



Planning Director Notice of Decision

APPLICATION(S):	23-010VRD - Vacation Rental Dwelling
MAILED DATE:	April 5, 2023
LAST DAY TO APPEAL:	April 20, 2023
Applicant:	Beth Marcotte-Fulton
Owner:	Carolyn Marcotte
Location:	521 S Franklin, Seaside, OR 97138 (T6-R10-S21AC-17701)
Zone:	High Density Residential (R-3)
Staff Contact:	Jeff Flory, Community Development Director

Request Summary:

The applicant has requested a conditional use permit for a one (1) bedroom Vacation Rental Dwelling with a maximum occupancy of three (3) persons over the age of three no more than five (5) persons regardless of age.

FINAL DECISION:

Conditionally approve application 23-010VRD allowing the establishment of a Vacation Rental Dwelling (VRD) with a maximum occupancy of three (3) persons over the age of three, no more than five (5) persons regardless of age.

Local Contact:

Harrison Fulton– 503-927-7140

The local contact should be called if there are issues with the operation of this VRD. The local contact is required to respond to complaints within a reasonable amount of time (two hours). Additionally, a VRD complaint can be filed with the City of Seaside at www.cityofseaside.us/vrdcomplaint.

APPEAL PROVISIONS:

This decision may be appealed to the Planning Commission within fifteen (15) days from the date of this notice. The appeal must be filed on forms prescribed by the City, pursuant to Section 10.037 and 10.040 of the Seaside Zoning Ordinance, and submitted to the Community Development Department (located at 1387 Ave. U) or mailed with valid postmark to 989 Broadway, Seaside, OR 97138. The appeal must be filed along with the applicable fee of \$580.00. This fee will be refunded if the Director's decision is overturned on appeal.

If you have any questions regarding this decision or the appeal process, please contact the Community Development Department at (503) 738-7100. The Notice of Decision date and last day to appeal are listed below.

Date of Decision: April 5, 2023

Last Day to Appeal: April 20, 2023

Jeff Flory, Community Development Director
jflory@cityofseaside.us
989 Broadway, Seaside, OR 97138
(503) 738-7100

The City of Seaside Planning Department has approved the referenced request subject to conditions intended to make the use compatible with the surrounding properties. The decision was based upon information submitted by the applicant, notified property owners, and other information readily available in the Department. Approval of a one (1) bedroom vacation rental dwelling (VRD), with a maximum occupancy of three (3) persons over the age of three, no more than five (5) persons regardless of age, is subject to all of the VRD standards in the Seaside Zoning Ordinance and all of the following conditions.

CONDITIONS:

1. **COMPLIANCE INSPECTION:** The proposed vacation rental dwelling (VRD) must pass a compliance inspection conducted by the Community Development Department prior to any transient rental. This inspection will verify compliance with all VRD standards and conditions of approval and the applicant is hereby advised that failure to meet certain standards can result in a reduction in the maximum occupancy. The final occupancy will be noted in land use file (23-006VRD) and reflected on the City of Seaside Business License. The license is not valid until the appropriate occupancy has been established by the approval of a final compliance inspection by the Community Development Department.

Please be advised the VRD has undergone a preliminary compliance inspection. Any corrections noted during the inspection must be completed and verified prior to transient rental unless an alternative time period for completion is identified for specific items.

2. **PARKING SPACES:** Two (2) off-street parking spaces (9ft X 18ft per space) are required on site. These spaces shall be permanently maintained and available on-site for use by the vacation rental occupants. Vacation Rental Dwelling (VRD) tenants are required to park in the spaces provided on site for the VRD. No on-street parking associated with this VRD is allowed at this location. Vehicles parked at VRDs may not project over the sidewalk and block pedestrian traffic. A parking map shall be posted inside the dwelling for the VRD tenants. The map must clearly indicate:

ON-STREET PARKING CANNOT BE USED BY RENTERS. PLEASE USE THE SPACES PROVIDED ON SITE.

3. **MAXIMUM NUMBER OF OCCUPANTS:** Three (3) persons over the age of three, no more than five (5) persons regardless of age. The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations. If the number of occupants is less than the original number requested, it may have been reduced for valid code reasons.
4. **APPLICABILITY OF RESTRICTIONS:** Properties licensed for VRD use will be expected to adhere to the VRD standards and rules throughout the entire year even when they are not being rented for profit. This will not apply to the dwellings when members of the owner's family are present.
5. **OPEN YARD AREAS:** Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area that is not occupied by buildings must be landscaped in some fashion so parking will not dominate the yard.
6. **LOCAL CONTACT:** Harrison Fulton who lives at 500 N. Holladay Dr., is listed as the local contact and they can be reached at 503-927-7140.

The local contact must be available 24 hours a day to address compliance issues while the property is rented. Upon any change in the local contact, the owner must provide formal notice of the updated contact information to the City and all of the neighboring property owners within 100ft. Managers are required to notify the city any time they stop representing a VRD. Local contact information is available at the Community Development Department (503) 738-7100, City Hall (503) 738-5511, or after business hours at the Seaside Police Department (503) 738-6311.

The local contact must sign a Local Contact Acknowledgement Form that indicates they are aware of the Planning Commission's expectations concerning response to complaints by neighboring residents and maintain a complaint response log that would be made available to the city upon request. The signed form must be

returned to the Community Development Department so it can be included in the land use file. An updated form must be submitted by the owner any time a new contact person is established.

7. **COMPATABILITY:** A VRD will be compatible with the surrounding land uses and shall not contribute to excessive parking congestion on site or along adjacent streets.
8. **EXTERIOR OUTDOOR LIGHTING:** All exterior lighting must conform to the adopted Outdoor Lighting Ordinance even if any pre-existing outdoor lighting would normally be exempt under the provisions of the ordinance. This will basically require shielding of any exterior lighting fixtures such that glare will not be visible from the surrounding property for any fixture that exceeds 450 lumens, the equivalent of a 40-watt incandescent bulb.
9. **ORDINANCE COMPLIANCE & SOLID WASTE PICK-UP:** All vacation rentals must comply with City ordinances regarding noise, smoke, dust, litter, odor, and solid waste collection. Weekly solid waste pick-up is required during all months.
10. **REQUIRED MAINTENANCE:** It is the property owner's responsibility to assure that the vacation rental dwelling remains in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes, Traveler's Accommodation Statutes, and with the Uniform Housing Code. Owners are hereby advised that Carbon Monoxide detectors must be installed and maintained in all transient rental occupancies.
11. **PERMIT NON-TRANSFERABILITY:** Vacation rental dwelling permits are personal in nature and accordingly are not transferable. Upon transfer of the property, the new owner, if he or she so desires, may apply for a new permit in accordance with City Ordinance.
12. **BUSINESS LICENSE, ROOM TAX REQUIREMENTS & REVOCATION FOR NON-PAYMENT:** A City Business License is required and all transient room tax provisions apply to VRD's. The business license must be obtained prior to any rental of the property. Renewals must be made in January of the permit year. If the business license fee or the transient room tax payments are thirty (30) days past due, the VRD Permit will be revoked unless a written extension is granted by the Finance Director.

Some web-based booking platforms (Airbnb, VRBO, etc.) collect and remit transient room tax directly to the city on behalf of VRD owners/applicants. It is the responsibility of the owners/applicants that utilize these platforms to report this revenue on their quarterly returns.

13. **CONFLICTS & POTENTIAL DENIAL FOR NON-COMPLIANCE:** Upon receipt of two written complaints from two or more occupants of different residences who claim to be adversely affected by the use of the property as a vacation rental dwelling, or by notice from the City Code Compliance Officer that requirements or conditions of approval are not being met, the Planning Department will work with the parties involved to settle any conflicts. If the problems are not resolved, the permit will be reviewed by the Planning Commission as provided in Zoning Ordinance Section 6.137, Subsection 5 at the applicant's expense. Failure on the applicant's part to meet the standards or conditions will result in modification or denial of the permit.
14. **COMPLAINTS:** Applicants are hereby advised the City Code Compliance Officer routinely follows-up on individual complaints if there is a valid code issue that needs to be addressed by the owner and/or manager of a VRD. Staff does not wait until the occupants of two different residences submit written complaints before they take action to achieve compliance. The VRD complaint procedures are outlined in an attachment to the notice of decision and an electronic complaint form can also be accessed on the City of Seaside's web site:

www.cityofseaside.us/vrdcomplaint

This form should be used to report alleged violations that are not being addressed by the local contact or property manager.

15. **TIME PERIOD FOR APPROVAL, REQUIRED RE-INSPECTION:** This VRD will be subject to an annual compliance inspection (subject to applicable fee) during the second year of operation to ensure it maintains compliance with the VRD policies, conditions of approval, and ordinances applicable at the time of re-inspection. Re-inspection notices will be provided annually to the owner and the local contact. Failure to schedule an inspection or failure to correct any deficiencies identified during the inspection will result in the expiration of the conditional use permit and a new

application must be approved prior to obtaining a business license to allow the use. Any new application will be subject to the VRD policies, conditions of approval, and ordinances applicable as of the date the new application is accepted.

16. **TSUNAMI INFORMATION & WEATHER RADIO:** The owner shall post or otherwise provide a tsunami evacuation map in a conspicuous location within the VRD that clearly indicates “You Are Here”. In addition, a NOAA weather radio, with automatic alert capabilities, must be provided in a central part of the VRD along with an informational sheet that summarizes the warning capabilities of the radio in the event of a distant tsunami.
17. **GRACE PERIOD:** If a currently licensed VRD sells to another party, staff is allowed to grant a temporary grace period of not more than 90 days in which current bookings can be cleared without being recognized as a violation. The manager or owner must provide staff with a list of the bookings during the grace period and no additional bookings can be taken during that time.
18. **PET FRIENDLY RENTAL:** If the rental allows pets and they generate complaints related to running at large, trespass onto neighboring property, or causing a disturbance due to excessive barking; additional restrictions or containment measures will be required by the Planning Director. The additional restriction can include prohibiting pets at this VRD.
19. **REPEATED VIOLATION OF CONDITIONS:** As a conditionally permitted use, owners must understand their use is expected to comply with their conditions of approval and they, their local contacts, and/or property managers will be held accountable for addressing compliance issues. Repeated violations will be subject to citations; and if the violations constitute a pattern of disregard or neglect resulting in adverse impacts to the neighboring property owner(s), their permit can be suspended and/or revoked by the Planning Director or his designee. Any such action would be subject to review by the Planning Commission to determine if the use can be reauthorized in the same manner as the original request, but subject to revised conditions. Review by the Commission would be at the applicant’s expense based on the review fee applicable to the request at the time of review.
20. **OUTDOOR FIRE RINGS, FIRE PLACES, HOT TUBS, & SPA FACILITIES:** If these outdoor facilities are provided, their use will only be allowed between the hours of 7:00 a.m. & 10:00 p.m. These hours must be posted along with any other established rules governing use of the amenity. It is recommended the rules include a reminder there should be NO EXCESSIVE NOISE AT ANY TIME and renters should be considerate of the residents that live around the rental dwelling they are staying at.

If these hours prove to be insufficient to protect the neighboring property owners from unwanted noise or smoke, they will be further restricted by staff. The additional restriction can include prohibiting use of the outdoor facility entirely by VRD tenants.

The aforementioned conditions include the standards applicable to vacation rental dwellings (VRDs) identified in the Seaside Zoning Ordinance and they include specific conditions that are intended to reduce potential impacts to the adjacent properties.

Adherence to these conditions is a matter of compliance with the Seaside Zoning Ordinance. Violations can be subject to the penalties identified in Article 12 of the Ordinance.

Although they are not conditions of approval, the following is a reminder to the applicant.

- The conditional use will become void one (1) year from the date of decision unless the permit is utilized or an extension of time is approved in the manner prescribed under the Seaside Zoning Ordinance.
- As with any permit, the applicant must meet all applicable standards in the Seaside Zoning Ordinance and any other applicable City of Seaside Ordinances.

CITY OF SEASIDE
VACATION RENTAL DWELLING (VRD) COMPLAINT PROCEDURE

1. When there is an alleged or perceived VRD permit violation, the citizen/neighboring property owner is advised to contact the local responsible party/property manager for the VRD. The complainant will need to provide the VRD address and the nature of the complaint (e.g. over occupancy, parking issue, noise, trash, etc.). If they would like to be contacted concerning a response to the complaint, they will need to provide their name, address, or phone number to the local responsible party /property manager for the VRD and clearly indicated when a follow-up phone call would be appropriate. VRD contact numbers are included in the notice of decision and they are available at the Community Development Department (503) 738-7100, City Hall (503) 738-5511, or after business hours at the Seaside Police Department (503) 738-6311. The local contact list can also be obtained by accessing the VRD Complaint form that can be found at www.cityofseaside.us/vrdcomplaint.

Please Note: If the complaint concerns unreasonable noise, disturbing the peace, disorderly conduct, or some other non VRD specific city code infraction, the Police may be contacted directly at (503) 738-6311, or in case of an emergency, call 911.

2. In addition to step one above, the citizen/neighboring property owner should file a verbal or written complaint at the Community Development Department by providing the information necessary to complete a "Vacation Rental Dwelling Complaint Form" pertaining to the VRD (e.g. VRD address, nature of complaint, date & time of alleged violation, contact information, & indication if/when responsible party/property manager was contacted). The VRD Complaint Form is available online at www.cityofseaside.us/vrdcomplaint. The complaint can be reported over the phone during business hours to the Community Development Department at 503-738-7100.
3. All complaints will be followed-up on by City staff. You may be asked to provide additional follow-up information in order to determine if the action taken by the local contact/property manager was reasonable and within a reasonable amount of time.
4. If the citizen/property owner declines to provide their contact information, they will not be provided with any further follow-up information.
5. The Community Development Department Staff will confirm the existence of an alleged violation and or verify appropriate follow-up by the local responsible party/property manager for the VRD and abatement of any substantiated violation. A log of the actions taken by the Department will be noted on the copy of the violation form along with any written correspondence, citations, or abatement measures taken by the Department or the local responsible party/property manager.
6. If the violation cannot be resolved within a reasonable period of time or staff finds that a pattern of ongoing violations warrant further action by the Planning Commission, the complaint information and a report will be forwarded to Planning Commission for review during a public hearing pursuant to the notification and review procedures in Article 6 and 10 of the Seaside Zoning Ordinance.
7. Upon resolution of the complaint, a copy of the complaint form will be kept in the street file in the Department for future reference and it will be noted on the Annual VRD Complaint Log. A copy of the complaint log will be provided to the citizen/property owner if the contact information was provided at the time the initial complaint was filed.

These are intended to be used as general procedures applicable to VRD complaints. They are to be used as guidelines for administrative action and they do not limit the City's actions to gain compliance with the zoning ordinance or the Code of Seaside.

PLANNING DIRECTOR DECISION SUMMARY

DECISION CRITERIA, FINDINGS AND CONCLUSIONS:

The following is a list of the decision criteria applicable to the request. Each of the criteria is followed by findings or justification statements which may be adopted by the Planning Director to support his conclusions. The Director may include conditions which he considers necessary to protect the best interests of the surrounding area of the city as a whole. Although each of the findings or justification statements specifically applies to one of the decision criteria, any of the statements may be used to support the Director's final decision.

DECISION CRITERIA # 1: Pursuant to Section 6.137, Vacation Rental Dwellings (VRDs) within the R-2 and R-3 zones shall be reviewed by the Planning Director whenever the surrounding VRD density is 20% or less. A permit shall be issued as an accessory use provided the applicant can demonstrate by written application that all of the following standards are met:

A. Parking. One 9' x 18' off-street space will be provided for each bedroom in the unit, but in no event shall fewer than two spaces be provided. *Finding: The applicant's site plan shows sufficient space for the required two (2) off-street parking spaces for VRD use. One off-street parking space is inside the garage the other parking space is on the large parking driveway in front of the garage.*

B. Number of Occupants. The maximum number of occupants cannot exceed three persons (over the age of three) per bedroom. The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations.

The number of overnight renters or the maximum number of occupants may be reduced by the Code Enforcement Officer or Fire Marshal at the time of inspection for valid code reasons. *Finding: The applicant's occupancy is set at three (3) persons over the age of three, no more than five (5) persons regardless of age. The applicant's house is a 1-bedroom single family dwelling.*

C. Residential yard areas. Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area which is not occupied by buildings must be landscaped in some fashion so that parking will not dominate the yard. *Finding: the applicant's site plan shows that parking does not take up more than 50% of the required yard area.*

D. Local responsible party. A local responsible party that permanently resides within the County must be identified by the owner. The responsible party will serve as an initial contact person if there are questions regarding the operation of the VRD. The owner shall provide the telephone number of the local contact person to the City, and to the immediate neighbors within the notification area (within 100ft of the subject property). *Finding: The applicant has named a Seaside resident, Harison Fulton, as the local contact.*

FINDINGS & JUSTIFICATION STATEMENTS:

1. Mailed notice request summary: 23-010VRD: A Conditional Use request by Beth Marcotte-Fulton for a one (1) bedroom Vacation Rental Dwelling with a maximum occupancy of three (3) persons over the age of three no more than five (5) persons regardless of age. The property is located 521 S Franklin, Seaside, OR 97138 (T6-R10-S21AC-TL17701) and it is zoned High Density Residential (R-3).
2. The applicant's submitted justification is adopted by reference and summarized below:
 - a. The applicant's plot plan indicates there is adequate room to provide at least two (2) off-street parking spaces on the site for the vacation rental dwelling. One space inside the garage and one space on the driveway in front of the garage.
 - b. The submittal was for the existing one (1) bedroom single family dwelling to have a vacation rental dwelling (VRD) occupancy of no more than three (3) persons over the age of three, no more than five (5) persons regardless of age.

- c. The plot plan shows that the required parking will not take up more than 50% of the required yard area.
 - d. Local Contact: The applicant has named local resident, Beth Fulton, as the local contact.
- 3.** The proposed VRD is located within a developed residential neighborhood and the surrounding properties are primarily developed with single family dwellings.
- 4.** All property owners within 100 feet of the subject property were notified of the applicant's request. The Community Development Department did not receive any letters expressing concern with this request.
- 5.** The use is conditionally permitted in the zone and the VRD has met the minimum standards for establishing the use.
- 6.** The occupancy for this VRD will be limited to three (3) persons over the age of three no more than five (5) persons regardless of age.
- 7.** On street parking associated with this VRD is restricted by the conditions of approval. There is sufficient parking area to provide the two (2) off-street parking spaces required for the proposed use. In accordance with Section 4.100; whenever a use changes, the parking spaces must conform to the off-street parking requirements in the ordinance. By definition in the ordinance, off-street parking spaces must be paved (asphalt, concrete or other comparable surface authorized by the Planning Director) to prevent gravel from entering the paved streets.
- 8.** Negative impacts to a neighborhood cannot be predicted based solely on a change from full time occupancy, part time occupancy, long term rental, or short-term rental. Short term vacation rental dwellings (VRDs) are a regulated use subject to review. It is true that VRDs exhibit short stays by nonresidents; however, negative impacts can be caused by other permitted uses of longer duration. VRDs do have an identified local contact, restrictions that exceed those applied to the other uses of single-family dwellings, and a complaint resolution process that exceeds the "normal" restrictions applied to non VRDs.
- 9.** Nuisance ordinance provisions apply within all residential zones and all VRDs are subject to the same restrictions applicable to other residential uses in the zone.
- 10.** The City of Seaside Planning Commission has established a maximum density of VRDs within neighborhoods that are not zoned Resort Residential (R-R). Depending on the location, the Commission will not support VRDs where the surrounding density of VRD licensed properties, within 100 feet; exceed a density of 30% or 50%. They have not established a cap on the total number of VRDs that are permitted within Seaside. The applicant's property is at 11.1%, below the 30% threshold set by the Planning Commission for the R-3 zone.
- 11.** This area was not identified by the City Council or the Planning Commission as a residential area where VRDs should be discouraged due to the destabilizing impacts caused by repetitive property flipping or distinct factors applicable to a defined neighborhood that would conflict with the intent of the Comprehensive Plan & Zoning Ordinance.
- 12.** The proposed use is located within the tsunami inundation zone identified by the State of Oregon.
- 13.** The City of Seaside Planning Commission has a list of policies and a uniform list of conditions they believe should be incorporated into the vacation rental dwelling review process. These are considered consistent with the provisions in Section 6.031 which in part states: "...the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area of the city as a whole."
- In recognition of the Planning Commission's efforts and in keeping with the purpose statement for conditional uses, the Planning Director has recognized his authority to justify conditions that are intended to promote compatibility of the proposed VRD the surrounding uses. This includes applying the standard list of additional conditions developed by the Planning Commission to limit VRD impacts to neighboring properties.
- 14.** The glare from outdoor lighting can have an impact on adjacent properties. All exterior lighting should conform to the newly adopted Outdoor Lighting Ordinance even if any pre-existing outdoor lighting would normally be exempt under the provisions of the ordinance. This would basically require shielding of any exterior lighting fixtures

such that glare will not be visible from the surrounding property for any fixture that exceeds 450 lumens, the equivalent of a 40-watt bulb. This does not apply to any existing outdoor security lighting that is timed for short durations and activated by motion detectors.

15. The City encourages reporting problems with VRDs to the local responsible party and/or owner so problems can be resolved before any City action is required. If there are problems with a VRD that are not being resolved, staff can take actions intended to resolve the issues and can ultimately bring the matter before the Planning Commission if they are not resolved. A prior action by the Commission reiterated that additional conditions should be applied conservatively. They believe staff and the Commission can address additional conditions after a VRD is approved if and when an issue arises, instead of attempting to address every potential concern that may never actually come to fruition.

16. The Commissioners have indicated they believe their expectation for a local contact's response to complaints should be made very clear to the applicant and the local contact. In light of this, they have recognized a need for the local contact to sign and return a Local Contact Acknowledgment Form in an effort to clarify their role as it relates to the VRD's conditions of approval.

17. Pet friendly rentals can create problems for neighboring property owners if the pets are allowed to run at large, trespass onto neighboring property, or cause a disturbance due to excessive barking when left unattended.

18. Repeatedly violating the conditions of approval could render the use incompatible with the surrounding uses and undermine the basis for approving the request. The conditions of approval could include provisions that would allow the permit to be suspended and/or revoked by the Planning Director or his designee in the event the conditions are repeatedly violated. Such action would be subject to review by the Planning Commission at the applicant/owner's expense.

19. Outdoor fire rings, fire places, hot tubs, & spas can lead to late night disruption in neighborhoods when sound seems to carry even more at night and people talk loudly over the sound of the pumps. Smoke from outdoor fires can also be annoying to the occupants of neighboring properties. Staff routinely requires owners and managers to establish hours of use for these types of outdoor facilities to avoid early morning or late-night use and suggest they only be used between the hours of 7:00 a.m. & 10:00 p.m.

20. The Planning Commission has a policy to require a 90-day waiting period for properties that are not already permitted for VRD use. The property was not previously permitted as a VRD and the applicant purchased the property on August 16, 2021. The applicant has met the 90-day requirement.

CONCLUSION TO CRITERIA #1:

The Vacation Rental Dwelling requirements have been adequately addressed by the applicant and the request can be approved subject to the list of special and standard conditions identified in the Notice of Decision prepared for this request.

FINAL DECISION:

Conditionally approve application 23-010VRD allowing the establishment of a Vacation Rental Dwelling (VRD) at 521 S Franklin St with a maximum occupancy of three (3) persons over the age of three, no more than five (5) persons regardless of age. This decision can be supported by the findings, justification statements, and conclusions in this report subject to the conditions listed in the Notice of Decision.