

MINUTES SEASIDE PLANNING COMMISSION

March 2, 2010

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: Virginia Dideum, Dick Rees, Tom Horning, Chris Hoth, and Bill Carpenter, and Dick Ridout. Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director

OPENING REMARKS & CONFLICT OF INTEREST/EXPARTE 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 exparte contact. There was no response.

APPROVAL OF MINUTES: Motion to approve the February 2, 2010 minutes; Commissioner Carpenter made a motion to approve February 2, 2010 minutes as submitted. Commissioner Rees 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.) Continuance (April 6, 2010)

09-051PD: A preliminary planned development request by Donn Bauske at 498 N Wahanna Rd. (6 10 22BA TL: 1000). The subject property is currently zoned Suburban Residential (SR) and Aquatic Conservation (A-2). The applicant is seeking authorization to develop three duplex units on the upland portion of the subject property.

Kevin Cupples, City Planning Director, stated that the applicant has requested a continuance after meeting with the Department of State Lands on site last week and the applicant needs to adjust their plans to in order to take into account the information that was discussed with the DSL.

Commissioner Ridout made a motion to continue until the April 6, 2010 meeting. Vice Chair Rees seconded and the motion was carried unanimously.

ORDINANCE ADMINISTRATION: On April 20, 2010 we will be discussing the Amendment to the Comprehensive Plan regarding urban growth boundaries for hospitals and schools. We also have a 5th Monday meeting that will be targeting the TSP information.

COMMENTS FROM THE PUBLIC: Chair Horning asked Mr. Cupples to help explain why there were so many people in the audience. Mr. Cupples stated that most of the people are here from the Ocean Cove Estates, which is located off of Sunset Blvd in the cove. There was a request for a vacation rental at 3001 Evergreen Dr. We received a lot of letters from neighboring property owners and a petition by most of the people here in the room. They indicated that they believe that the CC&R's would limit someone from doing a vacation rental in their neighborhood and are opposed to a vacation rental dwelling in their neighborhood. They thought their neighborhood should continue to be a neighborhood without the vacation rentals. If the Metzger's had not withdrawn their application Mr. Cupples would have had to caution both the public and the commissioners on discussing the issue. Being as the

commission is the appellate body and the Metzger's are not here Mr. Cupples would have to say you can't discuss certain items at this time because that would be considered ex parte contact. You would not be able to speak on specifics but you could speak in general about the topic. Since the applicant withdrew their application today, staff will not send out any decision but we will send out a notice stating that the applicant has withdrawn the request.

Roy Hackett, 488 Fairway Ct., gave the commission a handout with the CC&R's and a map of the cove area. Mr. Hackett would like to ask the commission to place a ban on future vacation rentals in the Ocean Cove Estates. There are about 70 lots in the neighborhood that is naturally separated from the city. Lots on Sunset Blvd are not included in this plan to ban vacation rentals. Visitors routinely drive through the neighborhood. This group knows that the planning commission cannot enforce CC&R's. But they do exist and would feel let down if the city allowed these vacation rentals in their area and dismissed the terms of their CC&R's. There is a history of vacation rentals in Ocean Cove Estates. The McGill property located at 3290 Bayview terrace, the city notified the neighbors and the neighbors objected and were ignored. When a second vacation rental application was proposed the neighbors hired a lawyer to explain that the neighborhood has CC&R's that prohibit commercial use of any kind. They were prepared to fight civilly and the owner retracted the application. The city should protect their neighborhood and reject any further requests for vacation rentals. In 2007 the city made a boundary restricting any vacation rentals East of Holladay. The Ocean Cove Estates area was lumped in with the area to the west and they feel that that was an oversight in view of the logic of the boundary and would like that corrected. They want you to hear the concerns from one proposed vacation rentals neighbor Harry Barber and lastly Dan Hamilton will summarize the position of the Ocean Cove Estate homeowners on how they would like support the planning commission to block vacation rental in the future.

Harry Barber, would like to discuss 6 concerns that he has regarding the vacation rentals in their neighborhood.

1. Security – the neighbors all know each other and tell each other when someone is going to go out of town so that they can keep an eye on each other. If there is an influx of vacationers that come and go and drive around the neighborhood that would disguise criminal activity.
2. Traffic and parking.
3. Noise
4. Wildlife
5. Commercialization of the Cove
6. VRD supply - the city has an adequate supply of vacation rentals.

Dan Hamilton 3107 Bayview Terrace, Dan and his wife are both educators from California and are both former business owners. Every May as they were leading another senior class to graduating in Fresno they have dreamt of living on the coast. They have come to appreciate the Oregon Coast. When they saw lot 54 in the Ocean Cove Estates they knew they have found "home". A little more recently when they heard of the proposed vacation rental coming to their neighborhood, all the neighbors got together and realized that they had to form a homeowners association to at least have some organized say in the developments that may come into their neighborhood. A homeowners association is not a perfect solution but it certainly represents an organized body of opinions of people who wish to stand up and be counted. Members of this group tonight have read the cities comp plan, there is also some weight given by this body and the rest of the city government to ensure that neighborhoods are given value and some gravity in the overall equation. They see this in the same way that the city has given a boundary for vacation rentals along Holladay. Their inquiries have also shown that a large number of properties in the area, and they have heard, that the majority of those properties actually are used as vacation rentals are not licensed and even glancing through craigslist would show that there are a lot of properties out there that are not generating revenue for our city. To clarify the cities position in the future they are asking that the commission implement a boundary line for vacation rentals in the Ocean Cove Estates. The ocean front properties along Sunset Blvd do have all the things that one would want to have. The remainder of Ocean Cove Estates has a very different flavor, feel, and character and they ask the city to apply the same east of Holladay logic.

Erin Barker with Beach Home Vacation Rentals. Erin is happy that so many people showed up for this because this is the best opportunity to speak with all of them at one time. She agrees that the Ocean Cove Estates is unique. Erin is the property manager for the only vacation rental there (the McGill's). The McGill's did get their VRD license back in 2003. Erin has received calls from realtors regarding VRD's in that neighborhood and has told them she is sure that they have CC&R's in that neighborhood and that the realtor should check that out before they purchase the property. At one point, about three years ago, Erin had read the CC&R's and she could see how people can misunderstand them because it has the

word commercial business and the city views VRD's as a residential use although it may not be a 30 day rental. Erin suggests that they change the wording in the CC&R's to limit confusion on this subject. Erin stated that even if they don't change the wording she is going to tell people that it is not the best location for a vacation rental. The McGill's property does not rent very often and in their situation, he is a flight attendant that might go away for two months at a time for his job. They may have a 6 to 8 week opening. Erin handed out her business card to people in the audience and asked anyone who has any problems with the McGill property please call her.

Mr. Hackett asked if the downstairs was a long term rental. Erin responded that she doesn't manage that and she believes that sometimes David may have someone stay there. At one time David did have someone there when the upper unit was rented out as a vacation rental and the family that had stayed the dad and son went out for the day and left the mom, grandma and baby home and they called Erin very angry that someone was in the downstairs apartment. Erin was not aware that some one was there and immediately changed the website that now states that the downstairs apartment may be occupied.

Chair Horning asked if anyone else would care to speak. There was no answer. Public comment is closed.

Commissioner Hoth asked Mr. Cupples to clarify the relationship between the cities ordinances and CC&R's when they disagree. What is the planning commission bound to follow? and please explain the guidelines and how binding they are and what would require an ordinance change to affect some of the requests that the commission has heard tonight.

Mr. Cupples stated that the city does not enforce CC&R's and the only one they would enforce is one that the city has mandated through a land use decision. These are not city enforced CC&R's. If someone does a subdivision and they want to have unique requirements for example; they want to regulate the height of the buildings, where you can park or whether or not you can hang clothes in the front yard. These conditions are covered under their CC&R's and not our city ordinance. The difficult thing with CC&R's in many cases is that they don't do a good job in defining exactly what they mean. They don't have a definition section, some do but most don't. For a clear example they have CC&R's on what type of siding you can use, how high they can build, what kind of roofing. They can regulate things that we can't regulate. Currently under state law we cannot tell people that they cannot put a manufactured home on a certain lot, it's mandated through state law that they can. But the CC&R's do say that. Generally if staff is aware of something that may cause problems we will let them know, but we do not know all the CC&R's in the area. It's not the city that would enforce them it's the homeowners who would make sure that that's being done. That is why people need to go over the information when they receive a title report. We don't enforce because they are not tied to our zoning ordinance. By the same token if you have a number of neighbors who are opposed to a particular type of use and we can tie that use back to our comp plan and zoning ordinance, and in this case of a vacation rental, it is still a conditional use. Staff was faced with the question do we approve it or do we deny it, do we approve it with special conditions that is where we would have been sitting until today when the applicant withdrew the request. As far as what the planning commission and city council did prior to this is that they looked at areas where they did not want to encourage or push vacation rentals into established residential neighborhoods. There is some supporting evidence in the comp plan that says you can do that to some extent. What we have done is that in some areas staff shouldn't support vacation rentals because the planning commission doesn't support them, nor does the council support them because they are encroaching on established local residential neighborhoods. It is not a beach home neighborhood it is a residential neighborhood. Normally when we send out notification of a vacation rental 50% of the notices go to out of town addresses and in this case most of the notification were sent to the residence. What the planning commission did previously was to say if you live in these areas, we are not going to support them. That's not a ban or a prohibition if someone wants to apply the can still apply but what they are going to hear is that there's been discussion in the past and these are the areas that the planning commission and city council really didn't want to encourage more vacation rentals. That's why when someone comes in and wants to establish a vacation rental on the east side of Holladay we tell them upfront you can apply for this, it is your right but it probably won't be supported by staff and probably not the planning commission or the city council. If they choose to go forward anyway and it is denied by the planning commission then they can appeal it to the city council and beyond that they are going to L.U.B.A. and more advance things.

Chair Horning mentioned that there is a joint work session at the end of March and this should be brought up to the City Council at that time and see if the Council wants to amend this current guideline and add this area to the guideline.

Commissioner Carpenter asked if we need to have a motion on this or does the commission bring it up at the joint work session.

Mr. Cupples stated that this is a guideline and you are just working under that guideline and it all is subject to a conditional use permit and it all is on a case by case basis and is open for appeal. Commissioner Ridout would like not to schedule this in any workshop at this time because the commission is already working on the whole vacation rental issue and have not settled on where we are going with all the discussion that the commission has already had. This can just be part of some of these discussions.

Chair Horning asked if the commission would like to hold off on bringing this to the joint work session until the commission can work this into the bigger picture of the vacation rentals.

Commissioner Rees agreed that the commission should get everything together as soon as possible to resolve some of the issues.

Commissioner Hoth stated that whether they work expeditiously or not what we can accomplish at this time is not what these people want. We cannot ban vacation rentals. They are allowed in the ordinance and the protection these people have, is their CC&R's. Staff is aware of them now and will let anyone who is applying for a vacation rental be aware of them also.

Chair Horning asked Mr. Hackett if what he was asking the commission to do, was to modify the current guidelines to include the Ocean Cove Estates.

Mr. Hackett stated that that is what, they as a group, are asking the commission to do.

Chair Horning wanted to keep this as an agenda item for the planning commission work session and wanted to get it resolved within the next two months.

Commissioner Rees wanted to commend the group for being at the meeting, it is the first time in his memory that so many people have showed up regarding a vacation rental.

David Cozart lives across the street from the McGill house. They had just purchased the property 3 months prior to the application. He has had few problems with the vacation rental. He would agree to a grandfather clause to allow the McGill's to continue renting their home as a vacation rental.

COMMENTS FROM COMMISSION/STAFF: Commissioner Dideum stated that she really enjoyed the tour of the interpretive centers in Seattle that she went on last week; about 25 to 30 people came on the tour.

ADJOURNMENT: Adjourned at 8:05 pm.

Tom Horning, Chairperson

Debbie Kenyon, Admin. Assistant