

MINUTES SEASIDE PLANNING COMMISSION

June 6, 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: Teri Carpenter, David Posalski, Chris Hoth, Bill Carpenter, Louis Neubecker, 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. There was no response.

APPROVAL OF MINUTES: May 2, 2017;

Vice Chair Carpenter made a motion to approve the minutes as submitted. Commissioner Neubecker 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.) 17-035VRD & 17-039V is a request by **Gail & Richard Robertson** for a **three (3)** bedroom Vacation Rental Dwelling Permit with a maximum occupancy of not more than **six (6)** people over the age of three. The owner is also requesting a variance to the 50% front yard landscaping requirement based on pre-existing development of the site. The property is located at **418 15th Avenue (6-10-16DA TL 6401)** 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. Richard Robertson, owner of 418 15th Ave, Seaside. This is a new experience for him and he feels Mr. Cupples expressed their desires very clearly. The road is a cul-de-sac and there are lots of children and people walking to the beach. Backing out could be a problem, they have 6 children and 26 grandchildren and they want to protect the kids more than anything. The house is large enough to handle more people but they are only asking for an occupancy of 6. They had a rental house in Massachusetts and know the damage that renting to a large number of people can do. They will eventually be living in it.

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. There was no response.

Chair Romine indicated the issue was opened for Commission discussion. Commissioner Hoth asked if the property was 50 feet wide and not 25 feet wide as the staff report states. Mr. Cupples stated that

yes it is 50 feet wide. Commissioner Polaski asked if the side yard is actually 10 feet. Mr. Cupples stated that he is not certain but the property has been surveyed and he didn't check to make sure. He did measure the parking area and they do have 9 feet and that is one of the conditions of approval. As is a site obscuring fence that will be placed on the property line. Commissioner Polaski stated that there are two drawings which one is the intent. Mr. Richardson stated that he would like to be able to use one along the house and then when it backs up it can back into the turnaround area. Commissioner Hoth asked why couldn't they park both cars in the turnaround area and that way they don't have to deal with backing out at all. Mr. Cupples stated that they would have adequate room to do that. Commissioner Hoth stated that if they did that they wouldn't have to worry about the fence or parking alongside the house. Chair Romine stated in his opinion the lot is a substandard lot, we are already at 27% VRD's in the neighborhood. We are being asked to grant a variance for a substandard lot to continue or become a VRD. It's not a good fit. Commissioner Hoth stated he doesn't like to tell people they can't do things. However we are getting to the point where there are a lot of VRD's and it seems overkill to bend the rules to be able to make more of them. Commissioner Ridout stated that he likes the pull through idea and would like that to happen. Vice Chair Carpenter stated from a safety point it would be better to have a pull through drive way than backing out onto the street. Commissioner Polaski stated that his concern is backing the car from the side of the house into the turnaround area and then out, with a fence there he doesn't think there will be enough room to maneuver. Chair Romine stated that he is not in favor of the VRD, it's like trying to put a square peg into a round hole. Commissioner Hoth stated that if the variance doesn't work, they can still park two cars alongside the home and turn the turnaround area into yard area. Chair Romine stated that it is a substandard lot and for a conditional use we can say they need a full size lot. Mr. Cupples stated that once they pass the 20% line they have two additional criteria. One is that they are compatible with the surrounding land uses and the VRD will not contribute to excessive parking congestion on site or along the adjacent street. When you cross the 20% then you have added criteria to judge the conditional use by. Chair Romine stated that it includes increasing the required lot size for yard dimension. Mr. Cupples stated that is in Article 6. Commissioner Ridout asked what is the history on an undersized lot, he doesn't recall any coming before the planning commission under 5,000 square feet. Mr. Cupples stated that he believes that we have had some. Chair Romine stated that they can meet the criteria with the variance. Commissioner Hoth stated he would like an explanation if possible of the specific criteria Chair Romine would base his rejection on. Commissioner Hoth stated if they landscape the front area then they would be at the 50% front yard landscaping requirement. If they meet the criteria with the parking and landscaping requirements what basis is there to deny this? Chair Romine stated purely lot size. Commissioner Hoth stated let's start with the variance first, there are four specific criteria. The first one is this is a substandard lot and they bought it that way so it's not their fault. The problem is, does this grant any special privileges to them and the answer is no. They could still meet the parking requirements, they could get two cars on the lot. On that basis the variance is not justified. Or do some of the other commissioners feel the variance is justified and we can go forward. Chair Romine stated from the comments that we heard earlier is that if this is approved for a VRD they would like to see a drive through parking area for safety reason. He's not necessarily opposed to that his issue is should it be a vacation rental at all. Vice Chair Carpenter stated that if we approve this as VRD he thinks we need to approve the variance as a safety issue, purely from the fact that they are not backing into the roadway. He can't see justification for denying this on the basis of lot size. Commissioner Hoth asked if Mr. Cupples could read the ordinance again. Mr. Cupples read the ordinance: Increasing the required lot size or yard dimension. Limiting the height of buildings. Controlling the location and number of vehicle access points. Increasing the street width. Increasing the number of required off-street parking spaces. Limiting the number, size, location and lighting of signs. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property. Designating sites for open space. Mr. Cupples stated that you have to realize that conditional uses cover a broad range of uses. You might be looking at establishing a new building in which case you would be looking at adjusting yards in this case you are looking at yards as they exist. Commissioner Posalski stated that to him there is an alternative and that is to limit this to one vehicle then we eliminate the necessity of a variance and we can approve the VRD. Mr. Cupples stated that based on other comments that have been made the variance is a good thing, from a staff point he would still want to look at the variance to the front yard landscaping and it would be a matter of dropping the occupancy to no more than 3. They would be still parking one car there and provide the circular driveway just so people aren't backing out into the street. It is angled in relationship to the street. Ordinarily public works wouldn't consider providing two accesses but in this case public works said that it is warranted.

At the end of the Commissioners discussion, Chair Romine closed the public hearing and Vice Chair Carpenter made a motion to approve the conditional use and variance under the guidelines that staff has presented. Commissioner Ridout seconded. Chair Romine asked for any additional discussion and Commissioner Hoth asked if part of the requirement is to close off the parking area by the door. Mr. Cupples stated that was not a condition. Commissioner Hoth stated that for him that would need to be added. Vice Chair Carpenter stated that he would accept that amendment. Commissioner Ridout stated he is good with this amendment. Commissioner Ridout asked why is that so important and Commissioner Hoth stated that it would help with the neighbors not having to deal with cars parked close to their home and also guests wouldn't have to back out onto the street at all. Commissioner Posalski stated that makes sense and would it be a physical barrier or a sign that says No Parking. Vice Chair Carpenter stated that it would be a physical barrier. Chair Romine asked if there were any additional comments. There was no response. He then asked all those in favor say yes. Commissioner's, Ridout, Hoth, Neubecker, Posalski and Vice Chair Carpenter voted yes. Chair Romine asked for those opposed, he and Commissioner Teri Carpenter voted no. The conditional use and the variance were approved.

B.) 17-037VRD is a request by **Barron & Jance Hurlbut** for a **five (5)** bedroom Vacation Rental Dwelling (VRD) permit within the existing seven bedroom dwelling. The VRD would have a maximum occupancy of not more than **ten (10)** people regardless of age. The property is located at **1221 N Franklin (6 10 16DA TL:10400)** 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. Mr. Cupples stated that at the beginning of the meeting he handed the commissioners a supplement to the staff report regarding a change in local contacts.

Chair Romine asked if there was anyone who would like to offer testimony in favor of the request. Barron and Jance Hurlbut, 281 Walnut Street, California. They have been looking for a residence to use in this manner for a year and a half and wanted to make sure that they had adequate parking. Long term intention is to move here in a couple of years but in the mean time they would like to use the property as a vacation rental. Eventually when they move here they would like to turn it into a bed and breakfast.

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. There was no response.

Chair Romine indicated the issue was opened for Commission discussion. Commissioner Hoth asked which spaces will be paved. Mr. Cupples stated that he would like to see the two space that come off of Franklin Street paved and then the rest of the spaces off of thirteenth paved. The critical part is that he didn't want to see the space on the south side of the property to count at all for the purpose of the VRD. Commissioner Teri Carpenter asked if after the required parking is paved does the rest of the gravel need to be paved. Mr. Cupples stated that he's not worried about it right now. Commissioner Ridout asked if there was any consideration on the guest backing out onto two streets now and Franklin is a very busy street. Mr. Cupples stated that the parking was designed for them to back out onto Franklin and 13th. They didn't design there parking for a circular driveway and if they did it would diminish the parking. Commissioner Posalski stated that most driveways are designed to back out into the street. The other VRD had an acute angle that made it difficult to see when backing out. Mr. Cupples stated that with this property they are not stacking the cars. Commissioner Ridout stated that he has some concerns he lives on a very busy street and they are used to looking out for traffic, but when you got visitors to the town it might not be what they are used to.

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

ORDINANCE ADMINISTRATION: Mr. Cupples stated that a question came up about uses in the C4 zone. An individual called who was asking about developing in the C4 zone was proposing a metal sided building, and he thought it might be objected to by any number of property owners in the C4 zone. Mr. Cupples stated that there are strict use provision in the C4 zone and the way that the C4 zone reads. It says, Retail stores and shops merchandising clothing, gifts, food, drugs, antiques, furniture, and appliances, the individual wanted to basically put in a hardware store with a variety of other things which we have right now in Ace Hardware. We had another hardware store in the C4 zone previously in the old Safeway site and he doesn't think that it was really

ever scrutinized. In the C4 zone it doesn't say Hardware stores or Lawn and Garden stores. There is a provision in the ordinance that says, in the same zone, and their accessory uses. So that allows staff some leeway in saying, if you had items that are listed and other things that are customarily accessory to that are found in stores like that then he doesn't have an issue of allowing that. But in this case the person was going to put a building that someone could object to or might object to he was a little head shy and said maybe he ought to go through a similar use request. The comment back was he could put the metal building up and sell those items and you couldn't say anything about it and that is true. So rather than looking at the building we need to look at, can the use be authorized. If he were to put a variety store in and it had hardware and garden supplies that are not the principle use but they are included in the other uses, just like Ace Hardware is now. Mr. Cupples doesn't think that he needs to go through a similar use if in fact he was just going to put in a hardware store or a lawn and garden store then he would need to go through the similar use and go to the planning commission for reviewed. If you are in agreement with that then we are in a good position to say just review it as a similar use if you are going to have it as a lawn and garden store because it really meets the intent. In Mr. Cupples opinion a lawn and garden store is what meets the intent of what the zone is supposed to provide, because he goes to Ace hardware and buys those types of items. Vice Chair Carpenter asked Mr. Cupples to define retail store. Mr. Cupples stated that retail stores and shops merchandising clothing, gifts, food, drugs, antiques, furniture, and appliances, it's really pretty specific. Commissioner Posalski stated that the point that Mr. Cupples is trying to get across is that in the C2 zone it has the term "such as" where we don't have that in the C4. Mr. Cupples stated that in the C2 zone he has a lot more latitude. If we were to amend the C4 zone he would add the words "such as" to it. If this applicant wants to do a lawn and garden store they should go through the similar use and say that it's not listed specifically in the zone but that's what similar uses are for. It's to say look at what the uses that are allowed now and kind of get out of the whole metal building issue, because that was the primary concern. Mr. Cupples didn't want them to build a building expecting to do a certain use and then have someone else say no you shouldn't be doing that and now they may have to change the siding on the building. But the applicant can build the building and sell exactly what the zone allows and there is nothing that you can do about it. Mr. Cupples stated he was just explaining what the ordinance says and what he thinks the ordinance should have said and if you agree the sole sale of that type of item would need to go through a similar use otherwise it can be an accessory so long as there are a variety of items in there and that is not the principle use of the building. Commissioner Hoth stated that if specific uses are listed then the absence of things being listed therefore it's not allowed. Mr. Cupples stated that someone could open up a hardware store and list a variety of items being sold and the hardware and garden supplies are an accessory to those other uses. Commissioner Hoth stated in the C2 it does say "such as" but in the C4 it doesn't say these items exclusively. Commissioner Posalski stated that when the term "such as" is used it opens up to any type of item. Commissioner Hoth stated that by the opposite token we are not saying that the store has to exclusively sell these items it could sell other items. Mr. Cupples stated that is where the similar use comes in. In the C4 zone under outright permitted uses it says: In a C-4 Zone, the following uses and their accessory uses are permitted outright, the accessory uses are permitted by the language in the ordinance. But it doesn't say that it will be solely something because then it would no longer be an accessory. Chair Romine stated that if he solely sells clothing and hardware then it would meet the zone. Commissioner Posalski stated if you looked at a business like Lyles it would not meet the C4 zone requirements. Mr. Cupples stated that is in the C3 zone. Commissioner Posalski stated no it's not but Lyles is so broad based, it has garden supplies, pet supplies and all kinds of other items. Mr. Cupples stated that in the C3 zone which is our catch all zone the heavier commercial zone it doesn't have the "such as" provision in it either but it also allows farm supplies stores. We don't have hardware or garden supplies in any commercial zone. Mr. Cupples just wanted to make sure that the commissioners know that there may be a metal building going up in the C4 zone and if the owner plans on exclusively doing something that is not listed in the zone it will be back before the commission as a similar use. If not and it's a variety store which is also allowed in the RC zone, if it's a variety of things and not just a hardware store or just a lawn and garden store then you won't see it and the building will go up. Commission Posalski asked if the purpose for Mr. Cupples was bringing this before the commission was for them to say, do we want to try to make changes to the ordinance or do we want to leave it as is or do we want to make adjustments or recommendations to the ordinance. Mr. Cupples stated he wanted the commissioners to be aware of what the ordinance says and what staff is looking at doing because this is a matter of interpreting the ordinance. If we get ready to do amendments in the use tables that is probably something that the commission should be considering. Commissioner Posalski stated that the question is if there is anybody here that believes that something should be changed in the immediate future to deal with these types of situations. Mr. Cupples stated that the property owner was considering the possibility of changing the ordinance instead of going through a similar use request. Commissioner Hoth and Commissioner Ridout agreed that in this situation it would be better to go through the similar use process. Commissioner Teri Carpenter stated that she would prefer to see some changes in the direction in the way the buildings are going to look, right now it is just a mismatch of things going up. Commissioner Hoth stated that in some cases we have stated concerns on the type of building beings built. Commissioner Posalski stated that would be a good discussion for a work session.

COMMENTS FROM THE PUBLIC: None

COMMENTS FROM COMMISSION/STAFF: Vice Chair Carpenter asked if there was going to be a joint work session with the council. Mr. Cupples stated that is open for discussion: there has been some discussion about it happening the last Monday in July or perhaps the 1st Monday in August. The Mayor stated where is it written that the meetings have to be on the 5th Monday of the month. He thinks we should have them when we need them rather than on a specific day. Chair Romine stated that a simple get together would be great. Mr. Cupples stated that the Planning Commission and Council should start looking at changes or policy directions or modifications to the way they do vacation rentals.

ADJOURNMENT: Adjourned at 8:08 pm.

Ray Romine, Chairperson

Debbie Kenyon, Admin. Assistant