

REMINDER: INTERVIEWS 6:00 PM – TOURISM ADVISORY, PLANNING, TRANSPORTATION
ADVISORY, COMMUNITY CENTER & SENIOR

**AGENDA SEASIDE CITY COUNCIL MEETING
SEPTEMBER 22, 2014 7:00 PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF AGENDA
5. COMMENTS – PUBLIC
6. COMMENTS FROM STUDENT REPRESENTATIVE, Taylor Barnes
7. DECLARATION OF POTENTIAL CONFLICT OF INTEREST
8. CONSENT AGENDA
 - a) PAYMENT OF THE BILLS – \$127,516.68
 - b) APPROVAL OF MINUTES – SEPTEMBER 8, 2014 REGULAR MINUTES
9. UNFINISHED BUSINESS:
 - a) VACANCY – CITY TREE BOARD
PLANNING COMMISSION
TRANSPORTATION ADVISORY
TOURISM ADVISORY COMMITTEE
COMMUNITY CENTER AND SENIOR COMMISSION
10. PUBLIC HEARING – ORDINANCE 2014 -07 – AN ORDINANCE FOR A REQUEST BY SUNQUEST, LLC AND SEASIDE GOLF INC. FOR A ZONE CHANGE AT 451 AVENUE 'U' AND 580 AVENUE 'U', Kevin Cupples
 - OPEN PUBLIC HEARING
 - CLOSE PUBLIC HEARING
 - COUNCIL COMMENTS
 - MOTION FOR FIRST READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
 - MOTION FOR SECOND READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
11. NEW BUSINESS:
 - a) LIQUOR LICENSE APPLICATION – THE WATERBOY GRILL, 20 N. HOLLADAY DR
 - b) HOOD TO COAST RELAY AND BEER GARDENS SCHEDULED FOR 2015
 - c) ORDINANCE 2014-06 – AN ORDINANCE OF THE CITY OF SEASIDE ESTABLISHING A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF SEASIDE AND DECLARING AN EMERGENCY
 - OPEN PUBLIC COMMENTS
 - CLOSE PUBLIC COMMENTS
 - COUNCIL COMMENTS
 - MOTION FOR FIRST READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
 - MOTION FOR SECOND READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED

➤ MOTION FOR THIRD READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED

➤ MOTION TO ADOPT – ROLL CALL VOTE

d) RESOLUTION #3827 – A RESOLUTION OF THE CITY OF SEASIDE, OREGON, AUTHORIZING THE USE OF SEWER REVENUES TO BE PLEDGED TO PAY THE OREGON IFA LOAN (Regarding the Sewer Treatment Plant Bank Stabilization Project)

➤ PUBLIC COMMENTS

➤ COUNCIL COMMENTS

➤ MOTION TO READ BY TITLE ONLY – ALL IN FAVOR AND OPPOSED

➤ MOTION TO ADOPT – ALL IN FAVOR AND OPPOSED

e) UPDATE – SOUTH FORK NECANICUM DIVERSION SITE IMPROVEMENT PROJECT

12. COMMENTS FROM THE COUNCIL

13. COMMENTS FROM THE CITY STAFF

14. ADJOURNMENT

Complete copies of the Current Council meeting Agenda Packets can be viewed at: *Seaside Public Library and Seaside City Hall. The Agendas and Minutes can be viewed on our website at www.cityofseaside.us.*

All meetings other than executive sessions are open to the public. When appropriate, any public member desiring to address the Council may be recognized by the presiding officer. Remarks are limited to the question under discussion except during public comment. This meeting is handicapped accessible. Please let us know at 503-738-5511 if you will need any special accommodation to participate in this meeting.

SEASIDE CITY TREE BOARD

The purpose of the City Tree Board is to study, investigate, and develop and/or update annually, a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, along streets, and in other public areas. The Tree Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities,

- (1) Develop criteria for city staff and/or contractors to apply in making decisions entrusted to staff and/or contractor discretion,
- (2) Designate Heritage Trees on public and private lands within the city,
- (3) Promote the planting and proper maintenance of trees through special events including an annual local celebration of Arbor Day, and
- (4) Obtain the annual Tree City USA designation by the National Arbor Day Foundation.

The Board consists of five members, appointed by the City Council for a three-year term, and who are residents, or owners or employees of businesses within the city limit.

The City Tree Board shall schedule meetings as needed and elect a chairperson and a vice-chairperson. No more than 3 unexcused absences allowed in a calendar year.

Tree Board members serve without salary or compensation of any nature.

COMMITTEE/COMMISSION APPOINTMENT

1. **Date Council Notified:** **July 28, 2014**

Name: Jason Smith
Richard Bailey
Jon Wickersham

Commission/Committee: **City Tree Board Committee**

Resignation Date: **N/A**

Term Expiration Date: **June 30, 2015 &
June 30, 2017**

Wants to be considered again: **N/A**
2. **Applicants:**
3. **Nominations:**
4. **Appointment:**

SEASIDE PLANNING COMMISSION

The purpose of the Seaside Planning Commission is to recommend and make suggestions to the Council and to other public authorities concerning the laying out, widening, extending and locating of public thoroughfares, the parking of vehicles, the relief of traffic congestion, betterment of housing and sanitation conditions, and the establishment of districts for limiting the use, height, area, bulk and other characteristics of buildings and structures related to land development. The Planning Commission is to recommend to the Council and other public authorities plans for regulating the future growth, development and beautification of the city with respect to its public and private buildings and works, streets, parks, ground and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of public utilities, including appropriate public incentives for overall energy conservation, and plans for shipping and transportation facilities.

The commission consists of seven members who are not officials or employees of the city and who will be appointed by the Mayor, subject to the approval of the City Council. A minimum of five members shall reside within the city limits; a maximum of two members may reside within the urban growth boundary, but outside the city limits. All members shall serve for a term of four years. A Planning Commissioner's term of office shall commence on the first day of November of the first year of his or her term.

Each year, at the first Committee meeting in November, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson. One of the Committee members will serve as Secretary. Minutes of all meetings will be filed with the City Council.

No more than two members of the Commission may engage principally in the buying, selling or development of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, which engages principally in the buying, selling or developing of real estate for profit.

The Committee shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public. Any person appointed to serve on this committee who misses three or more regularly scheduled meetings during a 12 month period shall be notified by letter that the position must be vacated. The individual may appeal the decision to the City Council. (A 12 month period is defined as beginning in January of each calendar year.)

The members shall serve without salary or compensation of any nature.

COMMITTEE/COMMISSION APPOINTMENT

1. **Date Council Notified:** July 14, 2014
Name: Virginia Dideum
Commission/Committee: Planning Commission
Resignation Date: July 17, 2014
Term Expiration Date: November 1, 2015
Wants to be considered again: N/A
2. **Applicants:**
Steve Wright
Kristin Tschannen
3. **Nominations:**
4. **Appointment:**

TRANSPORTATION ADVISORY COMMISSION

The purpose of the Transportation Advisory Commission is an advisory body to make recommendations to the City Council on matters concerning transportation and proposed transportation projects. The Transportation Advisory Commission shall have the powers and duties which are now or may hereafter be assigned to it by Charter, ordinance, resolution or order of this city and in addition it will:

- Assist the City Council in recognizing community priorities by advising on transportation policies and goals;
- Increasing communications between the City, the public, the Oregon Department of Transportation (ODOT), the County, and all interested parties;
- Reduce misunderstandings concerning transportation planning, design, and construction;
- Review current transportation related ordinances and recommend amendments;
- Review proposed transportation projects planned for the City of Seaside and make recommendations;
- Review the City of Seaside Transportation Systems Plan every five years and report to the City Council;
- Complete other projects, as they relate to transportation, as directed by the City Council.

The Commission shall consist of five members who are not employees of the City of Seaside and who will be appointed by the City Council. A minimum of four members shall reside within the city limits; and one member may live outside the city limits in order to represent concerns of neighboring properties and jurisdictions.

All members shall serve for a term of four years. Any portion of a term exceeding one-half the period of the term shall be considered a term.

Each year in January, the first meeting of the Commission, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson. City staff shall serve as Secretary to the Transportation Advisory Commission. Minutes of all meetings will be filed with the City Council.

The commission shall hold a regular meeting at least once each month of the calendar year. The meeting shall be open to the public and legally noticed.

COMMITTEE/COMMISSION APPOINTMENT

1. **Date Council Notified:** July 14, 2014
Name: Tom Dideum
Commission/Committee: Transportation Advisory Commission
Resignation Date: July 17, 2014
Term Expiration Date: October 1, 2015
Wants to be considered again: N/A
2. **Applicants:**
Robert Perkel
3. **Nominations:**
4. **Appointment:**

TOURISM ADVISORY COMMITTEE

The purpose of the Tourism Advisory Committee is to advise the Tourism Director, City Manager and City Council concerning issues related to the marketing of the City. The Seaside Tourism Director and General Manager of the Seaside Civic and Convention Center shall be the staff liaisons to the Committee.

The Committee shall consist of five members none of whom are employees of the City of Seaside. One must be a resident of Seaside while the remaining four shall be residents, or owners, or employees of businesses within the Seaside City limits. Nominees shall be recommended to the Council for appointment and preference given to the following:

- a) Representative from the Seaside Chamber of Commerce
- b) Representative from the Downtown Development Association
- c) Representative from the lodging businesses
- d) Representative from the restaurant or catering industry
- e) Representative from the at large who resides within the Seaside City limits.

All members shall serve for a term of three years. Any portion of a term exceeding one-half the period of the term shall be considered a term.

Each year, the first meeting of the Committee, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson. One of the Committee members will serve as Secretary. Minutes of all meetings will be filed with the City Council.

The committee shall hold a regular meeting at least once each month of the calendar year. The committee may at any regular or special meeting cancel one of the monthly meetings, and/or may change the location site. The meeting shall be open to the public. Any person appointed by the City Council to serve on this committee who misses three or more regularly scheduled meetings during a 12 month period shall be notified by letter that the position must be vacated. The individual may appeal the decision to the City Council. (A 12 month period is defined as beginning in January of each calendar year.)

COMMITTEE/COMMISSION APPOINTMENT

1. **Date Council Notified:** June 9, 2014

Name: Angela Clark
Virginia Dideum

Commission/Committee: Tourism Advisory Committee

Resignation Date: Clark – September 2014
Dideum – July 17, 2014

Term Expiration Date: Clark - December 31, 2015
Dideum – December 31, 2014

Wants to be considered again: Clark – No
Dideum - No
2. **Applicants:**
Linda Wyss
Kristin Tschannen
Ruth Swenson
3. **Nominations:**
4. **Appointment:**

COMMUNITY CENTER & SENIOR COMMISSION

The purpose of the Community Center and Senior Commission is to be an advisory body to recommend and make suggestions to the City Council concerning matters relating to the well being of the community center and seniors of the city. Receive direction from the Council concerning matters relating to the well being of the community center and seniors of the City.

The commission consists of nine members who are not officials or employees of the city and who shall be appointed by the City Council. A minimum of five members shall reside within the city limits; a maximum of four members may reside within the Urban Growth Boundary, but outside the City limits.

A Community Center and Senior Commissioner's term of office shall commence on June 1, of each year of his/her term. At the first Commission meeting in June, the Commission will appoint one of their members as Chairperson and one as Vice-Chairperson. One member of the Commission will serve as secretary and minutes will be filed with the City Council.

The Commission shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public. Any person appointed to serve on this committee who misses three or more regularly scheduled meetings during a 12-month period shall be notified by letter from the Mayor that the position must be vacated. The individual may appeal the decision to the City Council. (A 12 month period is defined as beginning in January of each calendar year.)

The members shall serve without salary or compensation of any nature. "The members shall serve without salary or compensation of any nature."

COMMITTEE/COMMISSION APPOINTMENT

1. **Date Council Notified:** June 9, 2014
Name: Joan Boesen
Commission/Committee: Community Center & Senior Commission
Resignation Date: Boesen – June 3, 2014
Term Expiration Date: June 1, 2014
Wants to be considered again: Boesen - No
2. **Applicants:**
Kristin Tschannen
3. **Nominations:**
4. **Appointment:**

**PLANNING COMMISSION RECOMMENDATION
Zone Change 14-028ZC C-1 to R-C**

After conduction a public hearing, the Planning Commission recommended the following action:

Recommended Decision: Approve proposed zone change request 14-028ZC at 451 Avenue U (T6 R10 28 AC TL: 300) and 580 Avenue U (T6 R10 28AB 11300). The proposal will re-designate Commercial Neighborhood (C-1) zoned portions of the subject properties Residential Commercial (R-C) in order to permit more mixed use development.

This recommendation is supported by the applicant's submittal, the staff report, public testimony, and the Commission's adopted findings, justification statements, and conclusions.

CITY OF SEASIDE STAFF REPORT

To: Seaside Planning Commission
From: Planning Director, Kevin Cupples
Date: August 19, 2014
Owners: Seaside Golf Club Sunquest LLC
451 Avenue U AND 580 Avenue U
Seaside, OR 97138 Seaside, OR 97138
Applicant Donn Bauske, P.O. Box 53; Seaside, OR 97138
Location: 451 & 580 Avenue U, T6 R10 28 AC TL300 & T6 R10
28AB TL11300
Subject: 14-0428ZC- Zone Change from Neighborhood
Commercial
(C1) to Residential Commercial (RC)

REQUEST:

The applicants are requesting a zone map amendment that will change Neighborhood Commercial (C1) zoned portions of the above referenced property to Residential Commercial (RC). The subject property consists of two units on opposite sides of Avenue U. The northern property is approximately 1.25 acres and the C1 zoned portion of the southern property is approximately 1 acres.

The northern property was previously used as office space for the O'Donovan Clinic and it was vacant for a number of years. Recently the building was

approved for church services under a conditional use permit.

The southern property has long standing use as the club house and golf cart buildings in connection with the Seaside Golf Course.

Both properties are currently committed to non-residential uses and have been since a time prior to 1983 when the City's first Comprehensive Plan was acknowledged by the State of Oregon. The applicants are requesting the zone change in order to allow greater flexibility for any future development of the sites. The C1 zone is very restrictive when it comes to allowing residential use of the property and the RC zone would permit more potential for a mixture of future uses while still permitting most of the commercial uses currently allowed in the C1 zone.

If the request is approved, future development of the property will be governed by the ordinance provisions and development standards applicable to the Residential Commercial RC zone. In accordance with the Ordinance, after reviewing the proposed zone map amendment, the Commission will make a recommendation to the City Council.

DECISION CRITERIA, JUSTIFICATION, FINDINGS, & 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 Commission to support their conclusions. The adopted information will then be used as the basis for the Commission's final recommendation to the City Council.

Although the City of Seaside Zoning Ordinance does not identify specific standards or criteria which apply to all zone changes, at a minimum, the following criteria must be addressed:

DECISION CRITERIA #1 : Section 15.4 of the Comprehensive Plan states the following:

- 5. Changes to the Comprehensive Plan shall be based on adequate finding of public need and factual information.**
- 6. Findings of fact for requested Comprehensive Plan revisions shall, at a minimum:**
 - a. Explain which plan goals, objectives, or policies are being furthered by the change:**
 - b. Present the facts used in making the decision; and**
 - c. Explain how the change will serve the public need.**

Although not included in this Section of the Comprehensive Plan, all proposed amendment must be consistent with the Comprehensive Plan and the amendment must maintain the Plan's compliance with the applicable State Wide Planning Goals.

FINDINGS & JUSTIFICATION STATEMENTS:

1. The applicant has submitted the following statement concerning 451 Avenue U:

Although this location is zoned C1 it has never been used as such. The Golf Course operation long predated the C1 zoning and was grandfathered in at the last rezone in the area. The appropriate zone for the property is RC which fits the present use of the premises and would be consistent with the City Comprehensive Plan. An RC zone change will have little if any impact on the adjacent R-3 and R-2 zones since it is already used as commercial by way of the grandfathered use.

2. The applicant has submitted the following statement concerning 580 Avenue U:

Although this location is zoned C1, it has never been used as such. The C1 zoning has hindered the use and salability of the property because of its undue restrictions. The medical Clinic was closed approximately 5 years ago except for some temporary use as a chiropractic office. Because of the restrictions of the C1 zone, no businesses that fit the C1 defined uses were needed in the area. The property has wallowed in limbo and disrepair to this date. A zone change would have no adverse effect on the surrounding R-3 and R-2 zones and in fact would benefit these zones by bringing the area into balance with the surrounding community.

3. From a zoning perspective, both zones allow very similar forms of retail businesses either outright or conditionally. The greatest difference between the zones is their treatment of residential uses. The C1 zone is very restrictive when it comes to allowing residential uses and the RC zone would allow more potential for a mixture of future uses while still permitting most of the commercial uses currently allowed in the C1 zone.

4. The similarity between the zones means that from a Comprehensive Plan perspective, they satisfy very similar plan policy objectives from a commercial perspective. From a residential (Goal 10 Housing) perspective some additional plan policies under Housing Section 4.1 would be supported by the RC zone designation since the C1 zone strictly limits residential uses.

5. As for the existing use of the property being grandfathered, it could be argued that the uses could be considered under the similar use provisions in either zone; however it is true the O'Donovan Clinic would have been a professional office use that would be clearly permitted as a professional office under the RC designation.

6. The Comprehensive Plan states the following about the C1 zone:

Neighborhood Commercial:

These areas are for the location of small businesses and services adjoining residential areas.

Residential uses shall not be allowed except those in connection with a commercial use; for example, a grocery store with the owner's residence above or behind the store. Automobile service stations are appropriate in neighborhood commercial areas; however, because of fire danger and the very narrow streets on the west side of the Necanicum River, none should be located west of the Necanicum River. Because of the amount of traffic generation and the general incompatibility with residential uses, drive-in restaurants should not be allowed in neighborhood commercial areas.

7. Section 3.060-3.065 in the zoning ordinance addresses the uses in the C1 zone. The applicable ordinance section states:

Section 3.060 C-1 COMMERCIAL NEIGHBORHOOD

Section 3.061 Purpose. To provide for the location of small businesses and services adjoining residential areas of the city. Businesses are intended to fit into the residential character of the neighborhood and not create either architectural or traffic conflict.

Section 3.062 Outright Uses Permitted. In a C-1 Zone, the following uses and their accessory uses are permitted outright.

1. Existing residential uses without any increase in density. Expansion of existing residential uses shall conform to the standards of Section 3.045.
2. Retail businesses such as grocery, drug, variety stores, restaurants, barber and beauty shops, laundry and dry cleaning; and rental of non-motorized bikes, trikes, and boats.
3. Family Day Care Provider in an existing residential use as described in "1" above.
4. Residential Homes in an existing residential use as described in "1"above.
5. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

Section 3.063 Conditional Uses Permitted. In a C-1 Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Residential uses in connection with a permitted use and when located within the same structure.

2. Conversion of an existing dwelling unit to permitted use.
3. Automobile service stations, except no service station shall be allowed west of the Necanicum River.
4. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
5. Similar Use subject to Section 6.250

Section 3.064 Prohibited Uses and Structures. In a C-1 Zone, the following uses and structures are prohibited:

1. Residential structures other than provided by Section 3.063 (1).
2. Drive-in type restaurants.

Section 3.065 Standards. In a C-1 Zone, the following standards shall apply:

1. Lot Size: No minimum requirement.
2. Density: No requirements.
3. Front Yard: A front yard shall be at least 15 feet.
4. Side Yard: None, except when abutting an "R" Zone and then the rear yard shall be at least 15 feet.
5. Rear Yard: None, except when abutting an "R" Zone and then the rear yard shall be at least 15 feet.
6. Height Restriction: Maximum height of a structure shall not exceed 35 feet.
7. Lot Coverage: No requirement.
8. Off-Street Parking: As specified in Section 4.100.
9. All uses shall comply with other applicable supplementary provisions in Article 4.

8. The Comprehensive Plan states the following about the RC zone:

Residential/Commercial: These areas are for the location of small businesses and services within residential areas. Residential uses shall be allowed; therefore, businesses shall be compatible with residential uses using setbacks, screening, and limited hours of operation. Because of the amount of traffic generation and the general incompatibility with residential uses, drive-in restaurants and automobile service stations shall not be allowed in residential commercial areas.

The city finds it is important to the economic viability of the community that the commercial uses and activities that occur in the R-C zone are conducted in a manner that is safe, convenient and compatible with adjacent uses as well as for employees and patrons of such uses and activities.

9. Section 3.052-3.057 in the zoning ordinance addresses the uses in the RC zone. The applicable ordinance section states:

Section 3.052 R-C RESIDENTIAL/COMMERCIAL

Section 3.054 Outright Uses Permitted. In the R-C Zone, the following uses and their accessory uses are permitted outright.

1. Single family dwelling.
2. Two family dwelling.
3. Retail businesses and services with business hours not to exceed 8:00 AM - 10:00 PM.
 - A. Drug stores
 - B. Variety stores
 - C. Barber shop and beauty shop
 - D. Clothes cleaning
 - E. Antique stores
 - F. Gift shop, flower shops, rock shops, hobby shops
 - G. Professional offices
 - H. Repair shops for TV and appliances
 - I. Similar uses as authorized by the Planning Commission
4. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

Section 3.055 Conditional Uses Permitted. In the R-C Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6.

1. Church and other religious structures.
2. Wedding chapel.
3. Group care homes, homes for the aged, nursing homes and residential homes.
4. Primary, elementary, junior or senior high schools; kindergarten or day nursery; or a higher education institution.
5. Public park, playground, or other similar publicly owned recreational use.
6. Government or municipal structures or use.
7. Utility substation.

8. Bed and Breakfast establishments subject to provisions in Section 6.135 and 6.136.
9. Grocery stores
10. Restaurants
11. Vacation Rental Dwellings subject to provisions in Section 6.137.
12. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135. This section does not apply to land designated as a historic district or land adjacent to a historic landmark.
13. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
14. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

Section 3.056 Prohibited Uses and Structures. In the R-C Zone, the following uses and structures are prohibited:

1. Drive-in restaurants
2. Automobile service and sales

Section 3.057 Standards. In the R-C Zone, the following standards shall apply:

1. Lot Size: Lot area shall be a minimum of 5,000 square feet, and a maximum of 20,000 square feet.
2. Density: The overall density on any parcel shall not exceed 10 dwelling units per net acre.
3. Front Yard: A front yard shall be at least 15 feet.
4. Side Yard: A side yard shall be at least 5 feet, except on corner lots a side yard abutting the side street shall be at least 10 feet.
5. Rear Yard: A rear yard shall be at least 15 feet, except accessory buildings may extend to within five feet of a rear property line.
6. Height Restriction: Maximum height of a structure shall not exceed 35 feet
7. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory buildings shall not exceed 40 percent of the total area of the lot.
8. Screening: Any commercial use adjoining a residential use, must provide a site-obscuring fence along the side or rear property lines, adjoining parking lots and loading and service areas. The Planning Commission can grant waivers following a public hearing in which adjoining property owners are notified.

CONCLUSION TO CRITERIA #1:

The proposed zone change from Neighborhood Commercial C1 to Residential Commercial (R-C) will maintain the commercial potential of the property while also allowing greater flexibility for residential use that is consistent with the provisions in the City's Comprehensive Plan and it will not undermine the Plan's compliance with Statewide planning goals.

FINAL STAFF RECOMMENDATION:

Provided testimony during the public hearing does not lead to findings which indicate the proposed change will violate the Comprehensive Plan or undermine the integrity of the Plan's compliance with State wide Planning Goals, the Commission should recommend approval of Zone Change 14-028ZC to the City Council.

This recommendation can be supported by the applicant's submittal and the Commission's adoption of the findings, justification statements, and conclusions in this report.

The information in this report and the recommendation of staff are not binding on the Planning Commission and may be altered or amended during the public hearing.

Attachments: Applicant's Submittal, Maps

ORDINANCE NO. 2014-07

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING THE ZONING MAP REFERENCED IN CODE OF SEASIDE ORDINANCE CHAPTER 151 CHANGING THE ZONING AT 60 & 120 N ROOSEVELT FROM R-3 TO R-C.

WHEREAS, the Planning Commission conducted a public hearing regarding a proposed zone map amendment at 451 Avenue U (T6 R10 28 AC TL: 300) and 580 Avenue U (T6 R10 28AB 11300) that would re-designate Commercial Neighborhood (C-1) zoned portions of the subject properties Residential Commercial (R-C) in order to permit more mixed use development, and

WHEREAS, following the Commission's public hearing August 19, 2014; they recommended the City Council approve zone change request 14-028ZC based on the applicant's submittal, the staff report, public testimony, adopted findings and conclusions that support the proposed amendment; and

WHEREAS, the City Council reviewed the Commission's recommendation on zone change 14-028ZC during their meeting on September 22, 2014, and based on the record, determined the request is consistent with the provisions in the City's Comprehensive Plan and it will not undermine the Plan's compliance with the Statewide Planning Goals.

NOW, THEREFORE, THE CITY OF SEASIDE ORDAINS AS FOLLOWS:

SECTION 1. Amend the zoning map referenced in Section 2.030 of the Seaside Zoning Ordinance, as follows:

Change the Commercial Neighborhood (C-1) zoned portions of the subject properties at 451 Avenue U and 580 Avenue U to Residential Commercial (R-C). Said portions of the subject property and Avenue U right of way to be rezoned are identified on the attached map.

SECTION 2. The Seaside Planning Commission did hold a public hearing on August 19, 2014, during which the public was given an opportunity to testify in favor and in opposition of the zone change. Following the hearing, the Commission recommended the Seaside City Council approve the proposed zone change request.

SECTION 3. The City Council hereby approves the zone change (file reference #14-028ZC) based on the adopted information in the Planning Commission's recommendation and the testimony and information obtained during the Council's public hearing held on September 22, 2014.

ADOPTED by the City Council of the City of Seaside on this ____ day of ____, 2014, by the following roll call vote:

- YEAS:
- NAYS:
- ABSTAIN:
- ABSENT:

SUBMITTED to and **APPROVED** by the Mayor on this ____ day of ____, 2014.

DON LARSON, MAYOR

ATTEST:

Mark J. Winstanley, City Manager

LIQUOR LICENSE APPLICATION

Jason Edwards
The Waterboy Grill
20 N. Holladay Dr.
Seaside

This business has applied for a Full On-premises Sales Liquor License. This would be for new outlet.

Full On-Premises Sales License – allows the sale of distilled spirits, malt beverages, wine, and cider for consumption at the licensed business. This license also allows private catering if the applicant receives pre-approval from OLCC.

The Police Department has reviewed the business and applicants applying for the liquor license and the information received is attached.

ORDINANCE NO. 2014-06

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, ESTABLISHING
A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED
PRODUCTS AND DECLARING AN EMERGENCY

WHEREAS, Chapter 1, Section 4 and 5 of the Seaside City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and this State expressly or implicitly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers. No mention of a specific power is exclusive or restricts the authority that the City would have if the specific power were not mentioned.

WHEREAS, the City desires to tax the sale or transfer of marijuana and marijuana-infused products within the City.

THE PEOPLE OF THE CITY OF SEASIDE DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 32 Taxation and Finance of the City of Seaside Code of Ordinances hereby adds a new Chapter 32.70, establishing a tax on the sale of marijuana and marijuana-infused products, as follows:

SECTION 32.70 Purpose

For the purposes of this Chapter, every person who sells marijuana, medical marijuana, or marijuana-infused products in the City of Seaside is exercising a taxable privilege. The purpose of this Chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

SECTION 32.71 Definitions

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

- A. "Director" means the Director of Finance for the City of Seaside or his/her designee.
- B. "Gross Taxable Sales" means the total amount received in money, credits, property, or other consideration from sales of marijuana, medical marijuana, and marijuana-infused products that is subject to the tax imposed by this chapter.
- C. "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- D. "Oregon Medical Marijuana Program" means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F. "Purchase or Sale" means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.
- G. "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

- H. "Retail sale" means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.
- I. "Seller" means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.
- J. "Tax" means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.
- K. "Taxpayer" means any person obligated to account to the Finance Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

SECTION 32.72 Tax Imposed.

For the privilege of the sale of marijuana and marijuana-infused products, each seller shall pay a tax which shall be established by resolution. The tax constitutes a debt owed by the seller to the city, which is extinguished only by payment by the seller to the city.

- A. There is hereby levied and shall be paid a tax by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter.
- B. The amount of tax levied shall be established by resolution and approved by the City Council.

SECTION 32.73 Deductions

The following deductions shall be allowed against sales received by the seller providing marijuana:

- A. Refunds of sales actually returned to any purchaser;
- B. Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

SECTION 32.74 Seller Responsible For Payment of Tax.

- A. Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of January, April, July, and October) make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Director may establish shorter reporting periods for any seller if the seller or Director deems it necessary in order to insure collection of the tax and the Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.
- B. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C. Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any seller if the Director deems it necessary in order to insure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.
- D. Every seller required to remit the tax imposed in this chapter shall be entitled to retain five percent (5%) of all taxes due to defray the costs of bookkeeping and remittance.
- E. Every seller must keep and preserve in an accounting format established by the Director records of all sales made by the dispensary and such other books or accounts as may be required by the Director.

Every seller must keep and preserve for a period of three (3) years all books, invoices and other records. The Director shall have the right to inspect all such records at all reasonable times.

SECTION 32.75 Penalties And Interest.

- A. Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.
- B. Any seller who fails to remit any delinquent remittance on or before a period of 60 days following the date, on which the remittance first became delinquent, shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the penalty first imposed.
- C. If the Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs A and B of this section.
- D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.
- F. Notwithstanding subsection 32.72, all sums collected pursuant to the penalty provisions in paragraphs A through D of this section shall be distributed to the City of Seaside General Fund to offset the costs of auditing and enforcement of this tax.
- G. Waiver of Penalties. Penalties and interest for certain late tax payments may be waived pursuant to Section 32.77.

SECTION 32.76 Failure To Report and Remit Tax –Determination of Tax by Director.

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Director shall proceed to determine and assess against such seller the tax, interest, and penalties provided for by this chapter. In case such determination is made, the Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in Section 32.77. If no appeal is filed, the Director's determination is final and the amount thereby is immediately due and payable.

SECTION 32.77 Appeal Procedure.

- A. Any seller aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal the decision or the expenditures to the City Council by filing a written request with the Director or designee describing the decision of the Finance Director and the expenditure from which the person appeals. An appeal of any expenditure must be filed within one year of the date of the alleged improper expenditures.
- B. Appeals of any other decision required or permitted to be made by the Director or Director's designee under this subchapter must be filed within ten business days of the date of the decision.
- C. A person disagreeing with a decision on the amount of the expenditures taxed may file an appeal by the following process:
 - (1) Appeals on the amount of expenditures taxed must be filed within ten business days of the date of the decision.
 - (2) The appeal shall state:
 - (a) The name and address of the appellant;
 - (b) The nature of the determination being appealed;
 - (c) The reason the appellant believes the determination is incorrect; and
 - (d) What the appellant believes the correct determination to be.

- (3) An Appellant who fails to file such a statement within the time permitted waives his/her objections and his/her appeal shall be dismissed.
- (4) Because the processing of an appeal entails the expense of administrative costs, every appeal shall be accompanied by a one time fee of \$300 made payable to the City of Seaside.
- (5) Unless the appellant and the city agree to a longer period, an appeal shall be considered by the Director or his/her designee, within ten business days of the receipts of the written appeal. A written response must be given to the appellant within this time period.
- (6) The appellant shall have ten business days after receipt of the Directors decision to appeal this decision to the City Council. An Appellant who fails to file such a statement with the Director, within the ten business days shall waive his/her objections and the Director's decision to appeal shall be final.
- (7) The City Council shall consider an appeal filed under this division (C) within 30 business days. The appellant shall be notified of the City Council hearing date ten business days prior to the City Council hearing. By City Council motion, the report and recommendations of the Director shall be approved, modified, or rejected. City Council decision shall be final. Any legal action contesting the City Council decision shall be filed with 60 business days of the City Council's decision.

SECTION 32.78. Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph B of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.
- B. The Director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify Director of claimant's choice no later than 15 days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the 15 day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.
- C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

SECTION 32.79 Actions to Collect.

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been paid to the City shall be deemed a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Seaside for the recovery of such amount. In lieu of filing an action for the recovery, the City of Seaside, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Seaside has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

SECTION 32.80 Violation Infractions.

- A. All violations of this chapter are punishable as set forth. It is a violation of this chapter for any seller or other person to:
- 1) Fail or refuse to comply as required herein;
 - 2) Fail or refuse to furnish any return required to be made;
 - 3) Fail or refuse to permit inspection of records;
 - 4) Fail or refuse to furnish a supplemental return or other data required by the Director;
 - 5) Render a false or fraudulent return or claim; or
 - 6) Fail, refuse, or neglect to remit the tax to the city by the due date.
- B. Filing a false or fraudulent return shall be considered a Class C misdemeanor. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

SECTION 32.81 Confidentiality

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the City under this chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

SECTION 32.82 Audit of Books, Records, or Persons.

The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return.

All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the Seaside Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts, and records for examination.

SECTION 32.83 Forms And Regulations.

- A. The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said medical marijuana tax and in particular and without limiting the general language of this chapter, to provide for:
- 1) A form of report on sales and purchases to be supplied to all vendors;
 - 2) The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.

SECTION 2. Severability. The sections, subsections, paragraphs, and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

SECTION 3. Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-4) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

SECTION 5. EMERGENCY CLAUSE. That inasmuch as this Ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the City of Seaside, and to assure compliance with existing state law within time constraints; an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage by the City Council and approved by the Mayor.

ADOPTED by the City Council of the City of Seaside on this ____ day of _____, 2014, by the following roll call vote:

- YEAS:
- NAYS:
- ABSTAIN:
- ABSENT:

SUBMITTED to and **APPROVED** by the Mayor on this ____ day of _____, 2014.

DON LARSON, MAYOR

ATTEST:

Mark J. Winstanley, City Manager

RESOLUTION # 3827

**A RESOLUTION OF THE CITY OF SEASIDE, OREGON, AUTHORIZING
THE USE OF SEWER REVENUES TO BE PLEDGED TO PAY THE OREGON IFA LOAN
(Regarding the Sewer Treatment Plant Bank Stabilization Project)**

WHEREAS, the Oregon Infrastructure Finance Authority is accepting applications for loans through the State's Special Public Works Fund; and

WHEREAS, the City of Seaside desires to participate in this loan program as a means of completing the Sewer Treatment Plant Bank Stabilization Project; and

WHEREAS, the applicant hereby certifies that the funds to repay this loan are available and able to come from City sewer fees.

NOW, THEREFORE, THE SEASIDE CITY COUNCIL RESOLVES that the City of Seaside be authorized to use sewer revenues to pay back the loan from Oregon's Special Public Works Fund for the completion of the bank stabilization project at the Seaside Sewer Treatment Plant.

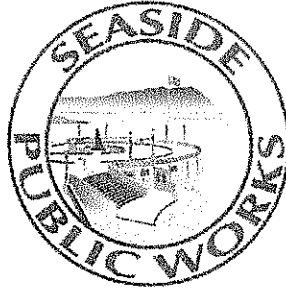
PASSED by the Council of the City of Seaside this ____ day of _____, 2014.

SUBMITTED to the Mayor and APPROVED by the Mayor this ____ day of _____, 2014.

DON LARSON, MAYOR

ATTEST:

Mark J. Winstanley, City Manager



PUBLIC WORKS MEMORANDUM

TO: Seaside City Council
FROM: Geoffrey Liljenwall PE, City Engineer
DATE: September 17, 2014
RE: South Fork Necanicum Improvement

The bid opening was held at Seaside Public Work on September 17, 2014 at 2:00 p.m., of which there were 2 bids submitted.

The City received 2 bids for the South Fork Necanicum Improvement:

Big River Construction	\$ 59,845.00
TFT Construction	\$ 84,328.87

Bob McEwan Construction did not submit a bid.

Upon review of the bid package submitted, we recommend that the project be awarded to Big River Construction for the total amount of \$ 59,845.00.

All the bids appeared to be responsive, but Big River Construction was the lowest bid. Staff has reviewed the bids and discussed the project with Big River Construction – Tony Ewing.

Enclosed is the bid summary sheet with the 2 bids.