

**MINUTES SEASIDE PLANNING COMMISSION**  
**January 3, 2017**

**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 Wright, Chris Hoth, Bill Carpenter, Dick Ridout and Ray Romine, Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director

**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. Commissioner Wright excused himself from the second item on the agenda (16-072VRD).

**APPROVAL OF MINUTES:** December 6, 2016;

Vice Chair Carpenter made a motion to approve the minutes as submitted. Commissioner Wright seconded. The motion was carried unanimously.

**AGENDA:**

**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.) Continuance: 16-059ZC-** A request by James Spicer for a zone change at 405 N Wahanna Rd. (T6 R10 22BA TL: 101). The proposal will rezone the upland suburban residential (SR) zoned portions of the subject property (approximately 20,394 sq. ft.) to high density residential (R-3). This would allow urban density residential development in conjunction with annexation of the property that is within Seaside's current urban growth boundary.

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. James Spicer, 1827 SW 3<sup>rd</sup>, Gresham. Mr. Spicer stated that his father owns the property and his brother helps maintain the property. Doug Ray walked the property and let them know what area was upland. After the initial walk through they decided to go ahead with the determination. The goal is to get this rezoned as R3. They would like to provide housing for local residents. They do not want this to be marketed as Lake Oswego second homes. They are thinking of maybe putting some zero lot line dwellings on the property. The higher zoning helps them and the community. The back portion of the lot may be donated to the N.C.L.C. They are not making application for building at this point.

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

Chair Romine asked if there was anyone who would like to offer testimony in opposition. Tim Mancell, 755 N Wahanna, Seaside. He is not really opposed he just doesn't want another Bauske situation. He is concerned about the traffic. Right now it's a mess, he doesn't want to see people backing up into the roadway. He is concerned that they may put in 4 houses or 4 duplexes and that just adds to more

traffic. If you approve this, put something on the decision that says they will not back up into the roadway.

Chair Romine stated that now is the time for Mr. Spicer's rebuttal. Mr. Spicer stated that personally he understands where Tim is coming from. Their idea and their plan is not to put apartment in that location. He knows that six or eight cars do create an impact, but it will be minimal. After all is done there may be 3 buildable lots there.

Chair Romine indicated the issue was opened for Commission discussion. Vice Chair Carpenter asked what does the commission do from here? Mr. Cupples stated that now it's up to the planning commission to make a recommendation to the City Council for the proposed zone change. It's relatively simple because of the lot next door is R3 so that's why we went with the R3 zone. We don't have anything else to go on because all the other abutting properties are zoned SR. If there are concerns about access management, you could put in a provision talking about that. We haven't done a development plan but that is something we could do, but conditional zone changes are uncommon. You could put in an advisory to staff regarding the parking situation. If they decided to do a subdivision or major partition that would come back before the planning commission. Chair Romine stated that procedurally the planning commission makes a decision and then it would be forwarded to the City Council. Mr. Cupples stated that the property owner would dedicate 5 feet of the property frontage as a sidewalk. Under the TSP, Wahanna Road is going to look different because that is going to have the combined pedestrian walkway on one side. Commissioner Hoth stated that they don't have to build the sidewalk they just need to leave enough space for that when the road is widened. Mr. Cupples stated that is correct. When the sidewalk that is currently there was put in I believe the property owners more or less granted a 5 foot easement for the sidewalks to the city.

Commissioner Ridout asked, if this is an R3 and it has around 1/2 an acre of land, what is the largest development that could be put on there. Mr. Cupples stated the max would be roughly 9 dwelling units in an apartment building. Getting 8 units may even be a stretch because of the parking requirements and meeting all the development standards in the zone. Commissioner Ridout asked what will happen to this property once they get the approval. Mr. Cupples stated that the maximum probably would be 8 units. Commissioner Ridout stated that he is all for cleaning up the mapping issue in the area. Right now it is so hodge podge, he thinks people may have been given the choice to enter into the city or not and they didn't force people to annex into the city. Mr. Cupples stated that this is a large piece of land but with the wetlands the only portion that really could be developed is the part that is along Wahanna Road.

Chair Romine stated that the zone change would apply only to the SR part of the lot and the A3 will stay the same. Commissioner Wright asked if the property to the south was rezoned. Mr. Cupples stated that it wasn't, it used to have an old two story house on it. Commissioner Wright stated that he is for anything we can do to get more housing. This seems like a reasonable thing to do. Chair Romine stated that Mr. Spicer could go down to 3000 sq. ft. lots if they did a zero lot line. Mr. Cupples stated yes.

At the end of the Commissioners discussion, Chair Romine closed the public hearing and Vice Chair Carpenter made a motion to recommend approval and forward this to the City Council. Commissioner Ridout seconded and the motion was carried unanimously.

**B.) 16-072VRD** is a request by **Brandon Mathew and Tanima Bhadra** for a **4** (four) bedroom Vacation Rental Dwelling Permit with a maximum occupancy of not more than **ten**(10) people, regardless of age. The property is located at **406 8<sup>th</sup> Avenue** and it is zoned Medium Density Residential (R-2).

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. Brandon Mathew, 266 3<sup>rd</sup> Street. Ashland. They have been coming up to Seaside for some time and really enjoy it here and that is why they bought the home so that they would be able to enjoy it here.

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

Chair Romine asked if there was anyone who would like to offer testimony in opposition. Eric Dunham 331 8<sup>th</sup> Avenue, Seaside. This property was advertised as a three bedroom one bath home now

mysteriously it is a 4 bedroom wanting an occupancy of 10. They only have one bathroom. This property floods every winter there is 6 inches to 2 feet of water standing in that lot. The creek across from this property must drain somewhere. We haven't had rain in three days and there's a puddle there right now. You can't let the owners fill this property. If they fill, it will force the water down Franklin Street. In the early ninety's the home owners on Franklin Street paid thousands of dollars for a L.I.D. to pave the road and to keep the area from flooding. If you let them fill this property you are going to have the water run back onto the neighboring properties. Chair Romine stated that this is a Vacation Rental Dwelling request. Mr. Dunham stated that he is getting to that. When it rains the ground is saturated and people won't park in the driveway because they will sink in the mud. That means they will park in the street and the street cannot handle any more parking and it shouldn't. Franklin and 8<sup>th</sup> Avenue are undersized streets, making it difficult for large vehicles to turn the corner. Emergency vehicles can't even make the turn onto Franklin because of the small street and he has watched the neighbor's garage burn to the ground. The streets are way too narrow. There are too many vacation rentals on Franklin now. On a two block area there are 8 homes and if you allow this one there will be 6 vacation homes in this two block area. Mr. Dunham asked that the planning commission not let them fill the property because it will dam up a natural stream and change the water flow. Vacation rentals are being issued with no oversight from the property owners or the property managers. Who picks up their garbage when it's in the street? He does. Why should the neighbors have to put up with people urinating in the yard because there is only one bathroom? Who checks when cars are parked all over the neighborhood? You call the property managers and they don't show up. People stand out in the street to do their partying in the street until all hours of the night because the house is too small for the amount of occupants. Why should the local people be in charge of policing the neighborhood? Please stop ruining the neighborhoods with all these vacation rentals.

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

Chair Romine stated that this would be the time for rebuttal from the property owners. Tanima Bhadra stated that this was sold as a three bedroom because one of the rooms didn't have an egress window and they will add an egress window to make that room a 4<sup>th</sup> bedroom. They are aware that the property does flood and have been here several times and looked at the property. The people who sold the home to them told them that the lot has only flooded twice in the time that they owned the home. They don't intend to fill the property and they will address the drainage. They will pave the parking so that people will use the parking pad. This property is a large lot and is zoned R3 and they could put a 4-plex on the lot and that occupancy would be way more than the 10 in the vacation rental. They say 10 people max but they are not sure that they will always have 10 people in the home. In terms of the bathroom there is only one bathroom right now but would like to add a second bathroom later. If the city recommends a second bathroom they would do that. Chair Romine asked if they had a local property manager? Tanima stated that they have a local contact. Tanima stated that it is a requirement for garbage pickup so they will have that in place. Chair Romine stated Mr. Dunham was referring to the high winds we have here and that there are times when the garbage cans get blown over and the trash is left in the street. Tanima stated that she doesn't want to mess up the neighborhood and will do the best they can. Vice Chair Carpenter asked about the staff report says that it has a four bedroom in one spot and a 3 bedroom in another, what is it exactly? Mr. Cupples stated that it is a three bedroom house with the potential of recognizing a fourth bedroom if they change out a window for egress purposes. Vice Chair Carpenter stated that if it is a 3 bedroom now then that would be an occupancy of 9 people only rather than the 10 they asked for. Mr. Cupples stated that they applied for a 4 bedroom, with the understanding that the fourth bedroom would have to have an egress window. Commissioner Hoth stated that even with the fourth bedroom their occupancy could be a maximum of 10 no matter what. Mr. Cupples stated yes, so if they don't change out the window they will have an occupancy of 9, if they change out the window they could have a maximum occupancy of 10. Chair Romine asked if there is anything regarding the water issue, and there would be a requirement that the applicant's paving the parking. Mr. Cupples stated that is one of the conditions of approval is that they pave the parking spaces and that it is adequately drained. Commissioner Hoth stated that as far as he is concerned this is a three bedroom home period. He would not approve it as a four bedroom, he has a problem with the parking. There was a bunch of brush and he just doesn't see how the parking will work and he doesn't see a way to fix it. Mr. Cupples stated that there was adequate room for them to get at least three off street parking and the lot is 100 by 100. Commissioner Ridout asked about creek or stream that Mr. Dunham was referring to. Mr. Cupples stated that he's not sure where the stream or creek comes from if it's a stream it could come from across the street, he thinks it may come from the neighboring property across the street because there is a low spot. Commissioner Ridout asked if the

basement was being used he assumes that there is a sump-pump there. Mr. Cupples stated that the only reason that people would have access to the basement is so they will have access to the electrical panel and they will not be able to access the whole basement just enough so that the renters will be able to access the panel. Mr. Dunham asked how many vacation rentals is too many for a neighborhood? Six rentals for a street that has 8 homes on it? Chair Romine stated that all the planning commissioners are community members and with vacation rentals it's hard to find a happy medium. Mr. Dunham stated that being as there are so many vacation rentals that there is no one to speak in opposition to the vacation rentals except for him. Commissioner Hoth stated that this is a discussion that we have discussed at length and the decision making boundaries are to consider individual VRD's once the area exceeds a certain amount. Once it meets that amount, it doesn't mean that the commission can say no. It means that they have to consider any additional restrictions on those that would make it more compatible with the neighborhood as the density increases. The issue itself on how many is too many needs to come from City Council, they are the ones that will direct the planning commission that it is out of control. Mr. Cupples stated the planning commission has discussed what modification should be made to the VRD provisions. He did speak with Mr. Winstanley today regarding a joint work session at the end of January to discuss the vacation rentals but the planning commissioners decided that it was best to have a full board before we got too far into that. Commissioner Hoth still has an issue with the parking. Commissioner Hoth stated that he had issues with the Bauske property and that turned out way different than what was approved, so he's not as comfortable and he's not sure what to do in this case. Vice Chair Carpenter stated that the applicants have listed a point of contact as someone who lives in Gearhart and that they were considering having a local property manager. Tanima stated that yes they were considering that. Commissioner Hoth asked if the point of contact was aware that they would need to be available 24/7. Tanima stated that she did ask him and he was fine with it. Vice Chair Carpenter stated that it is only 24/7 when it is being rented. Chair Romine stated that the local contact will have to deal with any problems that arise, for example standing out in the street, etc. Tanima asked why would people be standing on the street. Chair Romine stated that we have certain times of the year where we have lots of vacationers and what happens when you have a small house with a large occupancy, they seem to drift outside and in the yard and the street. That is when neighbors have concerns that this sometimes leads to problems. Tanima asked if this was a bathroom issue. Chair Romine stated that there is a lot of issues that vacation rentals deal with and that is why it is important to have someone who is adept at handling these issue. Tanami stated that they really don't want to have problems and maybe having someone adept to managing vacation rentals is better. Chair Romine stated that we do have a complaint process in place for residence who live around these vacation rentals to call and/or email. If the city gets to many complaints the VRD license can be revoked. Commissioner Ridout stated that we are talking about a vacation rental on a very narrow street and we should make some kind of requirement so that the renters are not backing out into the street, the fact that they have a full buildable lot right beside them could work for parking. Rather it be that they have two curb cuts or whatever. Mr. Cupples stated that maybe a hammerhead or pull through would work and that way they won't be backing out into the street. Mr. Cupples stated that will be one of the requirements. Then he asked if the commissioners wanted it brought back before them for approval. Commissioner Ridout stated that he didn't think that was necessary.

At the end of the Commissioners discussion, Chair Romine closed the public hearing and Chair Romine made a motion to approve the conditional use under the guidelines that staff has presented with an occupancy of 9, 3 person per bedroom, 10 person occupancy maximum. Parking needs to be where the renters will not have to back out into the street, however they can accomplish that. The parking surface will need to be approved by the Planning Director. Vice Chair Carpenter seconded and the motion was carried unanimously. Commissioner Hoth requested that he be emailed the final decision on the parking and the surface of the parking area.

**C.) 16-074V:** A request by **Antoine Simmons** for a variance at 341 S Prom. (6 10 21AC TL: 11900, 11100, 10900). The property is zoned Resort Residential (R-R) and the applicant is requesting a variance to the building height of 45 feet. This revised variance request would allow a defined building height of 60 feet although the apparent height of the building from adjacent grade will be less. Unlike his prior request, the applicant's new plans will comply with all the side yard setback requirements.

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. David Vonada, Tolovana Architects, PO Box 648, Tolovana Park. As you can see from the last submittal all the side yard setbacks have been met. What they did to accomplish that was to go to angle parking that limited the number of parking spaces. There would be no height variance on the Beach Drive side. However they are asking for the height variance on the Prom side. David verified the projection of the balconies. The decks on the west side of the building (near the Promenade Condos) still meet the 10 foot setback. There could be a further deck projection at the northwest corner; however it would not be within the site line from the Promenade Condos would not be affected by an optional deck on the northwest side. We think these plans are an improvement since the last time. This is a simplified request and in general should meet with the approval of the neighbors.

Chair Romine asked if there was anyone else who would like to offer testimony in favor of the request. Antoine Simmons, 341 S Prom, Seaside. His goal is to go back to the drawing board and figure out a way for them to do this project. They are giving up some of the oceanfront rooms on the second floor to meet the parking requirement. The main issue the last time was the side and rear yard setbacks and they have met those requirements.

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

Chair Romine asked if there was anyone who would like to offer testimony in opposition. Dan Calef, 25 Avenue A and also 4115 Woordruff Avenue, Oakland, Ca. Their family has owned the little house and the main house that burnt down for a very long time and have concerns regarding the size of this building coming up around them. They had concerns before and still have concerns. With the size of this new development their home will be dwarfed by this and furthermore it will be completely in the shade. They haven't been here for a month and everything in the house is damp. When they do get sun it helps dry the house out. In the plans it shows the driveway will be right by their front door and will bring lots of traffic. They are also concerned about safety. He has two children in their twenty's and hopes to be a grandfather soon and would look forward to bringing them to the house. They would like to see something smaller in fitting with the property and something that doesn't dwarf their property. They have never rented the house out. They have strict rules that say only family members can use this home.

Susan Calef 25 Ave A, Seaside. She has concerns regarding the parking. Susan was in town last summer when the child drowned. Even though there are no parking signs on Avenue A, in the summertime, people still park along the street and it makes it difficult for the emergency people to get to the beach because of all the illegal parking. With this new development it may make it worse. They have also had their house run into several times. Also one of the rooms of this hotel will be looking right into one of the bedrooms. Susan invited any of the planning commissioners to come by for coffee and sit and watch all the traffic.

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

Chair Romine stated now is the time for any rebuttal. Antoine Simmons stated that he does understand the concerns. His goal is to fill in the gap between Trendwest and the Promenade Condos.

Chair Romine indicated the issue was opened for Commission discussion.

Chair Romine stated that at this point the only thing that they are getting a variance on is the height and all the other setbacks have been met, correct? Mr. Cupples stated this new variance is a fifteen foot variance to the allowed height. That is by using the lowest adjacent grade between zero and five feet out from the building by Beach Drive and then going out to measure the height of the building along the undeveloped sixth street frontage. Because of the way our ordinance is written if we split this up into two different buildings then we would only be dealing with a 7 foot variance. If you took off the east portion of the building then it would just be based on the grade around the building. So if you look at the grade around the building it is only 7 feet above the 45, based on the definitions in the ordinance, but when you add the East wing on then you have to use the lowest grade based on the ordinance and that is where it starts and that is why in reality that it is a 60 foot building but from measuring out where you would normally measure right adjacent to the building then you are looking at 52 feet. Vice Chair Carpenter stated that there are some discrepancies in the summary it says 90 feet, and then 60 in the staff report and the letter in opposition says the 90 feet. In the letter of opposition they are writing about

the 90 foot variance but there is only a 60 foot variance. This is truly only a 60 foot variance, correct? Mr. Cupples stated that he sent an e-mail to Avrel Nudelman clarifying that it was 60 feet and not the 90 feet and he didn't receive an e-mail back. Mr. Nudelman is still saying the height is still inappropriate for the site and he is objecting to it because it is being allowed to go higher than 45 feet. Mr. Cupples stated that Mr. Nudelman did get a copy of the report. Commissioner Ridout stated that the handout of the drawings for this new project, pages 6 and 7, on six if you look at the building height it appears that the roof is lower than the Promenade and then on 7 it looks like it's different. David Vonada stated that A1.6 is showing the height along Beach Dr. and that is where it meets the 45 foot height however on the opposite side he could have shown the outline of the far elevation and that is what looks confusing. Commissioner Ridout asked for clarification regarding gable roofs. Mr. Cupples stated the height is measured at the halfway point between the peak and base of the gable. Commissioner Ridout asked if the A1.7 if the halfway point is exactly the height of the Promenade? Mr. Cupples stated that looking at A1.7 it looks pretty close to the midpoint. Commissioner Ridout asked if that was the goal? David Vonada stated that it was a coincidence. Chair Romine stated there will be 10 foot floor to the ceiling height. Commissioner Ridout stated that now it is much more palatable to those people who were having objections. He would certainly vote again in favor. He thinks the commission was correct the first time, and if the City Council had spent the amount of time that the Planning Commissioners had in reviewing it, they wouldn't have overturned the Planning Commission decision. He thinks it looks right, fits right, and he hopes that the gable roof rather than a flat roof will help the people get more sunlight because the gable roof will move the height and shadows further away.

At the end of the Commissioners discussion, Chair Romine closed the public hearing and Commissioner Ridout made a motion to approve the variance under the guidelines that staff has presented. Vice Chair Carpenter seconded and the motion was carried unanimously. Chair Romine stated in his perception, the commission has not discounted the testimony or concerns of the neighboring property owners but for the zoning it's appropriate for where the building is located.

**ORDINANCE ADMINISTRATION:** Mr. Cupples stated that at the last meeting, the commissioners wanted to have a full planning commission before they started to talk about the parking. He asked the commissioners if they want to start now or wait? Vice Chair Carpenter stated that they do have a city council meeting scheduled before the next work session so they may have selected the new planning commission members by then. Mr. Cupples asked if at the next meeting if they also want to talk about vacation rentals. Vice Chair Carpenter stated that he would prefer to wait on the VRD item until they get direction from the city council. Mr. Cupples stated that if you look at the vacation rentals in the area that Mr. Dunham lives in, Downing to Necanicum, between 7<sup>th</sup> and 8<sup>th</sup> Avenue, most of them have a site address different from their mailing address. That usually means they are absentee owners or second homes. Are we now seeing a migration of second homes moving in and that is encouraging vacation rentals or is it that the people who had second homes are now applying for vacation rentals? He has a sneaking suspicion that if you look back 25 years there would be more full time residents. Vice Chair Carpenter stated that as a point of reference the quantity of business licenses for vacation rentals, has that over the past five years gone up? Gone down? Or stayed the same? Mr. Cupples stated that it has been increasing since Mr. Cupples was hired. Mr. Cupples stated that he could put that in a graph for the vacation rental work session. Vice Chair Carpenter stated that would be very useful information. Mr. Cupples stated that he counted 27 homes in that particular area and from the mailing addresses only 3 of them are local. Chair Romine stated that to get better information would be from the water bills. Mr. Cupples stated there are so many web sites that rent vacation homes; we just don't have the time to search each site for illegally rented VRD's. Glenn used to be able to do that, but since we lost him, we just don't have the manpower or time. Glenn could look at a photo and say whether or not it's a vacation home or a permanent home owner.

**COMMENTS FROM THE PUBLIC:**

**COMMENTS FROM COMMISSION/STAFF:**

**ADJOURNMENT:** Adjourned at 8:50 pm.

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Ray Romine, Chairperson

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Debbie Kenyon, Admin. Assistant