

MINUTES SEASIDE PLANNING COMMISSION

October 1, 2019

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

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Chair Chris Hoth, Vice Chair David Posalski, Bill Carpenter, Lou Neubecker, Robin Montero, Jon Wickersham and Teri Carpenter. Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director, Absent: None

APPROVAL OF MINUTES: September 3, 2019 adopted as written.

INTRODUCTORY STATEMENTS

This is the time duly advertised for the Seaside Planning Commission to hold its monthly meeting. Agenda items can be initiated by the general public, any legal property owner, Seaside City Council, City staff, and the Seaside Planning Commission.

Chair Hoth 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.

PUBLIC HEARING PROCEDURES, EX PARTE CONTACTS & CONFLICTS OF INTEREST:

Chair Hoth stated it is standard procedure for the members of the Commission to visit the sites to be dealt with at these meetings. He then asked if any of the Commissioners wished to declare an ex parte contact or conflict of interest. Commissioner Teri Carpenter stated that she knows the Van Hornes and will be excusing herself from the vote.

AGENDA:

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Chair Hoth:

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: 19-033VRD A:** Appeal by Todd Van Horne of a Planning Director decision to approval Jerry Johnson's vacation rental dwelling (VRD) at 403 9th Ave. (T6-R10-16DD-TL1200). The conditional use approval was for a four (4) bedroom VRD with a maximum occupancy of nine (9) people over the age of three, no more than ten (10) regardless of age. The property is zoned High Residential Density (R3).

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

Chair Hoth asked if there was anyone who would like to offer testimony in favor of the request. Todd Van Horne read the following statement: Good evening Seaside planning commission, thank you again for this opportunity to appeal the conditional use VRD permit for 403 9th Ave. Seaside has been a part of our family for over 100 years. Since 1910, our connections to the community of Seaside have been strong. The pride of our great-grandparents in Seaside's early years dots our family history with snapshots and memories. One of our great family traditions is to ride a surrey in the Seaside 4th of July parade. We proudly have a sign on the surrey that says, "Celebrating 5 Generations in Seaside." The approval of "conditional use VRD permits" violates the intent of zoning and as a result,

we are losing our neighborhoods and community in Seaside. The original intent of these permits was for "occasional use," not businesses being established in high density zoned neighborhoods. Outside this room is a display that has Seaside's mission statement toward excellence: "The mission of the city is to improve the livability of our city by offering exemplary public service for all citizens and guests, thereby creating a strong spirit of community and a safe and enjoyable environment for everyone."

We understand the balance of property owners and guests. Tourism is a part of the Seaside economy. This appeal is not a personal dispute with our neighbor. We have reached the tipping point by too many Vacation Rental dwellings. We are out of balance on the backs and to the detriment of our residents. I have three main points:

A violation in this conditional use permit process.

The misuse of Seaside zoning laws and conditional use permits.

The need for stronger City oversight of managing VRD property businesses.

1. **A violation of the conditional use permit process.** The City planner must notify of property owners within 100' of a conditional use VRD requests. We were notified of our property at 369 9th Ave, but **not at 370 9th Ave.** Although this may appear to be a technicality, due diligence by this commission should be taken to assured proper notification is followed. These properties have separate names and tax accounts. We were not notified of 370 which is a violation of the permit process. This brings about questions for other required notifications within 100'. Section 6.137 of the Seaside zoning laws, 2.E states that a spatial distribution requirement of VRD's must not exceed 20% within a 100' area. We believe there are more than 20% VRD's in this area and this approval was without a comprehensive view to the city's zoning plan. During the September 3rd, 2019 Planning commission meeting, Planning Director Kevin Cupples, stated that 100' was determined from the center point of a property. The map given under his office's evaluation show the 100' from the properties edge, not the center. Measuring from the properties edge this adds two more properties into the count, changing the percentage. If measured from the center point of the property, 100' affects 11 properties with now 3 VRD's or 27%, which is out of compliance.

We request the planning commission review all notifications of affected properties and clarify how 100' is determined. Has a violation has occurred?

2. **There is a misuse of our zoning laws and Conditional use permits. VRDs are not a home owner's legal right.**

We own a cabin and a lot in a R3 High Residential zone. The main purpose of an R3 zone is to provide housing for families. There are areas of R-R (Resort Residential) that provide spaces for tourist accommodations. Mixing these without the Planning Commission's full guidance has created this problem.

Section 6.010 states the purpose of conditional use permits: "Because of their unusual characteristic, or special characteristics of the area in which they are to be located, conditional uses **require** special considerations so they may be properly located with respect to the Comprehensive Plan and to the objectives of this Ordinance."

Section 6.020 PLANNING COMMISSION AUTHORITY. The Planning Commission shall have the authority to approve, approve with conditions, or disapprove Conditional Use Permits in accordance with the standards and procedures set forth in Sections 6.030 through 6.140.

Section 6.137 VACATION RENTAL DWELLING (VRD)

Purpose. The Vacation Rental Dwelling Permit is in recognition of the **desire of many people** to rent their property on a short-term basis.

A Home owners "Desire" is not a legal right. In this case, there is no "unusual characteristic, or special characteristics," and where this VRD fits within the comprehensive plan. In the R3 zone of 9th Avenue we have been disproportionately impacted. We do not need another new VRD, we currently have 11 on 9th Avenue.

Missing in the VRD requirements is insurance. As a business license is required for a VRD permit, proof of insurance should be required. Many homeowner policies do not cover homes that are becoming rentals/VRD's. Commercial insurance should be a city requirement as this protects both the homeowners, their neighbors, and their visitors. All other seaside businesses have this requirement for commercial insurance. The city is also exposed with this risk and could potentially be sued without a commercial

insurance requirement. The overuse and approval of the conditional use permits do not, "Improve the livability" from the Seaside vision statement. In a conversation with the Mayor of Seaside Jay Barber he states, " ... I share your concern and personally I would like to place a moratorium on VRDs until the Council and Planning Commission have the opportunity to weigh the results of the Housing Study just completed." The authority resides in this room to place on hold on "new" VRD permits until new guidelines are established and implemented. Please exercise your authority to improve the livability of our city for citizen and guests.

3. **Managing property businesses are not managing the impact of the community.**

The fox is guarding the hen house. We need city oversight on the community impact of VRD's. We do not have a City Code Compliance Officer, even though the ordinances outline their role.

Section 6.137 6.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.

I'll read this note from Ruth Koch, a 92 years old residence that has lived on 9th Avenue for 60 years and the adverse effects of too many VRD's.

(RUTH'S LETTER)

September 21st, 2019

It has been brought to my attention that there is another property on my street at 407 9th Avenue that have intentions of using this property as a vacation rental property under the rental property agent, BEACH HOUSE VACATION RENTALS.(Erin Barker, owner/operator). I am a home owner of 320 9th Avenue for over 60 years and I am really getting overwhelmed by vacation rentals. There are SEVEN properties that I am very familiar with of which are, 260 9th, 310 9th, 440 9th, 350 10th, 340 10th and 719 North Downing and then I could list the houses leading up to the beach that too are vacation rentals. How many rentals do I need to list to get the point across? Enough is enough. None of these houses I mentioned have enough parking to sleep the amount of people they can have. Plus the friends that decide to bring their pillows too. Over the years I personally have had issues with two of Erin's vacation rentals, one being 310 9th Avenue. They have numerous times hit my rockery wall and also my cyclone fence. Without any concern of my property. On one occasion Erin's own employed housekeeper hit my fence, I had to call the police to have them track the house keeper down, she acknowledge the damage and paid for the damages as she claimed it on her insurance. It wasn't Erin that cared about my property. Many occasions the garbage cans are left on the curb for days, until one of her housekeepers puts them back in the yard. Right now, I have broken reflectors and a bent fence post that need to be fixed from RENTERS hitting it. I again have brought it to Erin's attention, not even a phone call has been received. Who's responsible for fixing my fence that her RENTERS damaged. The other rental property is directly behind my property at 340 10th Avenue. The parties that go on ALL hours of the night. (HOT TUBBING). END

As detailed earlier, a commercial insurance policy could have resolved this issue. We ask that this commission request the complaint log from Beach House Vacation Rentals and evaluate actions taken to resolve these complaints prior to approving this new VRD they will be managing. We also request the hiring of Code Compliance officer, to better resolve such disputes prior to adding more VRDs. In closing, we believe this commission needs further study into the issues of a permit process violation, resolution of new housing guidelines, and instituting of processes and procedures of a city code compliance offs regarding managing property businesses and complaint resolution. As the mission statement says, "let's create a strong spirit of community and a safe and enjoyable environment for everyone".

Additionally, in reviewing managing property guidelines for renters, we came across a surprise on the Beach House Vacation rental's website. It is a picture from the 4th of July parade of my family on the surrey with our sign saying, "Celebrating 5 generations in Seaside". We request you remove our image. Todd & Karen Van Horne.

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

Chair Hoth asked if there was anyone who would like to offer testimony in opposition. Jerry Johnson read the following statement. My wife Tami and I are the owners of 403 9th Avenue. Thank you for letting us state our case. First and foremost I'd like to stress that this property was bought as our weekend getaway and possibly in a few years, our full time retirement home. It was never purchased as a

"business" investment. We started searching for a vacation home in Seaside a couple years ago. Every time we found one that was comfortably in our price range, it would get an offer and go pending before we could get down here from Seattle to look at it and make our offer. This happened about 3 or 4 times. When this property came on the market, we loved the house and location. It was somewhat more than we were looking to pay, but after missing out on so many we wanted to try to make it work. In the course of our house searching, we had learned that Seaside allowed VRD's in certain areas as long as the VRD density was under a certain percentage. This sounded like an ideal way to help us afford the higher mortgage that this house would entail. Our realtor introduced us to Erin Barker of Beach house vacation rentals, and with Erin's help, we did our due diligence to investigate the feasibility of doing this and found that it was in the right area and didn't exceed the density rules. So, we decided to take the plunge and bought it. When we applied for the VRD permit, the city inspected it and gave us a list of deficiencies that must be addressed. At considerable expense, we took care of each item on the list to bring the house up to city code for vacation rentals. In fact we literally had to raise the roof. As for the other VRD requirements, the house meets them all: location- it is in the area of Seaside where VRD's are allowed, existing density- as per the cities own map, out of 13 homes within 100' there are only 2 VRD's (15%) and they are both on 8th Ave.- not 9th, landscaping- yard and plants are well over the 50% required, and above all, parking- our driveway could easily accommodate 4 cars even though we will be advertising and renting as a maximum occupancy of 8 with only 3 cars max allowed. For these reasons alone, we feel there is no legitimate reason to deny our application.

As for the potential problems that the Van Horn's feel our house will cause, all I can say to them is give us a chance to show that those fears are unfounded. We want to avoid any problems or negative incidents even more than they do. After all, this is our second home where we plan to spend a lot of time ourselves, as well as having a substantial financial investment in it. This is why we feel very fortunate to have found Erin Barker and her company to operate the rental for us. Besides being a very conscientious, proactive and hands on rental operator, she is also a Seaside resident who takes pride in her community. And since she does live here, if there ever was a problem of some kind she could be there in minutes to take care of it. She thoroughly vets and prescreens potential clients before renting to them. Asking how many will be coming, the ages of everybody, even why they are coming to Seaside. We have already told her that we really don't want to be renting to bachelor parties, or frat houses, or other potentially disruptive clients. We would like to cater more to families. Such as a reunion where they want to stay together instead of in motel rooms or families with children who need more space than a motel room can provide. Or maybe 2 or 3 couples who want to share the expense of a house where they can be away from the downtown crowd and do their own cooking and such. I am kind of puzzled about their worries about parking. 9th Ave is already posted no parking on both sides and is patrolled by the police to ticket violators, who could just as easily be a local or a day tripper or anybody else. In fact I would be inclined to think there would be less chance of the scofflaw being a weekend renter because as stated earlier, our driveway has more than enough space for the amount of cars we will allow, and there is a giant sign on the refrigerator stating that all cars must be in the driveway.

Since we purchased this property, we have been here quite a bit moving in, and fixing it up to meet the cities requirements. I can honestly say I haven't seen the congestion, parking problems, or noisy partying that the Van Homes allude to. In fact the only 2 times I have heard any noise later in the evening it was a local full time resident having a get together on their front porch. And I have never seen a vehicle parked along the street on our block.

I think that a well-run VRD can actually have a positive rather than a negative effect on a community. Besides the usual property taxes that all homeowners pay, a VRD also generates income directly for Seaside through lodging taxes. As a rental they must also be maintained in top condition, with maintenance and repairs addressed promptly, thus contributing to the local economy through contractors, electricians, plumbers, landscapers, etc., as well as the housekeepers and other employees of the rental company. Where if it was only used occasionally by the owners, many of these repairs may be deferred "until later" or just ignored and lived with, which would allow the property to become rundown. And a well maintained home will increase in value, which tends to help increase property values of neighboring homes also. And lastly, just by being occupied more than the few weekends a year that we would be there, it can act as a deterrent to burglars, trespassers, etc. Not just for our home, but also for the other nearby part time weekenders such as the Van Homes.

Like it or not, Seaside IS a tourist town, and there is an obvious demand for VRD's. As stated earlier, for a variety of reasons a motel room does not always meet the needs of many vacationers. And if they cannot find a house to rent in Seaside they will simply take their tourist dollars to a place where they can find one.

Chair Hoth asked if there was anyone who would like to offer testimony in opposition. Mark Nairen, 15846 27th Avenue NE, Shoreline Washington. He has a private residence at 470 9th Avenue. He is 330 feet away from the Van Horne's and the Johnson's they are both fantastic families. They both have a very solid point. He is going to lean towards Jerry and allowing a VRD for his property. And the reason is because his townhouse is private and will be private. He will be moving down here in seven years to start a business. The townhouse next to him is a rental. They've had it for a year and a half. They have five star ratings on Airbnb in the last year and a half. He has not had any issues with the neighbors, the short term rental neighbors. Everybody's been great and polite and he believes that households up to six people in two cars. His wife and daughter are down here all summer long for three months and he's down on the weekends and meets a lot of different people. He believes that Jerry and Tammy are within their rights and within the law of what Seaside has. But he can see that this is going to be a common issue and that the planning commission will be addressing this more and more and probably putting a cap on it soon. He thinks there should be a cap on it soon, probably after the first of the year. But he would like to see Jerry and Tammy proceed to have their short term rental for this. He does plan on moving down here and becoming part of the business community in seven years and his place will not be any type of rental, but it will be a private residence.

Chair Hoth asked if there was anyone who would like to offer testimony in opposition. Erin Barker, 800 North Roosevelt drive in Seaside. She had no idea about the photo that was on her website with the Van Horne's. Erin goes to the parade and takes pictures. She picked out what she thought were some really cute pictures. She figured parades are public and that was a cute picture and if the Van Horne's really want it down she can do that. In reference to the property at 310 9th Avenue she has not received a phone call regarding that, so she's thinking when? Who? She has spoken to her but not in a long time, but she's called Erin before if she had a question or if there was garbage cans out. They should have side yard service there. Erin requests all the owners to have side yard service. Sometimes the garbage people, if it's a change or it's a new garbage person, it takes them a while to get the hang of it, which one is which kind of service. Because each site could have a variety of services and she's got Erin's number. So that's a bit of a surprise to her. She'll have to get to the bottom of that tomorrow because she didn't hear anything about anybody hitting the fence. When she was looking at the Van Horne's diagram she noticed 440 9th Avenue was not on the VRD list. She thought, well why do they think that's a VRD? So she Googled it to see if maybe it was an illegal VRD and I didn't find it anywhere. So she's not sure that she's trusting the accuracy of the red and green properties there. Some of them she recognizes and some of the properties, she's not sure if they just went on the website, but she knows that 719 North Downing, that's been a vacation rental with us since before she was here and that's been since 1999. Same with 310 9th Avenue. So those are probably both on older permits and 350 10th is plenty far away. She hasn't had any issues with any of these properties. Her point is with the vacation renters, 99% of the people who come to rent houses are families. Like any of you, any of us in 99% of them are rule followers. They don't run red lights, they don't rob banks. They do what they're told. They go to the store, they wait in line. You get a small percentage that are not exactly doing it right, but that goes in any community, whether you live there full time or you're in another town visiting. Part of it could be operator error. They might be confused, they go down the wrong street. But most people want to do the right thing and try very hard and often call us with a question about anything parking. Do we take out the trash? No. This house has side yard service. We have it posted when the garbage goes out. So they take it from the house to the garbage. Most people really want to follow the rules and try very hard to do. The other point that I would like to bring up is she does think that the city did their calculations correct. She's never known them not to. She's hoping that they get an opportunity to clarify. They take it the edges and then go out from there. Maybe there's some confusion about the center property being the center of that oblong radius. She's not sure, but it was at 15%. It captured 13 properties and two of those are vacation rentals. They're on 8th Avenue within that hundred foot radius. And so then she looked at these addresses and I said, well, a lot of two of the 13, which are local addresses there, there are two. The rest are Portland, California, Texas, Oregon, and Washington. Not here. So when you do the math on how many are local and how many are not - 20% are local and 80% of these property owners within a hundred feet are not here full time. This is not their full time residence. Then when she looks at the 200 foot, spread out from this, there are 44 and there's three. Then you add the other ones so that's seven out of 31. When she did the math on that it came out to be 22% percent. And two of those had local addresses and 77% have addresses from Oregon, Alaska, Washington, Arizona, California, Nevada, and Colorado. So the makeup of this whole chunk of top properties that we're looking at, on average, 20% of them live here full time or have local addresses and 80% do not. So she feels that this should be approved because it's under the 20%, it shouldn't have even come to the planning commission for review. She thinks there's a fear the owner doesn't want a vacation rental next door. She's been through this before she went and tried to speak with them. She did speak Mrs. Van

Horne just so that they could understand how Beach House vet their guests. They don't just have no communication with them. They do talk to them. They have canceled reservations. They asked for names and ages. They ask how many cars and the makes and models. They want all this information because they're going to make some of these go away or they're going to say, Nope, that's not going to work. You're going to have to look at a different house. She doesn't have a problem doing that because she wants to follow the rules. She wants them to follow the rules. And once she explains it to them, they go, Oh, okay, well if that doesn't work, then what else could we look at? So they're not objectionable to doing that. Sometimes they make a mistake and book something, not realizing that there was another rule that we're explaining to them further. The last point she thinks is pretty important to express is that there are different types of uses in a house. Either it's a homeowner living there full time or it's a renter renting from a home owner or a manager full time, or it's a home owner who only comes part-time or a homeowner who rents part time. They all have the same essential use. The reason why the short term rentals have these conditions placed on them is because years back when there were no rules, it was chaotic and people took advantage of it. Now over the last few years, there have been really good sets of rules that for the most part made sense. So in general these rules have made it very doable and to this point, the vacation rentals are of these uses the most regulated of all. She knows the neighbors including the Van Horne's and it's great they can have lots of people over for the holidays and park and bring their trailers and she think that's fantastic because it's a good family time to be together. But anyone in a short term rental cannot do that unless it's the owners. So they are the most highly regulated and as far as consistency with the neighborhood, 80% live out of town, they've met the conditions, she thinks they should be approved and give them a chance.

Chair Hoth asked if there was anyone who would like to offer testimony in opposition. Hank Horning's PO Box 1142, Seaside. He resides in the Seaside and he's a general contractor. Jerry had pulled all the necessary permits for doing the work. He did all the work for him. He would like to also address, there was a concern of the neighbor with having a fence with a bent pole on it. A suggestion may be to put a bullard on Jerrys side to prevent any vehicles that would touch or do any kind of damage to the neighbor, which may also, work for other people in the area too that have cars coming and going that the people may not be as familiar with that driveway cause they are just renting the place. He has lived along the Oregon coast for about 15 years and has noticed that coastal areas are really transitional. Lots of people think they want to live out to the coast. They live there for a while and then they moved back out. He thinks what was appealing also to Jerry was the fact that the neighborhood was coming up. Because people do come out here and change so often. Now the neighbor, yes, he had several generations here. But he thinks for the most part, overall people do a transition in and out of coastal areas pretty frequently. So his observation from this area compared to some of the other areas is that it doesn't have an over-abundance of vacation rentals. Vacation rentals to him actually seem to improve an area where you get some of the low cost housing, especially with the beach rental properties. Some of the older ones that aren't kept up turn into homes that are probably less desirable with drug activity and theft and different things that people do at some of these homes, which unfortunately all communities have. But the benefit of having these types of beach rentals is that they are brought up to par and kept up. One of the things as a general contractor to is that he sees things and he gives his free advice for neighbors and stuff for things he sees that might be a hazard. And one of the things, not to be negative, in any kind of way, but the neighbor that is asking to deny this has a large fir tree, which is quite large. That is pretty much dead by now. He had mentioned that to Jerry that he might want to talk to them, but he'll just speak up for him now at this time on record. The tree is a hazard, not just to Jerry's house, but all the other homes, including their own house. So he just wanted to note that as a hazard in the area not to go against them in any way. He would also like to find out how often does he use his property for rental and does he use the house or allow anybody else besides himself to stay there at the property?

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

Chair Hoth stated that it is time for the applicant's rebuttal.

Mr. Van Horne stated he would like to answer a couple of direct questions, their house has never been a rental. We do allow friends to stay over on occasion, but it's very rarely maybe once or twice a year. With regards to the trees in the back. We have had arborists look at that twice now in the last 10 years. And both times they deemed the spruce tree and the pine tree perfectly acceptable and perfectly

healthy. So yes, pine trees lean with the wind as we know. And I think that's what a gentleman is referring to. It's a leaning tree. He'll go back to some of the prior statements, just about the livability of our neighbors and our neighborhood and that's why we love it. It is a neighborhood you look out for each other. The adjacent property on the other side the East side of 430 is also opposing it in that letters by Edward Murphy who wrote a letter that is in your packet. He is eighth generation within Oregonians and his family helped haul fuel and wood down here from Portland in the early days by horse and buggy. There's a long history of that and what we like is the neighborhood and we want to keep the neighborhood where people look out for each other. Rentals on the weekends; there's no one that is actually to monitoring the place. So he'll go back to the prior statement about having insurance he thinks that regardless of a bollard or something happens to an adjacent property line or a property within that there has to be coverage that may not be covered by homeowner insurance. So yes, he thinks Jerry has done a great job in fixing up the house and making it rentable. But again they think that with some of the issues of transition and code compliance that you're after that we've just pause on adding more problems to the existing when you're trying to fix.

Chair Hoth stated that the discussion will be turned over to the Commissioners. Commissioner Bill Carpenter stated that he would like defer to Kevin as of the measurement of the 100 feet. Mr. Cupples stated if you look at the minutes from the last meeting page 10, line seven states. "Vice Chair Posalski asked if we measured from the center of the lot, Mr. Cupples stated no from the property lines" so none of that was incorrect. He stated that we do measure from the external property lines. The information that you have in your packet was run or was updated and actually run because we, he didn't do the 200 foot, so he asked Anne to actually run the 100 and the 200. And so you have that in your packet that just reflects those percentages. Commissioner Teri Carpenter asked if the 100 foot is oblong. Mr. Cupples stated basically you're swinging a rectangular box over whole property, but you're just measuring out a hundred feet from the external property lines. Vice Chair Posalski stated so if you measured it that way rather than from the center you actually encompass more homes than if you measured it from the center. Mr. Cupples stated Mr. Van Horne's statement about that is correct. If he did measure from the center and then you switched to the outside, you would capture more. However, that's what we measured from was the external property lines to begin with. Commissioner Montero asked if the property owners of vacant lots notified. Mr. Cupples stated yes and Mr. Van Horne is correct in that we didn't send the same notice to the same address but we know note when we create an adjacent property list, in order to save costs of mailing, we don't mail the same notice to the same address. We don't mail five of them to the same address. It would be one notice and then it's marked as a duplicate. Commissioner Bill Carpenter stated we were advised by our city attorney that we cannot have moratorium on vacation rentals. Mr. Cupples stated that is correct. Chair Hoth asked when you do the percentage calculation, do you round up? Mr. Cupples stated we put down what the actual percentage is if there are two vacation rentals out of 13 homes that gives you a percentage of 15%. Vice Chair Posalski asked just for clarification when it hits the 20% margin is then required to be reviewed by the planning commission. Is it then prohibited? Debbie Kenyon stated No, it goes to the planning commission if it is not more than 20%. Mr. Van Horne stated this has been granted a VRD license so that should count as one of the VRD's. Vice Chair Posalski stated that at the time of the review it was not a VRD and it still is not a VRD until it gets approved. The property that is applying for a VRD is not counted as one. There isn't a cap at 20% it will come before the planning commission if it's more than 20% for review.

Commissioner Montero asked Mr. Cupples if VRD owners are required to carry a certificate insurance naming the city as additionally insured. Mr. Cupples stated no, he doesn't believe that's required to do under the city business license ordinance. Vice Chair Posalski stated when he gets his business licenses, he doesn't have to show proof of insurance. Mr. Cupples stated there is a provision if someone is getting ready to do a street vender permit, he thinks there's a requirement to show proof of insurance for that. There are some things that require it, but he doesn't know that that's a requirement for that. Vice Chair Posalski stated like if you're getting a liquor license approved or something like that, requiring insurance. Mr. Cupples stated again, he doesn't deal with those that often, but he knows there are some that require that. Vice Chair Posalski stated that he'll address item number 3 that Mr. Van Horne had, which was managing property businesses or non-managed properties and that impact that they have on the community and the code compliance officer. It's definitely something that we as a planning commission bring on and he thinks if Mr. Van Horne sticks around for compliance. Mr. Van Horne will see some of the suggestions that we're looking at putting in place to improve the management of VRDs moving forward. Chair Hoth stated that the only issues he has is the parking and how many cars will be backing out.

Vice Chair Posalski made a motion to deny the appeal. Commission Bill Carpenter seconded the motion. The motion was carried with a five to one vote. Commission Teri Carpenter recused herself from the vote and Chair Hoth voting no.

Mrs. Karen Van Horn asked if she could say something. She feels like they have presented every single opportunity of every ordinance of this commission of Seaside to reregulate what, they believe your neighboring communities have done because this has been a problem. Cannon Beach and Gearhart has dealt with this problem and because it is taking the soul out of our communities. And they have witnessed on their little street, their little narrow street, just absolutely a disservice to the community their family. She really, in her heart of hearts feels like if you just can't make a decision to protect their neighborhoods because that's really what it is about. It really truly is about protecting our neighborhoods.

Vice Chair Posalski stated the place where your concern would come up would be at city council where they can change the ordinance. Mrs. Van Horne stated but that's fine but they paid \$580 to appear here. To actually get a VRD license is \$780. Just for them to be heard is just a travesty. She wants to take their sign and instead of saying "celebrating five generations in Seaside" to say "Save our Seaside. People cannot afford to live here. VRD's are taking over the city and people that live here and work here cannot allow them to be here." And she always goes back to, if you can't afford to buy a property, then you should not buy a property. You should not do it off the backs of your neighbors. You should not allow it in neighborhood zoning and you should question that. In the past, people in Seaside have bought properties that have included their families. Vice Chair Posalski asked if long term rentals should be allowed. Mrs. Van Horne stated absolutely. Vice Chair Posalski stated that's people making money off their neighbors. Mrs. Van Horne stated, no, those are people that are living here, they're working here. And they do have long term rentals in their neighborhood. And they enjoy them and their families. They are people that go to work and they can afford to live here.

Vice Chair Posalski stated he thinks we've all agreed that housing affordability is a big issue here. Mrs. Van Horne stated they own two properties here. One was not something that we wanted to invest in, but we did it to protect our neighborhood. And so what we did, we bought a property to protect our neighborhood because we knew that it was going to go into HUD housing and it was not livable. You need to really look at the impact of VRD's and you need to look at your neighbors. You need to look at Hawaii, they have completely abolished VRD's and she thinks we need to use their guidance because it is also destroying the neighborhoods. The Counties of Hawaii have said if you're in a commercial neighborhood, you can have a VRD. If you are in a residential area, you cannot. Vice Chair Posalski stated so they changed their ordinance. Mrs. Van Horne yes, the ordinance had been changed and swiftly. Vice Chair Posalski said okay, but it takes time. Mrs. Van Horne stated so are we just not in time? They have 11 on their street and it is a nightmare. They have people parking on a grass lot in front of our neighbor's house which is private property and, they have no recourse. She's just saying that at what point do you draw the line? And she understands that we have ordinances and things like that, but the ordinances are saying let's get somebody that is going to manage this process and she understand you're going there, but are they like two seconds early or are you not going to meet their needs. Chair Hoth stated unfortunately it's probably that there are two sides to this issue. One, there are people who have a problem with it and there are real problems inherent in it and we're all aware of it. The other key is, like or not, this is a tourist town and that is part of what goes on here and it's not going to go away. What we hope it will do is we can come up with some way of regulating it better. Like any issue, it has two sides. It has a dark side and light side. Sometimes it's difficult to see one or the other or do you want to look at this instance? He thinks that, even though he voted no for a specific reason, this is probably one of the types of vacation rentals that he thinks it was designed for initially. As someone who has trouble affording a house, can find a way to help finance it and may eventually become permanent residents and eventually become your neighbors and maybe in the future sitting next to you complaining about vacation rental dwellings in their neighborhood. So there are positives as well as negatives. Unfortunately we can't satisfy everybody. We are trying to come to some kind of resolution that manages them better. So if there are legitimate problems and sometimes there are that they will be addressed more specifically. We will be talking about some regulations that will limit the number that can be a little more than it is now. But as far as going them going away that's probably not realistic to him today. Mrs. Van Horne stated she had one more issue that she'd like to bring up is obviously they have a property there and the guidelines are, if you have a complaint, you have to have two written documents. Chair Hoth stated that if there are two written complaints or problems are brought to the attention of the planning director or his designee in this case, the designee refers to a compliance officer. Mrs. Van Horne asked if they would be notified. Chair Hoth stated if it was your complaint yes. Mrs. Van Horn stated okay so the other question she has is a police report considered a complaint?

Mr. Cupples stated if there's a VRD specific complaint that someone who violates one of their conditions of approval, then your recourse is contact the property manager and if you don't get any resolution through the property manager, then contact the city and that would be contacting our department and you'd say, something's going on and this isn't getting resolved. What are you going to do about it? The ordinance and the conditions of approval, say staff will basically be working with you and the property manager to try and get that result. And if it can't be resolved, then it can be taken to the planning commission and they can work on resolving. Mrs. Van Horne said okay, that's excellent and it's good to know what the process is. Mr. Cupples stated but if there's something, there's a distinction. If someone is violating a condition of their conditional use approval, that's really in the planning section of what you do. If in fact there's something going on and someone's disturbing the peace or whatever, yes, call the police. If you know that property manager and if you've got a responsive property manager and someone's in a hot tub and they're making noise, call them and they should be able to get it taken care of. But if there's noise going on that doesn't happen and you call the police for a noise complaint you don't even know with a vacation rental. If someone's there and they're acting up, they may not be renters. It could be. In fact, one of the biggest impacts in neighborhoods is, is when the owners are down and they're having a reception for a wedding or something like that, those are unregulated. And that's when a lot of cars come to places maybe more so than it being rented because if it is being rented and someone's doing that, they're violating their condition of approval. Mrs. Van Horne stated that someone accused them of parking a trailer on their lot, they do not have a trailer. Chair Hoth stated he thinks the gentleman said that they can put a trailer on their lot and he hopes she doesn't become too discouraged will discuss things with the city council. The planning commission will certainly craft some regulations that they will be holding public hearings for and he hopes the Van Horne's will be attending.

- B.) Continuance: 19-054VRD:** A conditional use request by Chris and Charity Richardson for a two (2) bedroom Vacation Rental Dwelling Permit with a maximum occupancy of not more than six (6) people over the age of three. The property is located at 1520 S Downing (T6-R10-21DC-2600) and it is zoned Medium Density Residential (R2).

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

Chair Hoth asked if there was anyone who would like to offer testimony in favor of the request. Chris Richardson. PO Box 446, Seaside, Oregon. He and his wife Charity love coming to Seaside and are very passionate about the city and its future. They plan to retire here. His wife graduated from the University of Oregon or her mom lives in Toledo in the Newport area. They both have been coming to the Oregon coast for many years now. And they're invested in our hearts when long term in seaside and they only want to see it improve. They've made quite a few updates to the property already in the last couple of years. They only like to hire local contractors, local electricians, local plumbers when they are here, which is frequently, but not frequently enough. They're here year round. They dine at the local restaurants and they spend their money at the local shops. They bought this house actually so that we could walk to places like Ken's market and the Osprey cafe and in the U street pub. Their house is their baby. They consider themselves as locals even if we're not 100% local just yet. They like the neighbors and their neighborhood. For the moment they are only allowing friends and family to stay at the house. They are contemplating listing the house in such a way that we have very tight control over who stays, on temporary basis. And another option we're looking at is listing their house on a home exchange website. A Home Exchange is really just a community platform, that allows people to vet each other in advance and get to know each other kind of an advance. Everybody's incentivized to not do damage to other people's homes. These are community of people who have homes in other interesting parts of the United States like Seaside, Oregon. Again, this is an option that allows them quality control over who's spending the time at their house and who's coming to visit Seaside. And they're just in the preliminary stages of looking at that right now. He wanted to come here and be above board, with you on that and let you know that we want to follow the guidelines to address the objections they had, that came across in the application process. One was that this VRD would commercialize the neighborhood in a negative way. He would respectfully argue quite the opposite. Again, they made improvements to the home and he thinks they have increased the overall property value. As he stated previously, they would only seek high caliber vacation renters, who would care for our property in the community as they would their own. He and his wife and plan to stay there the most frequently and in the off season. That's actually one of our favorite times to be here. It's a little quieter and they feel like it's a little more like their own little place in a sense. They do not seek to rent out the home full time. They are not interested in the problems that typically come with long term rentals. Though he wishes no ill will to long term landlords. His dad was a long term landlord. He has a lot of years of experience kind of in that realm. Long term

rentals he might add don't have the same guidelines and requirements as the VRD process. To my knowledge they're within the percentile guidelines of VRD for our neighborhood. There are two long term rental duplexes across the street for 1520 South Downing and right next door to them on the South side is a four unit multiplex building which is on the corner of Downing and Lewis and Clark. So the the concern was from a long term landlord. They have plenty of those in the neighborhood is at least from their perspective. They simply wish to be good neighbors and abide by the community guidelines. Thank you again for your time and consideration and he's happy to answer any questions you might have.

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

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

At the end of the Commissioners discussion, Chair Hoth closed the public hearing and Vice Chair Posalski made a motion to approve the conditional use under the guidelines that staff has presented. Commissioner Wickersham seconded and the motion was carried unanimously.

ORDINANCE ADMINISTRATION: Chair Hoth's understanding is that the city council would like to just make sure that the points here are clear, that if we have seen issues we resolve them and then send it off to them to compare with what they're working on so that we can prepare something specific to present the public. Based on what he heard last night, the calculation for the density, was that it was 40% within 100 feet it. If we did 200 feet it would allow for putting a whole bunch of them in one small spot. Again, these are just recommendations and so we'll stick with a hundred feet. One VRD license per owner. He doesn't think there's any deviation on that one. The acknowledgement form, that's a good idea. Annual inspections we are still ok on that one. Increase in annual fees that the commission agreed upon and that's the city councils responsibility. Also hiring the compliance person. Okay. Then we have the question of a hard cap. How are you feeling about that? He was not happy with that one necessarily. Commissioner Bill Carpenter stated he is opposed to a hard cap because some of the justification is that we don't have a count of how many homes that are within the acceptable area for VRD's and how would you put a percentage on that or how do you establish a top limit beyond which we cannot go. That's one of the primary reasons he is opposed to a hard cap. Chair Hoth stated also seems to be something that requires actual change of rules and we are trying to maintain a neighborhood's character. Commissioner Bill Carpenter stated the neighborhood character by the comp plan gives us the authority to say no more in that neighborhood. Chair Hoth stated that's true so do we kind of feel like maybe this one needs to be removed at this point? Mr. Cupples stated you are supporting a percentage cap it's really based on that area and that percentage. Chair Hoth stated the improvements completed prior to rental he thinks we can remove that. Once we have a compliance officer that can be monitored, that's not as much of a concern. The issue of tying occupancy and bedrooms for parking the cars, he thinks that's a dead issue for him as far as he's concerned, that's it's up to the managers to have to regulate that. Vice Chair Posalski asked if this is something that's already in the ordinance. Mr. Cupples stated the way, that you structured decisions and the findings that are put together, whenever you run into a situation that you have two parking spaces and you have three bedrooms with the findings and conditions that you put on that, the findings really say for the purposes of this review, we're going to treat it as if it's a two bedroom, which means the occupancy is going to be limited. He doesn't think you need a variance for that. This way you're going to create the occupancy of that number you still advertise it as a three bedroom, but the occupancy is the most limiting factor and the maximum for the two cars and if there's only two use spaces available. Chair Hoth stated then the last one seems to be his issue only and that's stacked parking. The two issues are making some sort of a formal rule or dealing with it as we have that it's up to the property managers to monitor this. We will have a compliance officer. Again, that gives him more confidence that things will be watched and dealt with. If comes back to the commission they could then apply different conditions or reducing the cars and they can even make a condition that, three cars backing down a driveway is not working. Commissioner Teri Carpenter stated her personal opinion is the garage is being counted as parking and if it was the only parking allowed then she would be ok with it. But most of the time the garage turns into rec rooms. However if we have a compliance officer then maybe that can stay go way too. Mr. Cupples stated the Sunday before last he was out looking at a garage and he re-measured the space between where the couch and the pool table is. He told the owner that wasn't acceptable. He's removing the couch, he's moving the carpets out, he's moving the pool table over. The owner stated it's not going to be rented another month and he has to have four strong guys in order to move pool table. But by moving the couch he's going to have way oversized space inside the garage. As a follow up to that, because he's tired of the people not following the

guidelines, he's instigating a \$200 parking deposit. If they don't follow the guidelines of what his parking regulations are, he's going to keep the parking deposit. So he's actually putting that into place too. So in a follow up to one of the complaints saying that if people aren't parking in the garage, they will be fined. Vice Chair Posalski stated that last night we talked about getting public comment on some of these just to make sure we were on the same thing. Is that something we're expecting of public comments? Chair Hoth stated no, because this is not, oh, these are the rules now. These suggestions are based upon extensive public comment already. Vice Chair Posalski stated he's only heard from a couple of property managers. Mr. Cupples stated under public comment tonight. If someone wants to make comments on that they can. Vice Chair Posalski stated but we haven't gone through it with them and they don't have a copy of it or anything like that. Chair Hoth stated this is going to go to city council that will be published and be available. There will be public hearings, all of this stuff and it may well get revised by the time it gets back to us for modifications or additions or subtractions. Chair Hoth stated as soon as we're done with Commissioner Bill Carpenter's parking document, the next thing that would be public comments and if someone would like to comment at that time it would be great.

Commissioner Bill Carpenter stated there was a handout at the work session. A summary report and in their strategy number five, it indicated streamlined and right size and minimum off street parking requirements and applies all cities and it gives a number of things. Several years ago we talked about modifying off street parking, specifically for the downtown core area talking about residential over commercial. And that's all spelled out in the handout that he presented. He would like to open it up for council comments to see if there's any questions that you have. We have hashed through this once upon a time, when we are done talking about it forward it to the city council for their consideration. Vice Chair Posalski stated the only question he has is instead of making an adjustment one and a half spaces per dwelling unit is that going to make a significant difference or on one bedrooms would we be better off only requiring one space for a one bedroom? Commissioner Bill Carpenter stated he didn't know so he'll defer that over to Kevin. Mr. Cupples stated he thinks that's something that you can discuss when you've got that before your process is really, you'd be on your own motion saying we want to open this up for a public hearing. And so if Commissioner Bill Carpenter makes a motion, if you want to run that past the council, you can, you can instigate that as a proposed ordinance amendment. And if that's the proposed ordinance amendment, that motion, you guys kept the ball rolling and we set up a public hearing and you hear it first. Then you make recommendations to the city council. If you want to touch base with the council before you go that route, you can do that as well. So it's up to you which way you want to take it. Commissioner Bill Carpenter stated on the case with 1.5 parking spaces that was on the larger housing complex in order to facilitate a smaller units like studio's and one bedrooms. If they had the incentive of a one and a half parking spot that you might tend to go that direction. Now we can insist on any developer on doing anything but we can certainly give them incentive. Vice Chair Posalski stated maybe if we structured it for every studio or one bedroom would require one parking spot and every two bedroom would require at least two parking spots. You may make that incentive for them to make more, smaller units based on the space that they have. Commissioner Bill Carpenter stated he would like to see more units that are smaller and there is a system development fee. However, for each unit, which plays into their penciling out. Vice Chair Posalski stated that may allow them on a particular lot to get broader units in there for potentially more income if they don't have to have as much area dedicated to parking.

Mark Nairen asked if he could say something, being from Seattle they are building, but they're not giving any parking and it's starting to implode. So his suggestion would be if you have a two bedroom, you allow for two spaces. If you have one bedroom, you'll offer one space. Don't take away parking because what's going to happen is that even though the developer might make a couple more bucks, somebody's going to look at that. If they have a big family with number of cars, then they are not going to live there because they've got three cars and no place to park. Vice Chair Posalski stated currently the requirement is for every dwelling unit to have two parking spots. The other item that we have on here about resort residential over commercial more goes towards his comments. Where we're talking about not requiring parking. Commissioner Bill Carpenter stated that this is only in the downtown core area because we don't have a requirement for parking for the commercial buildings downtown for the number of square feet that they have because of agreements that were made eons ago. When they built the big parking lot that we are always looking for places to put our workers and if we can put them above the commercial buildings, residential units without imposing an impossible scenario or the landlord, but find two parking spots within 200 feet is impossible in the downtown core area. So he would say in that C-2 area that we just eliminate the requirement for parking there and the kids coming in are coming in hopefully without cars. Vice Chair Posalski stated that the ones that he is bringing in do not have cars. Commissioner Bill Carpenter stated the landlord has control over who goes up there. Chair Hoth asked what are we asking for. Feedback on whether to approach the council with this? Commissioner Bill Carpenter stated that he would make a motion that we forward this on to the council

for their consideration. Mr. Cupples stated that will be consideration to set a public hearing with you. Commissioner Wickersham seconded the motion and it was carried unanimously.

COMMENTS FROM THE PUBLIC:

Mark Nairen once again. He would like to state about bringing with what we were talking about earlier, if we could bring a cap VRD's on, on the amount per street. Vice Chair Posalski asked if Mr. Nairen if he has seen what we've put together to address that is to put a cap in most areas that we currently allow VRD's, 40% within the 100 feet would be the absolute cap, except for those properties essentially along the Prom and the beach itself. Chair Hoth stated that we don't have a hard cap because that gets us into all kinds of problems with current rules about value and changing your ordinance and things. The other thing, it is in a sense a cap but it's tied to the comp plan it says we are attempting to maintain at least some semblance of neighborhood areas and if VRDs are more than there are houses, we feel that that's not retaining the character of the neighborhood feel we have language to support.

Mark Nairen asked if there is a way to put in, like just say houses coming up for sale to put a disclaimer to make sure that there's this disclaimer on the listing that tells a potential person, yes, this can be used or no, this cannot be used as a VRD. Chair Hoth stated no because we wouldn't be able to determine that until you run all the numbers and draw the lines and see if it can become a VRD. Vice Chair Posalski state these are not transferable. It's a brand new application for a new owner. Chair Hoth stated, maybe a disclaimer should be done, but it's not up to the city to do it. He thinks it's probably up to the people selling the house saying that this is not guaranteed to be able to be a VRD. And if they go out to the buyer and say, yeah, you can have a VRD well then they're probably misrepresenting and it's up to the buyer to get the facts and to do the due diligence.

Mark Tolan 524 N Roosevelt, Seaside. He thinks because people like a certain words, we can say a hard cap is inherently established within our percentage guidelines. In fact, it's better than saying we would do 10% in particular area because if the numbers stack up in a certain orientation, it is going to be the case where you're going to have people who are just going to be left out. So a hard cap is inherently established within the parameters that you guys are setting forth people like that. They're asking for it. In theory, a hard cap is established inside your parameters. Once you establish a hard cap inside our parameters. We've done that. There will be a stop point that protects the neighborhood. He think that's really cool. The Commission has just logic slammed everything to get it to a point where like all these objections are getting overcome by like common sense decision making that protects the economy. He's looking at like where we are from a revenue standpoint for the city and we're all looking like, oh gosh, winter's here. Did I make enough money to get through the winter and that you guys are helping protect our economy knowing that. I want to say thank you again for that. The other thing he lost just a moment of sleep about, and hopefully, Kevin or David, you can clarify. When we look at ocean front, are we looking at the, the empty space in front as part of a percentage? Vice Chair Posalski stated let me read to you the policy that's been initially been drafted and it might clarify it for you. It says planning commission will not support the approval of a VRD conditional use permit application. If the percentage of currently licensed VRDs within a hundred feet of an applicant's property exceeds 40%. Then we put an exceptions, this percentage would not be applied to the RR zone cause we allow for motels, hotels and condos the surrounding percentage of 40% and then the percentage would be increased to 50% for those properties in the following period. And we basically follow the waterfront along the Cove all the way up the the ocean side of beach then across over the RR zone and up. Basically anything that faces the ocean. Mr. Tolan stated he gets that. It just and seems like if the intent is to give a little bit more wiggle room. He heard at one point, it was like, my God, my heart went pitter patter when we said, do we care about ocean front? No, we don't care about the million dollar ocean front homes. They're sitting empty anyways. Those lots are generally bigger and most of them are double lots. And the other thing that's really interesting is that these particular people who are ocean front, they're paying way out into the water for the property tax. Chair Hoth stated if you can come up with some numbers to show there's a better way to do this or this doesn't work that's certainly something we take under consideration and this could all be modified. Mark Tolan stated the language is actually detrimental to ocean front. Although he believes the attitude wasn't for that to be the intent. Mr. Cupples stated it was actually beneficial. It's granting the ocean front properties a right above and beyond what the people who are non-oceanfront are being allowed because of the cap as you called it under the percentage is 40% every place but on the ocean front where it was going to be allowed at 50%. Vice Chair Posalski stated this does not limit people where it's not hard real from a planning department they could still come here, but in general situations they will not support them beyond these numbers. Mark Tolan stated he thought there was an intent to say we were going to allow a for a little bit of higher density at the ocean and kind of what he's putting forth is that these million dollar homes, which are going to fetch the most revenue for the city by far and away have the most biggest revenue potential. Vice Chair Posalski stated if we find something that's not working then we can address it at

that time.

COMMENTS FROM COMMISSION/STAFF:

Mr. Cupples stated just as a reminder, instead of having the meeting on November 5th, you're going to be having your next regular planning commission meeting on October 29 here in the council chambers. Chair Hoth asked if there will be a work sessions this month as well? Mr. Cupples stated as far as he knows, yes. Provided he doesn't have an accident next week. Vice Chair Posalski asked if we get clarity as far as the timeline for the business license fees. What city council is that you're going to be able to do? Mr. Cupples stated he believes that that is being worked on right now by the city manager and probably the assistant city manager. He thinks they're pushing to try and get that on this next council agenda for its initial review.

ADJOURNMENT: Adjourned at 8:45 pm.

Chris Hoth, Chairperson

Debbie Kenyon, Admin. Assistant