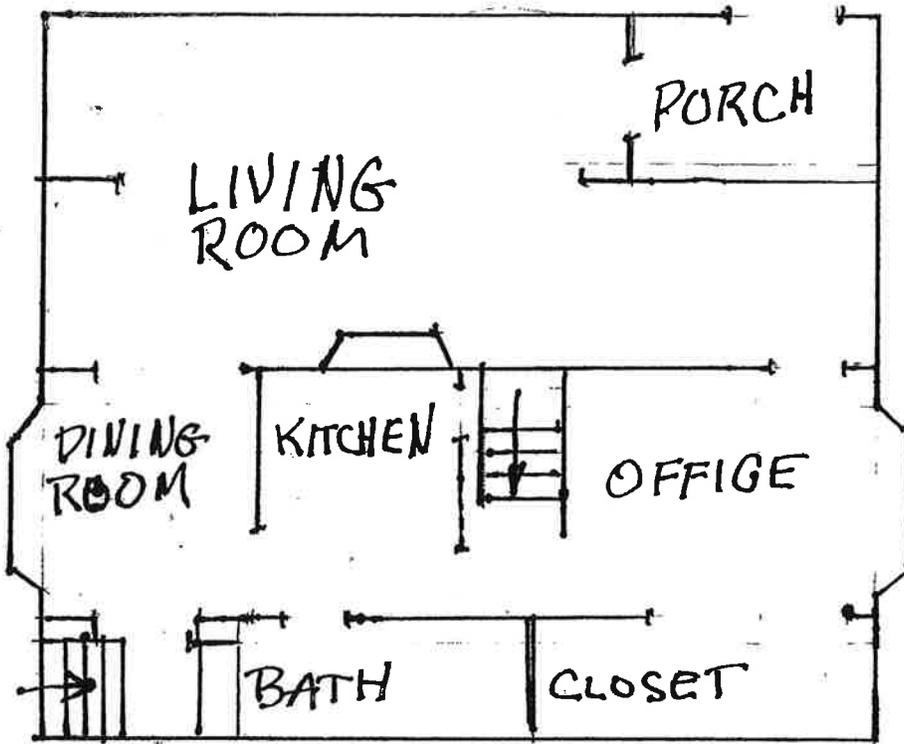
reviewed by the Planning Commission as provided in Subsection 5 of this Section. Failure on the applicant's part to meet the standards or conditions will result in denial of the application

7. **Prior Approvals.** Vacation rental dwellings approved under prior standards shall comply with the provisions of Section 6.137; 2B., 2D., & 6A. within one year of the amendments in this Section.

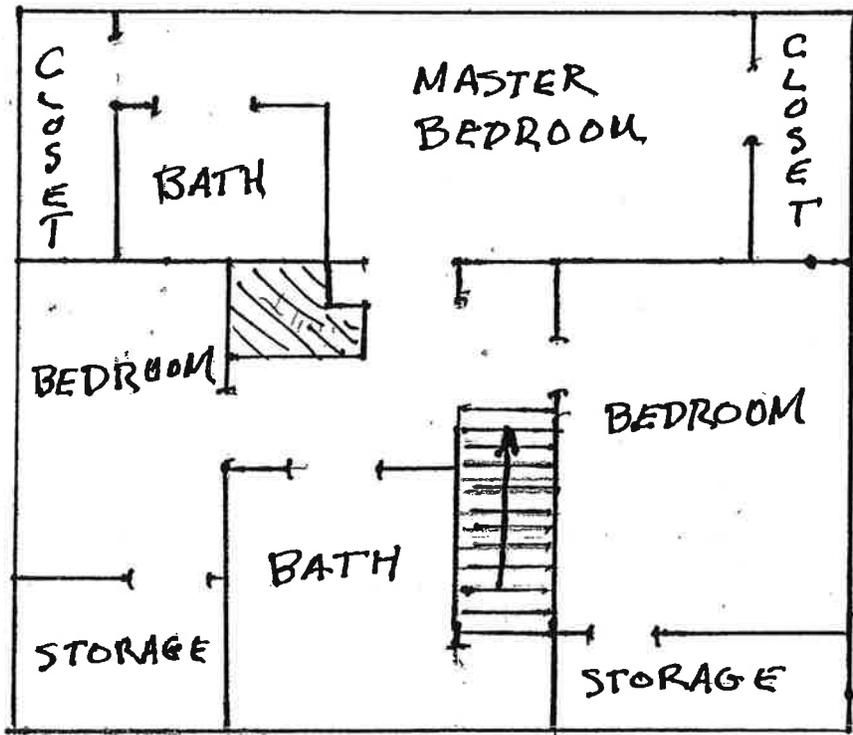
*(Amending Ordinance No., 2000-09, adopted 11-27-2000)*

8. **Complaints.** Any complaint procedures concerning violations of the VRD Provisions are in addition to the "Remedies" specified in Article 12 of the Zoning Ordinance.

1<sup>ST</sup> FLOOR

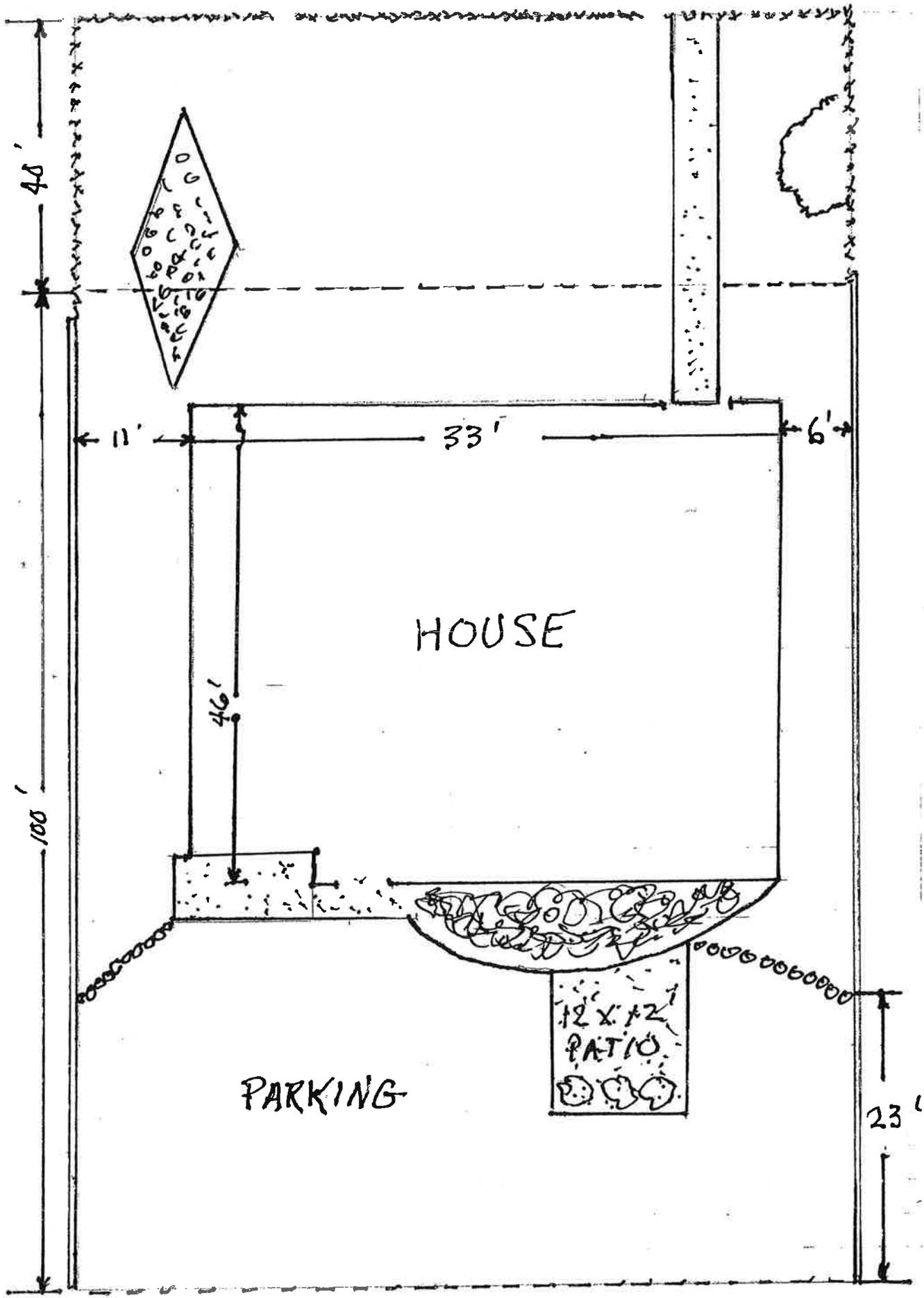


2<sup>ND</sup> FLOOR



1/2 BASEMENT w/ WASHING FACILITIES

S. FROM



Parking Spot 9 x 18

**PARKING MAP FOR 1131 S. PROM**

The gravel driveway is an easement to the Property at 1131 S Prom.

**DO NOT BLOCK** the driveway to the garage  
On the right belong tot 1132 Beach Drive

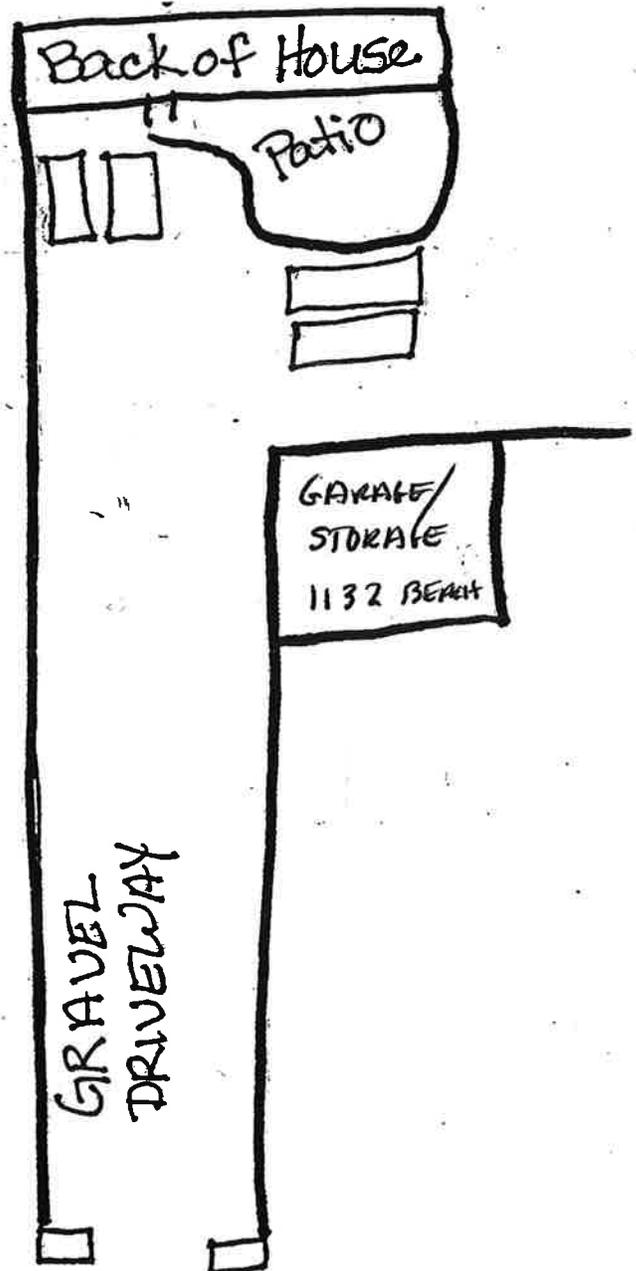
**PULL ALL THE WAY FORWARD** and park in the Designated parking spots located on the map  
(You must park past the garage)

**Driving Directions to 1131 S Prom**

Turn Right (south) onto Hwy 101 (Roosevelt Dr)

Turn Right on Ave G

Just past Ave K Turn right into long gravel Driveway  
1132 Beach Drive is the property just to the north of this driveway.



**CITY OF SEASIDE, OREGON DRAFT OUTDOOR LIGHTING ORDINANCE**

**ORDINANCE NO. 2013-\_\_**

**AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, ADDING CHAPTER 101 TO THE CODE OF SEASIDE, ESTABLISHING OUTDOOR LIGHTING REGULATION, MAINTENANCE PROVISION, & NUISANCE LIGHTING ABATEMENT PROCEDURES.**

**WHEREAS**, the city is interested in reducing the visual glare caused by unshielded exterior lighting in Seaside; and

**WHEREAS**, the installation of lighting that is controlled in such a way that it illuminates the subject property and avoids illumination of the surrounding environment is an efficient use of lighting; and

**WHEREAS**, the City of Seaside is interested in establishing "Dark Sky" provisions that will in time make the night sky more visible throughout the city.

**WHEREAS**, lighting that is directed at neighboring residential property can create adverse impacts and it is not specifically recognized as an enumerated nuisance under the current nuisance ordinance, Chapter 96; and

**WHEREAS**, City Council is seeking a way to promote the use of outdoor lighting that will enhance the livability of our community and minimize the impacts exterior lighting can have on surrounding properties or our environment.

**NOW, THEREFORE, THE CITY OF SEASIDE ORDAINS AS FOLLOWS:**

**SECTION 1.** Amend the Code of Seaside by adding Chapter 101 to read as follows:

**CHAPTER 101: OUTDOOR LIGHTING**

**101.010 PURPOSE, FINDING, & INTENT.**

The city council finds that the installation of outdoor lighting can cause unwanted impacts within the City of Seaside and adversely affect the value, utility, and habitability of the property within the city as a whole.

The purpose of this supplementary provision is to make the lighting used for residential, commercial and public areas appropriate to the need and to keep light from shining offsite onto adjacent public rights of way or private properties. Further, it is to encourage, through regulation of type, kinds, construction, installation, and uses of outdoor illuminating devices, lighting practices and systems to conserve energy without decreasing safety, utility, security, and productivity while enhancing nighttime enjoyment of property within the City

These lighting provisions contained herein are intended to achieve the following:

(A) Develop regulations that will promote the installation of outdoor lighting that will enhance the livability of our community and minimize the impacts exterior lighting can have on surrounding properties or our environment; and

(B) Establish guidelines for the installation of lighting that is controlled in such a way that it illuminates the subject property and avoids the inefficient illumination of the surrounding environment; and

(C) Supplement city Nuisance Ordinance Chapter 96 and further define lighting classified as a public nuisances.

#### **101.020 REQUIREMENTS FOR INSTALLATION.**

Except as exempted by provisions of this ordinance, as of the date of adoption; the installation of outdoor lighting fixtures shall be subject to the shielding & glare elimination provisions of this ordinance. Outdoor lighting installed on or adjacent to residentially developed property must not be more than 20 feet above the ground level immediately below the fixture.

#### **101.030 SHIELDING & GLARE ELIMINATION**

All nonexempt outdoor lighting fixtures shall have translucent covers that eliminate glare or directed shielding so as to prevent direct light from the fixture to shine beyond the property limits where the fixture is installed. This means that a person standing at the adjacent property line would not see the light emitting source (See Figure 1).

#### **101.040 PROHIBITIONS.**

(A). Laser Source Light. The use of laser source light or any similar high intensity light when projected beyond property lines is prohibited.

(B). Searchlights. The operation of searchlights for purposes other than public safety or emergencies is prohibited.

#### **101.050 EXEMPTIONS.**

(A) Outdoor light fixtures lawfully installed prior to the effective date of this ordinance are exempt from all such requirements except as follows:

~~(1) A light fixture directed onto a neighboring property such that the glare is declared a nuisance in accordance with City Ordinance 96.23 (B).~~

**Deleted:** (1) All replacement of outdoor lighting fixtures (free standing & those on the exterior of a buildings) installed prior to the date of adoption, shall be subject to the provision of this ordinance.

**Deleted:** 2

(B) Site lighting along the common property lines of non-residentially developed property where continuous illumination is intended. Likewise, lighting along the common property lines of all parking lots where continuous illumination is desired.

(C) Airport operations lighting and aircraft navigational beacons as established by the Federal Aviation Administration (FAA) are exempt from these provisions. All other airport outdoor lighting must conform to this ordinance.

(D) Tower or antenna safety lighting required by FAA.

~~(E) Lights of less than 15 watts used for holiday decorations for no more than 45 days are exempt from the requirements of this ordinance.~~

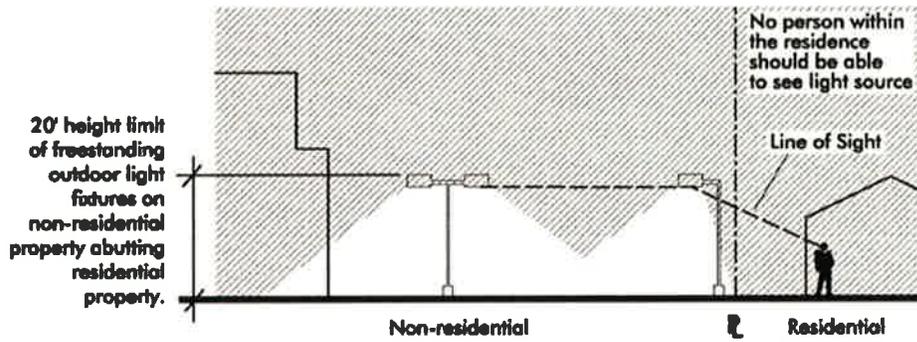
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- (E) Carnivals, Fairs, or other special events that require the use of temporary outdoor lighting fixtures are exempt except that permanent installations at dedicated sites must conform to the requirements of this ordinance. Deleted: E
- (G) Lighting for U.S. flags properly displayed; however any new flags shall be lighted with downcast lights in a manner that is dark sky compliant. Deleted: F
- (H) Temporary exemptions to the requirements of this ordinance for up to five days per calendar year. Deleted: G
- (L) Construction lighting necessary for an allowed use are exempt except that permanent installations at dedicated sites must conform to the requirements of this ordinance. Deleted: H
- (J) Lights installed on public property or in the public right of way; however, all lighting must aspire to use dark sky compliant fixtures and use recessed lighting elements or indirect light sources wherever practical. Deleted: I
- (K) Individual light fixtures with lamps of less than 450 lumens. *The acceptability and shielding restrictions applicable to a particular lamp are decided by its initial lumen output, not wattage; check manufacturer's specifications.* Deleted: J

*Examples of lamp types of 450 lumens and less are:*

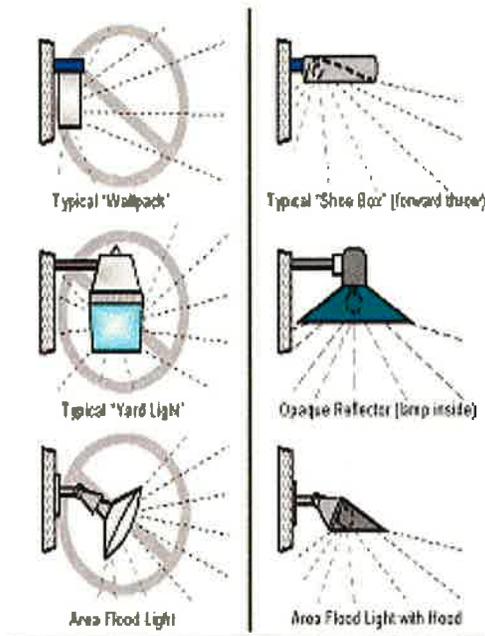
- 40 Watt Standard Incandescent
- 11 Watt Cool White Fluorescent
- 11 Watt Compact Fluorescent
- 8 Watt High efficacy LED accent light

**Figure 1**  
**Shielding Provisions for Outdoor Lighting**



Deleted: |

**Figure 2**  
**Examples of Acceptable Outdoor Lighting Fixtures**



**Figure 2**

**Examples of Acceptable Outdoor Lighting Fixtures**

**COMMON LIGHTING FIXTURES**

**NON COMPLIANT**



Typical "Wall Pack"

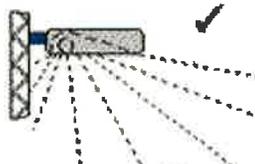


Typical "Yard Light"

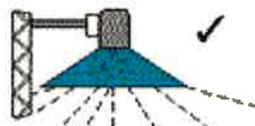


Area Flood Light

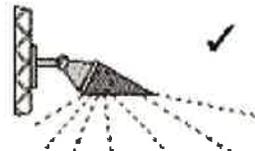
**GOOD**



Typical "Shoe Box" (forward throw)



Opaque Reflector (lamp inside)



Area Flood Light with Hood