

MINUTES SEASIDE PLANNING COMMISSION

September 1, 2020

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

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Chairman Chris Hoth, Vice Chairman David Posalski, Bill Carpenter, Lou Neubecker, Jon Wickersham, and Robin Montero. Staff present: Kevin Cupples, Planning Director, Jordan Sprague, Administrative Assistant, Anne McBride, Community Development Assistant, Jeff Flory, Transient Rental Compliance Officer. Absent: Commissioner Teri Carpenter

APPROVAL OF MINUTES: August 4, 2020 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.

Chairman 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:

Chairman 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.

AGENDA:

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Chairman 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. **20-026VRD:** A conditional use request by **Michael Cholerton** for a **three (3)** bedroom Vacation Rental Dwelling permit with a maximum occupancy of not more than **nine (9)** people over the age of three. The property is located at **3120 Sunset Blvd. (T6-R10-29DA-TL300)** 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 conclusion. Mr. Cupples added that a letter was submitted to the Planning Department, and the conditions showed how these concerns were being met. Chair Hoth asked if there was anybody who would like to speak in favor of the proposal. Mark Tolan, 524 N Roosevelt Drive, with Seaside Vacation Homes, stated that the house has been fully remodeled, and will be renting the unit to cover the costs. The parking issues raised in the letter would be worked out with the neighbor and additional instructions will be provided to the guests on where to park.

Chair Hoth asked if anybody else would like to speak in favor. There were none.

Chair Hoth asked if anybody would like to speak in opposition. There were none.

Chair Hoth opened the discussion to the Planning Commission. Commissioner Robin Montero asked if the easement on the property was a legal easement or an agreement. Mr. Tolan responded that the easement is an agreement between the owners. Mr. Tolan added that lines could be painted in the future to help designate the parking areas, if parking becomes an issue. Commissioner Montero asked Mr. Cupples if the parking spaces will affect the landscaping plan that was required. Mr. Cupples replied that it would not impact the required landscape area. Chair Hoth stated that the concerns that the letter spoke about was answered on pages 6, 7, and 8, and they were adequately addressed. Vice Chair Posalski stated that he had visited the property, and if the parking was arranged to park lined up on the right side of the driveway, the access would be limited. Mr. Cupples added that same condition regarding parking was the same condition when the property last went through the VRD process. Chair Hoth asked if the parking arrangements were vague, where would the applicant know where to pave the parking spaces. Mr. Cupples responded that the applicant would provide a revised parking map that would show the exact locations for the parking spaces and those areas will need to be paved. These areas can use gravel to show the parking spaces to allow for renting, but the spaces will need to be paved within a year. Vice Chair Posalski motions to approve 20-026VRD with the conditions provided in the staff report. Commissioner Bill Carpenter seconded the motion. The motion passed 6-0, with Commissioner Teri Carpenter being absent.

- B. 20-029CU:** A conditional use request by **Neal & Joyce Arnston** that would allow the establishment of a four unit townhome style apartment. The property is located at **763 Avenue F (T6-R10-21AD-TL: 20000, 20100, 20200)** and it is zoned **General Commercial (C-3)**. The proposed development would have a vehicular access from Avenue F & Irvine Place.

Mr. Cupples presented a staff report, reviewing the request, decision criteria findings, conditions, and conclusion. Chair Hoth asked if there was anybody who would like to speak in favor of the proposal. Mark Mead, 89643 Ocean Drive, Warrenton, stated that the same family owns the two apartments on the same block. The new building would be the same as what was built for the other two buildings. The family was originally going to construct all 3 buildings at the same time, but ownership of this property caused the delay. The buildings will be two story with a garage on the first floor and two bedrooms on the second floor.

Chair Hoth asked if anybody else would like to speak in favor. There were none.

Chair Hoth asked if anybody would like to speak in opposition. There were none.

Chair Hoth opened the discussion to the Planning Commission. Vice Chair Posalski asked about the sidewalks, reading that there might be a delay with them being installed. Mr. Cupples replied that the Public Works Director could grant a delay for the sidewalks when there aren't full sidewalk improvements. If sidewalks were to not be provided at this time, a pedestrian access that would connect the front of the units to the parking area would have to be established. Commissioner Montero asked about ADA parking for the units. Mr. Mead replied that for the type of housing that will be built, ADA parking spaces would not be required. Commissioner Montero stated that the development of the first two buildings required ADA parking spaces. Mr. Mead responded that after discussing with Bob Mitchell, City of Seaside Building Official, because the units are townhomes, and not apartments, they do not require ADA parking spaces. Commissioner Montero asked if these units are rentals and not condos. Mr. Mead confirmed that they are rentals. Commissioner Wickersham asked what the difference between a townhouse and apartment, based on the definitions. Mr. Mead replied that a townhouse is all one unit, with the unit being stacked and no units above or below the other unit. This allows the buildings to be built using a different building code; the residential code. Apartments are considered commercial and built using the commercial building code. Vice Chair Posalski raised his concern about sidewalks not being required at time of construction. Mr. Cupples responded that sidewalks are required by City ordinance, but can be delayed for reasons, such as inadequate drainage in the area. Commissioner Montero read from the staff report that drainage provisions are not included on the plan, and a properly engineered system would need to be incorporated into the final plan. Why would you not require sidewalks at that point? Mr. Cupples replied that the drainage was for

the site, not the street. Commissioner Wickersham asked Mr. Cupples how long the deferment can be set to. Vice Chair Posalski replied that the decision would be up to the Public Works Director. Commissioner Wickersham asked if the land owners would be required to install the sidewalks at that time. Mr. Cupples stated that the land owners would have to sign a document that says that they are waiving their rights to object to a local improvement district and the installation of the sidewalks could be ordered by the City Council at any point in the future. Commissioner Montero asked if the four additional parking spaces would be assigned to the units or if they were for visitors. Mr. Mead replied that the spaces would be assigned to the units. Chair Hoth asked where it states that sidewalks are required. Mr. Cupples replied that within the City ordinances, it states that anytime there is more \$5,000 worth of construction under a building permit sidewalk are required to be installed. Chair Hoth stated that the submitted plans show that sidewalks are not proposed, and asked if this phrase would allow for the deferment of the sidewalks. Mr. Cupples stated that it does not. Vice Chair Posalski asked Mr. Mead if sidewalks were installed for the previous development. Mr. Mead replied that a sidewalk was installed on Avenue G within the property, due to the street being a narrow right-of-way, and replaced a portion of sidewalk on Holladay Drive. The Public Works Director did not require them to install sidewalks on Avenue F at that time. Vice Chair Posalski motioned to approve 20-029CU with the conditions provided in the staff report. Commissioner Neubecker seconded the motion. The motion passed 6-0, with Commissioner Teri Carpenter being absent.

ORDINANCE ADMINISTRATION

Mr. Cupples stated that he spoke to somebody about putting in a pay-for-parking parking lot. He believed that the zoning ordinance stated that they were allowed or conditionally allowed, but was unable to find the reference. He had found where it states that parking is required for uses, being able to lease parking spaces from other individuals, but does not state that paid parking is a listed use. Mr. Cupples added that he was thinking about telling the individual that it's not a specifically listed use, but because it's accessory to other commercial activated and other uses that are permitted, the use would be approved, unless told otherwise. Two paid parking lots have been approved in the past in both the C-3 zone and the C-4 zone. Chair Hoth wanted clarification if the parking spaces were "paved" or "paid." Mr. Cupples confirmed that it was paid parking. He continued to state that business can have leased parking spaces, and that he was thinking about approving paid parking within all commercial zones, not in residential zones. Chair Hoth asked if it would be more analogous to something that would be under conditional uses or outright uses. Mr. Cupples replied that he believes that it is an outright use due to parking requirements already in place. Chair Hoth asked if there was a functioning business on the lot, or will it be an empty lot with parking space. Mr. Cupples replied that it would be an empty lot with paid parking spaces. Chair Hoth asked if an application would be required for the parking lot. Mr. Cupples responded that a business license would be required and the parking spaces would have to be designed to meet the ordinance standards for the required parking. Parking spaces that are not required, or over the required amount, do not have to meet the ordinance standards. In some design-standard books, paid parking lots or valet parking have narrower parking stalls because they have a professional person parking the cars. Chair Hoth questioned if there are standards for parking requirements for commercial use, and if so, then this paid parking lot would be a commercial use and have required parking. Mr. Cupples replied that the parking could be used for visitors who did not want to park in the public parking lot, and could guarantee a parking spot to park as long as they wanted to. Chair Hoth stated that the transaction of paying for the parking space would put the use as a commercial business and would require the spaces to be installed to meet the parking space requirements. Mr. Cupples reiterated that the parking spaces that would have to meet the standards are the required spaces. Commissioner Montero asked about the ADA parking requirements and the ratio of ADA spaces to the total number of parking spaces. Mr. Cupples responded that there is one handicapped space for every 25 spaces, and the ADA space must be accessible. Mr. Cupples stated that he wanted to make the Planning Commission aware of this future possible use.

COMMENTS FROM THE PUBLIC

Chair Hoth asked if there were any comments from the public. There were none.

COMMENTS FROM COMMISSION/STAFF

Chair Hoth asked if there were any comments from the commission or staff. Commissioner Montero stated that a couple of months ago, the Planning Commission approved a VRD request, with the VRD license being a condition of sale for the home. She voiced her concerns about the applicant not being the owner of the property, and should not have been presented to the Planning Commission. Commissioner Montero referred to a previous Planning Commission from 2019, where the person applying did not own the house and the result was a no. Vice Chair Posalski recalled that the case she was referring to was not for an approval, but to verify if it could be approved at a future time. Chair Hoth stated that in the past, the commission has approved applications where the applicant is not yet the owner of the property. He did want to ask the question of how the Planning Commission can give VRD approval to somebody who doesn't own the property. Mr. Cupples stated that staff in the office provides customers with information of approved uses on properties, where most sales of the property are contingent upon the specific use being allowed. Mr. Cupples added that the property owners are authorizing the applicants to apply for the VRD request, with the understanding that they are under contract to purchase the property. Mr. Cupples continued with describing the process that is followed when answering questions regarding VRDs within the office. Commissioner Montero reiterated that she is uncomfortable having a sale of a home be contingent of a VRD approval. Chair Hoth stated that although approval is granted to the applicant, they are unable to rent the home until they have ownership property. Mr. Cupples provided an example of a commercial sale being contingent upon the approval of the use. Vice Chair Posalski asked Commissioner Montero what negative consequence could occur if an applicant got an approval for a VRD before they bought the property. Commissioner Montero provided a scenario where the owner and a potential buyer have an agreement, but then the owner decides to sell the property to a third party. Vice Chair Posalski responded the application would only be an approval for the applicant applying for the VRD license. Commissioner Montero questioned that since the applicants have a year to complete the conditions of approval, could surrounding houses increase the density of approved VRDs within the area before the sale is complete. Mr. Cupples replied that the counting for density is counted when the application is submitted, not when the conditions are completed. Chair Hoth added that if the sale of the property fell through, the homeowner could not extend the approval to another applicant on the property. Commissioner Montero asked if the authorization would become null and void if the sale doesn't go through. Mr. Cupples responded that the applicant has 1 year to meet all the conditions for the authorization, and if the conditions aren't met, the authorization becomes expired. Commissioner Bill Carpenter asked, "When an application is submitted with a LLC as the applicant, is the applicant the individuals with the LLC or is the applicant the LLC." Mr. Cupples replied that if a person purchases the property and puts the property within his LLC, then that would be fine. Commissioner Bill Carpenter stated that if it's an LLC, the owners can sell the LLC at any time. Mr. Cupples responded that if an LLC did transfer ownership, it would need a new application. Commissioner Bill Carpenter provided an example where partners in a LLC have left, and new partners have been brought on, does this count as a change of ownership for the property. Chair Hoth added that this issue is not the Planning Commission's concern. The main concern is the LLC that is applying for the license, if they were a corporation with multiple rentals or if it was a homeowner protecting their assets. Mr. Cupples stated that Jeff Flory, Transient Rental Compliance Office, does research on LLCs that apply for VRD licenses. Vice Chair Posalski stated that he would not be opposed to requesting of the LLC's operating agreement with the application.

ADJOURNMENT: Adjourned at 6:51 PM.

Chris Hoth, Chairperson

Jordan Sprague, Admin. Assistant