

MINUTES SEASIDE PLANNING COMMISSION

May 3, 2022

CALL TO ORDER: Chair Montero called the regular meeting of the Seaside Planning Commission to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Chairman Robin Montero, Vice Chair Kathy Kleczek, Lou Neubecker, Seth Morrissey and Don Johnson. Staff present: Jeff Flory, Acting Planning Director and Transient Rental Compliance Officer, Anne McBride, Community Development Assistant. Commissioners Absent: Chris Rose and Brandon Kraft

APPROVAL OF MINUTES: April 5, 2022 minutes were 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 Montero asked if there was anyone present who felt the Commission lacked the authority to hear any of the items on the agenda.

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

Chair Montero stated it is standard procedure for the members of the Commission to visit the sites to be dealt with at these meetings. She then asked if any of the Commissioners wished to declare an ex parte contact or conflict of interest. Vice Chair Kleczek, Commissioners Morrissey and Neubecker declared a conflict of interest for project 21-061PDSUB.

AGENDA:

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Chair Montero:

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.
5. Electronic testimony can be submitted via Zoom using the meeting ID of 885-1260-0837.

PUBLIC HEARING

- A. Continuance of 21-061 PDSUB:** A Planned Development Subdivision request by **Sunset Ridge, LLC**, represented by Mark Mead. The subject property (**T6-R10-S22AB-TL# 8100**) is located north of the intersection of Hemlock St. and Aldercrest St. and it is approximately 6.62 acres in size. The subject property is zoned **Low Density Residential (R1)** and the request will allow the creation of 17 lots for residential development and one large open space tract. The proposed development lots range in size from 6,943 sq. ft. to 14,825 sq. ft. and the open space tract will be approximately 1.93 acres. The access would be provided by extending the north end of Hemlock St. through the creation of Hemlock Ct. and Fern Ct. Jeff Flory, Acting Planning Director, stated that the applicant

has requested a continuance in order to respond to comments that were made at previous Planning Commission hearing. The applicants have requested a continuance to the June 7, 2022 meeting at 6 pm in the Council Chambers and have waived their 120 day timeframe. Commissioner Johnson motioned to continue 21-061PDSUB. Chair Montero seconded the motion. The motion passed unanimously with Vice Chair Kleczek, Commissioners Morrissey and Neubecker abstaining.

ORDINANCE ADMINISTRATION

Jeff Flory stated on April 19, 2022, the Planning Commission discussed the vacation rental policies. There were 3 items up for discussion that would change the policies for when an applicant can apply for a VRD conditional use permit. The first item involved the density requirement for the R-3 zone and oceanfront properties. Mr. Flory continued to state that the Commission requested to lower the density in the R-3 zone from 40% to 30%, and increase the density on oceanfront properties from 50% to 100%. The second item was to require a 90 day waiting period after a property was purchased before the new owner could apply for a VRD permit. The third item was to extend the grace period for property managers and owner have to cancel reservations after a permit has been voided from 60 days to 90 days. The extension and grace period are written as part of the conditions of use for VRD permits. Chair Montero asked if the new owners are obligated to honor the reservations of the property under the previous owners. Mr. Flory responded that they are not obligated to honor them.

Chair Montero stated that she had contacted 9 other Oregon coast cities to understand their vacation rental policies. Vice Chair Kleczek asked if the map Mr. Flory provided could be shown online via the Zoom meeting. Mr. Flory stated that the maps are available on the City of Seaside webpage and are easy to find. Chair Montero stated that increasing the density for oceanfront properties would allow for approximately 90 additional houses. Vice Chair Kleczek stated that she was wanting the legal opinion for setting a maximum number for VRDs in Seaside and having a two-year waiting period for all new construction before a VRD permit could be applied for. Dan Van Theil, City Attorney, stated that all changes that are being discussed were policy considerations and he didn't believe there were any legal considerations.

Commissioner Morrissey asked if the policy changes would be voted on by the Commission or if they would be recommendations for the City Council. Chair Montero stated that the Commission would vote on what recommendations would be forwarded to the City Council. Commissioner Morrissey recommended that when it came to voting, voting would take place for each item individually. The other Commissioners agreed. Chair Montero stated that the addition of vacation dwellings along the oceanfront was provided to reflect that the VRD cap, as recommended by Vice Chair Kleczek, would not allow the additional 90 houses to become VRDs. Mr. Flory responded that although there are 90 additional potential VRDs, a majority of the oceanfront properties would be prohibited because of parking configurations and building code upgrades. Commissioner Morrissey asked if the VRD density would be adjusted by zoning or if sections of the town could be set at a different density cap. Mr. Flory stated that if VRD density is adjusted, the R-3 zone adjustment could be justified from the existing comprehensive plan, but he would defer to the City Attorney if the Commission was able to piecemeal sections with different densities. Mr. Van Theil responded that from his perspective there would need to be a rationale for the different density areas. Mr. Van Theil questioned what the rationale was for proposing a maximum VRD cap. Vice Chair Kleczek responded that the number 400 was propose because the City is in need of full-time housing and the current number of VRDs is around 350. There would be room for adding new VRDs. Vice Chair Kleczek noted that a public comment was submitted in favor of reducing the VRD density and suggested that the R-2 and R-3 zones should have matching maximum density at 30%. The other Commissioners agreed that the density in the R-2 and R-3 zones should both be decreased to 30%. Chair Montero stated that houses along Beach Drive that do not abut the ocean should remain at 50% density. Mr. Flory responded that this area has been established at 50% and would not change with these policy changes.

Commissioner Neubecker requested that Commissioner Morrissey restate his comments about properties north of 12th Avenue. Commissioner Morrissey responded that north of 12th Avenue was traditionally long term rental, but VRDs have recently been incorporated into the area. Chair Montero asked if Commissioner Morrissey was talking about near the old Seaside High School. Commissioner Morrissey confirmed the location. Chair Montero stated that the “end of the world” (north of 12th Avenue and West of the Necanicum River) has seen an increase in the number of VRDs in the neighborhood. The area north of 12th Avenue and East of the Necanicum River has mainly been long term rentals and full-time residents. Chair Montero asked the Commission if they would propose excluding north of 12th Avenue and East of the Necanicum River from the VRD zone. Commissioner Neubecker followed up with asking about the existing rentals. Chair Montero responded that the rentals would be grandfathered until the property was sold or the permit was forfeited. Mr. Flory asked Mr. Van Theil if this policy change would cause any measure 49 claims. Mr. Van Theil responded that he doesn’t believe it would cause any claims. Vice Chair Kleczek stated that the Commission should discuss a maximum VRD cap of 400. The other Commissioners agreed that regulation of VRDs should be controlled with density percentages. Commissioner Neubecker stated that the Commission should review the maximum VRD cap in 8 months to a year. Chair Montero suggested that the policies should be reviewed yearly.

Commissioner Morrissey stated that his disapproval of the VRD cap was because if the cap was reached, houses that are within a 100% density area or the RR zone, which would be outright permitted uses according to the new policy, would be denied or placed on hold. Vice Chair Kleczek stated that the RR zone and oceanfront properties could be excluded from the 400 VRD cap and suggested that a VRD cap could be incorporated within the comprehensive plan update.

Chair Montero asked the Commission wanted to institute a waiting period before allowing an applicant to apply for a VRD conditional use permit. Vice Chair Kleczek stated that the Commission had discussed a waiting period for new construction. The waiting period would prevent new construction being turned into a VRD instead of becoming a long term rental or full time housing. Chair Montero asked if this waiting period would apply to houses on Prom. Vice Chair Kleczek responded that it would not. Chair Montero stated it would be only for new construction in the R-2 and R-3 zones. Vice Chair Kleczek added that the waiting period should be 2 years. Commissioner Neubecker agreed with Vice Chair Kleczek that a waiting period should be implemented on new construction. Chair Montero stated that the waiting period should be started upon receiving the certificate of occupancy for the new construction.

Mr. Flory asked for clarification if a waiting period of 90 days after a property had been sold was on the table to be discussed. Chair Montero stated that it was. Commissioner Morrissey stated that if a property was not a VRD before, the waiting period should be enacted, but if the property was a VRD before the sale of the property there should not be a waiting period. Mr. Flory asked for what was meant by “if the property was not a VRD before,” i.e., if the property was sold while having an active license, or if the property had an active license at any point of the property’s history. Commissioner Morrissey responded houses with an active VRD license. Chair Montero added that the new 100% area and RR zone would also be excluded for this waiting period requirement. Mr. Flory asked for clarification for when the Commission decides acquisition of a property. Would it be based upon entering into a sales contract or recorded deed with the County. The Commission agreed that it would be with a recorded deed with Clatsop County.

Vice Chair Kleczek stated that signs were brought up at the work session and wanted to verify what the answer to the sign allowance was for VRDs. Chair Montero responded that the Planning Department clarified that the signage would be the same as a bed and breakfast, which was 1 and ½ square feet allowed for a sign. Commissioner Neubecker stated that houses with rental company signs allows transients to know which houses are empty.

Mr. Van Theil questioned the proof of ownership requiring a deed of record when properties are sold based on a contract of sale. The Commission asked for clarification. Mr. Flory responded

that in some situations, a property will be rented with an option to purchase the property. Mr. Van Theil expanded on the example by Mr. Flory stating properties can be leased and have the lease payments be credited to the down payment of the house. The owner would still retain ownership of the property until the sales contract was completed. Chair Montero stated that she and her husband were selling a property with a sales contract and the Clatsop County assessor's office listed them and the other party as owners. Mr. Van Theil wanted to clarify the owner of a property is identified by the recording of a deed and/or a contract of sale.

Chair Montero gave a recap of the proposed policy changes. Oceanfront property density would be increased to 100% from 50%, R-2 and R-3 zones density would be decreased to 30% from 40%, north of 12th Avenue and east of the Necanicum River would be excluded from the VRD area. On new construction in the R-2 and R-3 zones there would be a 2 year waiting period based on the certificate of occupancy, and new VRD licenses that had previously not been VRD would have a 90 day waiting period. Mr. Flory provided an example of when owners do not renew their business license at the end of the year because they are selling the house early into the next year. This would be a gray area for the active business license policy change. Commissioner Morrissey stated that the business license would need to be active. If an owner does not renew their license, they are not selling with an active VRD license.

Mr. Flory asked if the Commission was wanting to move forward with the increase of the grace period of existing reservations from 60 days to 90 days. The Commission stated they were in agreement with this change. Chair Montero suggested waiting to vote for the changes to the policies until the absent Commissioners had returned. Vice Chair Kleczek made a motion to request staff to formulate recommendations for the City Council as discussed in this meeting and be presented to the City Council at their next City Council meeting. The motion passed 4-0 with Commissioner Johnson abstaining and Commissioners Rose and Kraft absent. Jon Rahl, Assistant City manager, stated the next City Council meeting was in 6 days, on May 9, 2022. The Commission adjusted the motion to state the policy changes would be submitted to the next Council meeting after Mr. Flory had completed writing the policy changes. Mr. Flory stated that the Community Development Department would be in front of the City Council on the May 23rd meeting and will add these changes to their presentation. Mr. Flory asked what the timeframe for implementation of these policy changes the Commission would like to set. Chair Montero asked Mr. Van Theil if there was a minimum timeframe for implementing a policy change. Mr. Van Theil responded that there isn't a minimum timeframe but one should be implemented to help staff be transparent with the changes. Vice Chair Kleczek stated 30 to 90 days would be appropriate for implementation.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

COMMENTS FROM COMMISSION/STAFF

Commissioner Morrissey stated that for years, the City has had the mindset that Seaside had unlimited tourism at the expense of the full time residents. This policy change is the first step in realizing tourism is needed, but the City has to work for the residents and business owners of Seaside.

ADJOURNMENT: Adjourned at 7:16 PM.

Robin Montero, Chairman

Jordan Sprague, Admin. Assistant.