



CITY OF SEASIDE PLANNING COMMISSION AGENDA

Tuesday, April 16, 2024

To provide public comment for Planning Commission meetings, participants should register prior to the meeting. Please complete the form linked below to offer public comment at an upcoming Planning Commission meeting. You may provide public comment using the following methods:

1. In-person (meetings are held at Seaside City Hall, 989 Broadway, Seaside, OR)
2. Via Zoom web conference or telephone (obtain link and register at cityofseaside.us)
3. Written comments may be submitted using this [form](#), via e-mail to publiccomment@cityofseaside.us or in person at City Hall (989 Broadway, Seaside, OR).

If you are providing public comments in person or via Zoom, please keep in mind your comments will be limited to three (3) minutes. If your comments are longer than three (3) minutes, please submit your comment in writing and utilize your three (3) minutes to summarize your written document. Please review the [Public Comment Rules of Conduct](#) prior to the meeting.

PLANNING COMMISSION MEETING: 6:00 PM

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF MINUTES**
5. **DECLARATION OF POTENTIAL CONFLICT OF INTEREST**
6. **PUBLIC HEARING**
7. **769-24-00010-PLNG: Continuance** - A continuance of the April 2, 2024, public hearing to remove Vacation Rental Dwellings and Bed and Breakfasts from the Seaside Zoning Ordinance. Regulations regarding Short-Term Rentals will later be introduced under business licensing in the Seaside Code of Ordinances.
8. **ORDINANCE ADMINISTRATION**
9. **COMMENTS FROM CITY STAFF**
10. **COMMENTS FROM THE COMMISSION**
11. **ADJOURNMENT**

Complete copies of the Current Commission meeting Agenda, Packets, and Minutes can be viewed at: cityofseaside.us.

All meetings other than executive sessions are open to the public. When appropriate, the presiding officer may recognize any public member desiring to address the Commission. Remarks are limited to the question under discussion except during public comment. This meeting is handicapped accessible. Please let us know at 503-738-7100 if you will need any special accommodation to participate in this meeting.



CITY OF SEASIDE PLANNING COMMISSION

MEETING MINUTES

City Hall, 989 Broadway, Seaside, OR 97138

Tuesday, April 2, 2024

Planning Commission Meeting

I. Call to Order and Pledge of Allegiance

II. Roll Call

Council Members	P/A
Robin Montero, Chairperson	P
Kathy Kleczek, Vice Chairperson	P
Brandon Kraft	p
Lou Neubecker	P
Gretchen Stahmer	P
Chris Rose	A
Don Johnson	P

Staff Members	
Jeff Flory, Community Development Director	Debbie Kenyon, Community Development Administrative Assistant
Jordan Sprague, Code Compliance Official	

Visitors in Chambers (attendance sheet)	Visitors on Zoom
Ned Dobner	
Erin Barker	
Don Godard	
Mark Tolan	

III. Approval of Minutes

March 5, 2024 minutes were adopted as written.

IV. Declaration of Potential Conflict of Interest

V. Public Hearings

769-24-000009-PLNG: A conditional use request by Ashley Flukinger to construct an office building with a third-floor dwelling unit at 600 12th Ave. (61015CB TL:5101). The property is zoned C1.

Chair Montero asked if there was a representative for this project who would like to tell the commission about the project.

Ashley Flukinger spoke in favor of the application.

Chair Montero opened the discussion to those in favor. There were none.

Chair Montero opened the discussion to those in opposition. There were none

Chair Montero closed the public comment and opened the discussion to the Commission.

Commissioner Johnson stated this is a great idea and the city needs more people to build like this.

Vice Chair Kleczek also feels this is a great idea and the more mixed housing we can create the better.

Chair Montero asked why one of the site plans has a big X through it. Mr. Flory stated that the survey work that was being done was not the same person who did the site plan.

Motion:	Motion to approve 769-24-000009-PLNG to approve the conditional use with the conditions that staff has presented.			
Moved:	Johnson			
Seconded:	Neubecker			
Ayes:	Kleczek, Montero, Stahmer, Kraft, Johnson, Nuebecker	Nays:	Absent:	Recused:
Passed:	6-0	0	1	

769-24-000010-PLNG: A Public Hearing to remove Vacation Rental Dwellings and Bed and Breakfasts from the Seaside Zoning Ordinance. Regulations regarding Short-Term Rentals will later be introduced under business licensing in the Seaside Code of Ordinances.

Chair Montero asked Mr. Flory to present his report.

Chair Montero asked if there was anyone in favor of the application.

Don Godard spoke in favor of the Ordinance 2024-04.

Erin Barker spoke in favor of the Ordinance 2024-04.

Mark Tolan spoke in favor of the Ordinance 2024-04.

Ned Dobner spoke in favor of the Ordinance 2024-04.

Chair Montero opened the discussion to those in opposition. There were none.

Chair Montero stated this will be continued to the April 16th planning commission meeting.

VI. Ordinance Administration

Community Development Director, Mr. Flory stated he is putting together a parking lot design requirement/standard for the city.

VII. Public Comments

There were no public comments.

VIII. Planning Commission and Staff Comments

Vacation Rental Code Compliance Official, Mr. Sprague stated there are 3 VRD's on the May agenda.

Vice Chair Kleczeck stated she is happy about the upcoming legislation on the proposed housing development and Urban Growth Boundaries’.

IX. Adjournment at 6:43 PM.

Approved by Commission on: _____

Minutes prepared by: _____
Debbie Kenyon, Administrative Assistant

ROBIN MONTERO, Chairperson



APPLICATION(S):	769-24-00010-PLNG – Zoning Ordinance Amendment
MEETING DATE:	April 16, 2024
PUBLIC HEARING:	Yes – Continuation of the April 2, 2024 Public Hearing
Report Date:	April 8, 2024
Applicant:	City of Seaside
Previous Meetings:	Planning Commission Public Hearing on April 2, 2024
Previous Approvals:	None
Type of Action:	Legislative
Land Use Authority:	City Council
Future Routing:	City Council
Planner:	Jeff Flory, Community Development Director

A. Summary:

The City of Seaside is proposing changes to the Seaside Zoning Ordinance (SZO) to remove Vacation Rental Dwellings (VRDs) and Bed and Breakfasts (B&Bs) from the zoning code. A new Short-Term Rental (STR) ordinance will be introduced under the Code of Ordinances in Title 11 - Business Regulations.

Staff Recommendation:

Staff recommends the Planning Commission continue the public hearing on the proposed amendment, take public comments, and review and discuss the request. If the Planning Commission chooses, a motion should be made to recommend this ordinance amendment to the City Council.

B. Exhibits:

- 1. Ordinance 2024-03**
- 2. Ordinance 2024-04**
- 3. Public Comments**

C. Background:

In 1992, the City of Seaside passed an ordinance regulating VRDs within the SZO in some residential zones. The ordinance was amended in 2000 but remained under our land use codes. Due to recent court cases regarding short-term rentals, the City’s attorneys have recommended regulations for VRDs and B&Bs be moved out of land use and into business licensing.

D. Specific Request:

This application will remove VRDs and B&Bs from the SZO. Should the Planning Commission choose to recommend this request to the City Council, a new ordinance (2024-04) that will regulate STRs will be introduced at a future City Council meeting. The ordinance is provided in this report for reference to the proposed new VRD ordinance.

E. Process:

This request is being reviewed under Article 9 and Article 10 of the Seaside Zoning Ordinance. Article 9 establishes the criteria for amendments to the ordinance and Article 10 establishes the process and procedures that are applicable to this request.

F. Community Review:

Notice of this public hearing was published in the Daily Astorian on March 14, 2024. A mailed notice was sent to all addresses in Seaside on March 7, 2024. On March 21, 2024, another mailed notice stating that the April 2, 2024, public hearing will be continued to a meeting on April 16, 2024, was sent to all Seaside property owners who reside outside of the city. Notice of this April 16, 2024 hearing was published in the Daily Astorian on April 4, 2024.

G. Written Comments:

At this time, five written comments have been submitted pursuant to this request. The comments are attached to this report.

Don Godard submitted a written comment with suggestions he would like to see in the new STR ordinance. *Finding: The Planning Commission does not make the decision on what will be included within the new ordinance. That authority lies solely with the City Council when they hold their hearings on the new STR ordinance.*

Seth Hague submitted comments regarding the approval of STRs within the Planned Development that will be located within the old high school property. *Finding: The allocation of STRs within the future Planned Development is pursuant to a purchase agreement for the Estuary Park. The Planned Development application has not been submitted and the type of housing that will be constructed is unknown.*

Robert Houghton submitted comments as to the impacts of removing VRDs and B&Bs from the SZO. Mr. Houghton expressed concerns about the impact not having short-term rentals will have on the local economy. *Finding: The Planning Commission is recommending the removal of the regulations for STRs from the land use codes. A new ordinance will be implemented within business licensing that will regulate STRs. STRs will still be allowed in some areas of the city.*

Tim Mancell expressed concerns regarding allowing 25% of the dwelling units within the old high school property’s future Planned Development as STRs. *Finding: Provisions for the*

development of the old high school property are pursuant to a purchase agreement for the Estuary Park. The number of dwelling units that will be proposed is unknown at this time.

Jesse Taylor expressed concerns regarding the provisions for the STRs within the planned development at the old high school property. *Finding: Provisions for the development of the old high school property are pursuant to a purchase agreement for the Estuary Park. The number of dwelling units that will be proposed is unknown at this time.*

H. Comprehensive Plan:

Section 3.1.2 – Residential states:

Medium Density: These areas are characterized by moderately dense housing on generally small lots. Uses include mostly single-family housing dwellings with a mixture of duplex or two-family units and other uses consistent with residential neighborhoods, such as churches, schools, community facilities, and parks or recreational areas. This area may also contain manufactured homes, manufactured home parks, and vacation rental dwellings.”

High Density: These areas are characterized by urban high-density qualities such as apartment houses, as well as some mix of single-family, duplexes, and other uses consistent with high-density residential areas. These areas may also contain limited amounts of commercial uses that are a convenience to residents of high-density area. These convenience establishments have the purpose of providing convenient shopping for daily necessities within easy walking distance, which will help to cut down on traffic in areas presently congested because of very narrow streets. This will also help to conserve energy by saving on fuel consumption.

Dwelling units in this area should be for full-time residential use.”

Section 4.1 – Housing Policies states:

“2. Since the city of Seaside is a recreational community and major tourist attraction on the Oregon Coast, it is recognized that there is a need for recreational types of housing, including beach homes, vacation rentals, motels, recreational vehicle parks, and campgrounds...”

Section 4.0 – Housing states:

“Twenty-two percent of the housing units in Seaside are used only part-time as beach cabins. The city has attempted to separate the housing used by permanent residents and that used by visitors through the creation of a resort residential zone and by regulating vacation rentals in medium and high-density residential zones.”

I. Zoning Ordinance Criteria for Amendments:

Section 9.010 AUTHORIZATION TO INITIATE AMENDMENTS

An amendment to the text of this Ordinance or to a Zoning Map may be initiated by the City Council, the Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Planner using forms prescribed pursuant to Section 10.040. *Finding: The Planning Commission directed staff to initiate this amendment at the March 5, 2024, Planning Commission meeting.*

Section 9.020 PUBLIC HEARINGS ON AMENDMENTS

The Planning Commission shall conduct a public hearing on the proposed amendment its earliest practicable meeting after the amendment is proposed and

shall within forty (40) days after the hearing, recommend to the City Council approval, disapproval, or modified approval of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council may hold a public hearing on the proposed amendment. *Finding: The April 2, 2024, Planning Commission meeting is the first opportunity for the Planning Commission to hold a public hearing on the proposed amendment. That public hearing was continued to the April 16, 2024 Planning Commission meeting.*

J. Additional Findings, Conclusions, and Justification Statements:

1. Based on criteria in the Comprehensive Plan, staff has prepared an ordinance to replace the regulations for VRDs and B&Bs within the land use code. The new STR ordinance will be codified under business licensing.
2. The STR ordinance will continue the allowance of STRs (Vacation Rental Dwellings and Homestay Lodging) within the tourist areas of Seaside. The STR ordinance will allow for the permitting of VRDs in areas west of the Necanicum River with specific densities so that the special distribution of VRDs do not concentrate in one specific neighborhood.
3. The City Council and Planning Commission have worked for several years to develop policies for the orderly regulation of STRs. These policies and the work that has previously been conducted are the basis for the new STR ordinance.
4. Although the new ordinance is outside of the purview of the Planning Commission, it is important to recognize that the Comprehensive Plan identifies a need for STRs and their orderly regulation.
5. Should the Planning Commission move to further this request to the City Council, the Council will hold additional public hearings on Ordinance 2024-03 which removes VRDs and B&Bs from the Seaside Zoning Ordinance as well as public hearings on Ordinance 2024-04 which will allow for the regulation of STRs in business licensing.

K. Conclusion:

The ordinance and Comprehensive Plan requirements have been adequately addressed and the ordinance amendment can be recommended to the City Council.

L. Recommendation and Alternatives:

Staff Recommendation:

Staff recommends the Planning Commission conduct a public hearing on the proposed amendment, take public comments, and review and discuss the request. If the Planning Commission chooses, a motion should be made to recommend approval of this ordinance amendment to the City Council.

A commissioner may make the following motion:

“I move to recommend approval of an ordinance amendment to remove VRDs and B&Bs from the zoning ordinance.”

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.

ORDINANCE NO. 2024-03

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, REPEALING SECTION 6.135 AND SECTION 6.137 FROM THE SEASIDE ZONING ORDINANCE.

WHEREAS, the City of Seaside has issued business licenses for Vacation Rental Dwellings since 1992, and

WHEREAS, Vacation Rental Dwellings and Bed & Breakfasts have been conditionally permitted uses regulated through the Seaside Zoning Ordinance in some residential zones, and

WHEREAS, it appears to the City of Seaside that these activities are more appropriately regulated through a business regulation process rather than a land use process and that it is, therefore necessary to remove Vacation Rental Dwellings from the Seaside Zoning Ordinance.

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

Section 1.030, Section 3.033, Section 3.043, Section 3.049, Section 3.055, and Section 6.025 of the Seaside Zoning Ordinance are hereby amended to as follows:

Section 1.030 DEFINITIONS

~~**Vacation Rental Dwelling.** A single family dwelling, duplex or triplex which is rented or hired out for a period of less than 30 days. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling. However, each individual unit is to be considered separately for licensing and regulation purposes.~~

Section 3.033 Conditional Uses Permitted. In the R-2 Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Church and other religious structures.
2. Primary, elementary, junior or senior high school; kindergarten, or day nursery; or a higher education institution.
3. Community meeting buildings.
4. Cemetery.
5. Golf course, except commercial driving ranges or miniature golf course.
6. Public park, playground, or other similar publicly owned recreational use.
7. Temporary real estate office in a subdivision.
8. Utility substation.
9. Radio or television transmitter or tower.
10. Government or municipal structure or use.
11. Manufactured Dwelling Park
12. Nursing homes and hospitals.
13. Professional offices when the lot adjoins a State Highway or major arterial and when the lot is contiguous to, or across the street from a commercial or industrial zone.
14. Private sports complex.
15. Manufactured Dwelling Subdivision.
16. ~~Bed & Breakfast establishments subject to provisions in Sections 6.135 and 6.136.~~

~~17. Vacation Rental Dwellings subject to provisions in Section 6.137.~~

~~18.~~17. 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.

~~19.~~18. Home Occupation subject to Sections 4.130 through 4.134.

~~20.~~19. 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.

~~21.~~20. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

Section 3.043 Conditional Uses Permitted. In the R-3 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Churches and other religious structures.

2. Primary, elementary, junior and senior high schools; or a higher education institution.

3. Kindergarten or day nursery.

4. Community meeting building.

5. Cemetery.

6. Golf course, except commercial driving ranges, or miniature golf courses.

7. Public park, playground, or other similar publicly owned recreational uses.

8. Temporary real estate office in a subdivision.

9. Utility substation.

10. Radio or television tower or transmitter.

11. Government or municipal structure or use.

12. Convenience establishments.

13. Boarding, lodging or rooming house.

14. Group care homes, homes for the aged, nursing homes, and hospitals.

15. Professional offices when the lot adjoins a state highway or major arterial, or is contiguous to, or across the street from a commercial industrial zone.

16. Private sports complex.

17. Manufactured Home Subdivision.

~~18. Bed & Breakfast establishments subject to provisions in Sections 6.135 and 6.136.~~

~~19. Vacation Rental Dwellings subject to provisions Section 6.137.~~

~~20.~~18. 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.

~~21.~~19. Home occupations subject to Sections 4.130 through 4.134.

~~22.~~20. 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.

~~23.~~21. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

Section 3.049 Conditional Uses Permitted. In the R-R 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. Condominiums and Time Share Units.

3. Community meeting building.
4. Golf course, except commercial driving ranges or miniature golf courses.
5. Public park, playground, or other similar publicly owned recreational use.
6. Utility substation.
7. Professional offices, when the lot adjoins a state highway or major arterial, or when the lot is contiguous to, or across the street from a commercial or industrial zone.
8. Gift shop, or other uses appropriate to a motel or hotel, but only when a part of a hotel or motel.
9. Aquariums.
10. Restaurant and cocktail lounge, when in conjunction with a motel.
11. Group care homes, homes for the aged, and nursing homes.
- ~~12. Vacation Rental Dwellings subject to provisions in Section 6.137.~~
- ~~13.~~12. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135.
- ~~14.~~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.
- ~~15.~~14. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

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.~~8. Grocery stores
- ~~10.~~9. Restaurants
- ~~11. Vacation Rental Dwellings subject to provisions in Section 6.137.~~
- ~~12.~~10. 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.~~11. 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.~~12. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

Section 6.025 ADMINISTRATIVE CONDITIONAL USE PERMITS

The Community Development Director, Planning Director, or their designee shall have the authority to approve the following conditional uses provided they comply with their respective criteria:

1. Manufactured homes on individual lots subject to Section 4.135.
- ~~2. Bed & Breakfast establishments subject to Sections 6.135 and 6.136.~~
- ~~3. Vacation Rental Dwellings subject to Section 6.137.~~
- 4.2. Home Occupations subject to Sections 4.130, 4.131, 4.132, 4.133, and 4.134.

Following the above criteria will take the place of Sections 6.020 through 6.043.

Section 6.135 Bed & Breakfast Establishments, 6.136 Variance Procedure for Bed & Breakfast Establishments, and Section 6.137 Vacation Rental Dwelling (VRD) of the Seaside Zoning Ordinance are hereby repealed in their entirety.

ADOPTED by the City Council of the City of Seaside on this ___ day of _____, _____ 2023, by the following roll call vote:

YEAS:
NAYS:
ABSTAIN:
ABSENT:

SUBMITTED to and **APPROVED** by the Mayor on this ___ day of _____, 2023.

STEVE WRIGHT, MAYOR

ATTEST:

Spencer Kyle, City Manager

ORDINANCE NO. 2024-04

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON ADDING CHAPTER 120 TO TITLE XI OF THE SEASIDE CODE OF ORDINANCES.

WHEREAS, the City of Seaside has issued business licenses for Vacation Rental Dwellings since 1992, and

WHEREAS, Vacation Rental Dwellings and Bed and Breakfasts have been conditionally permitted uses regulated through the Seaside Zoning Ordinance in some residential zones, and

WHEREAS, it appears to the City of Seaside that these activities are more appropriately regulated through a business regulation process rather than a land use process and that it is therefore necessary to add Vacation Rental Dwelling, Vacation Rental Condominium, and Bed & Breakfast requirements to Title XI Business Regulations.

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

SECTION 1. Chapter 120 SHORT TERM RENTALS is hereby created within Title XI Business Regulations as follows:

120.01 PURPOSE

The short-term rental business license is made available in recognition of the desire of many people to rent their single dwelling, attached multi-dwelling condominium, or rooms in their primary residence for periods of less than 30 days, and also in recognition of the need of the City to regulate such activities to reduce impacts on other City residents and for the protection of public health and welfare.

120.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Accessory Dwelling Unit (ADU): An interior, attached, or detached residential structure that is used in connection with or that is accessory to a single dwelling. Unlike a guesthouse, an ADU will include a kitchen and function as an independent dwelling unit.

Bedroom: A room or other space, at least 70 sq. ft., within a dwelling unit designed, intended, or used for sleeping. Roll-out beds, fold-out couches, or other temporary sleeping accommodations including tents and recreational vehicles shall not be considered a sleeping area and may not be used to increase the allowed occupancy of a short-term rental.

City: Means the City of Seaside.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, sanitation, and only one cooking area. A cooking area is a discrete area within a structure with any means of cooking, including a hot plate, stove, oven, cooktop, or any cooking apparatus other than a microwave or toaster.

Single-Dwelling Detached: A structure in which all habitable portions thereof are connected structurally and comprise one dwelling unit.

Single-Dwelling Attached: That portion of a structure comprising a single dwelling unit within a larger structure with more than three dwelling units in which all habitable portions thereof are connected structurally, each dwelling unit is connected by a common party wall, and each dwelling unit is on its own lot.

Multi-Dwelling: A structure in which all habitable portions thereof are connected structurally and which is comprised of more than three dwelling

units under common ownership or individually owned under condominium ownership, which does not meet the definition of Single-Dwelling Attached.

Duplex: A structure that contains two dwelling units, either under common ownership on a single lot or under separate ownership on separate lots.

Triplex: A structure that contains three dwelling units, either under common ownership on a single lot or under separate ownership on separate lots.

Homestay Lodging: A single-dwelling attached or single-dwelling detached that is the owner's primary residence and in which individual rooms or a guest house may be rented for a period of less than 30 days.

Guest House: A detached structure used for sleeping purposes that does not contain a cooking facility. A guest house is not an Accessory Dwelling Unit.

Landscaping: Permanent features or plantings such as fencing, curbing, walls, shrubs, trees, bushes, grass, and other similar features that discourage or prohibit the parking of a vehicle.

Owner(s): The people or person, partnership, corporation, association, or other legally recognized person(s) or entity holding title to the dwelling unit in accordance with law.

Short-Term Rental: A dwelling unit, individual rooms within a dwelling unit, or a guest house made available to rent to any person for a period of less than 30 days. Stays in a dwelling unit for no consideration are not considered short-term rentals. Homestay lodging, vacation rental dwelling, and vacation rental condominiums are each specific types of short-term rental.

Vacation Rental Dwelling: A single-dwelling attached or single-dwelling detached that is not the owner's primary residence and which may be rented for a period of less than 30 days.

Vacation Rental Condominium: A dwelling unit within a multi-dwelling under a condominium form of ownership which may be rented for a period of less than 30 days.

120.03 Issuance of License; Fees

No person shall make a short-term rental available for rent without first obtaining a short-term rental license pursuant to the following requirements:

- 1. Application:** Applications must be submitted to the Community Development Department on a form specified by the department. The department will review the application for completeness and notify the applicant of any incomplete items within thirty days. The applicant will then have thirty days to submit any missing items; if the applicant fails to do so, the application will expire.

Upon determining that an application is complete, the department will review the application and the associated dwelling unit and property for compliance with the standards in this chapter, substantial compliance with the City of Seaside's adopted building and fire codes, and all applicable laws.

The applicant will have 180 days from the date the application is deemed complete to schedule and complete an inspection with Community Development staff and demonstrate that the application meets all of the requirements of this chapter. If the applicant fails to do so, the application will expire. If an application expires, the applicant is required to wait 180 days before re-applying.

The applicant must be an owner of the property at the time of submitting an application.

- 2. Application Fee:** An application and inspection fee of \$500.00 is due at the time of submittal. The application fee will not be refunded should the application be canceled, expired, or denied. The fee for an inspection separate from an application is \$100.00.

3. **Annual Business License Required:** The applicant is required to obtain a business license after their short-term rental license application is approved and prior to any short-term rental, and to maintain a business license thereafter.
4. **Non-Transferrable:** A short-term rental license is specific to a particular property and owner, and is non-transferrable and void upon the subject property transferring ownership. New property owners are required to obtain their own short-term rental license in order to operate a short-term rental. Notwithstanding the foregoing, new owners are provided a 90-day grace period from the date the title is recorded to close out or honor existing short-term rental bookings without first obtaining a short-term rental license. No new bookings shall be allowed until a short-term rental license for the new owner is approved.
5. **Accessory Use:** Renting a dwelling or part of a dwelling short-term is required to be accessory to the primary, residential use of the dwelling. Applicants must demonstrate, by written documentation, the primary, residential use.
6. **Waiting Period for New Vacation Rental Dwellings:** Short-term rental license applications for Vacation Rental Dwellings are subject to a 90-day waiting period, after approval and prior to issuance of the license, if the property was not previously licensed within the 30-day period prior to the application. Short-term rental license applications for a Vacation Rental Dwelling in a newly constructed building may not be submitted until two years after the issuance of a Certificate of Occupancy. Properties located in areas where 100% density is allowed for Vacation Rental Dwellings are not subject to the waiting periods in this section.
7. **Transient Lodgings Tax:** All short-term rentals are required to collect and remit transient lodgings taxes pursuant to Chapter 32 of the Seaside Code of Ordinances and fully comply with all other requirements of that chapter.

120.05 General Standards for all Short-Term Rentals

All short-term rental licensees shall comply with the following standards:

1. **Local Contact:** A local contact whose primary residence is within Clatsop County must be identified by the owner. The local contact will serve as an initial contact person if there are issues regarding the operation of the short-term rental. The local contact must be available twenty-four hours a day to respond to reported issues within two hours. The local contact is required to maintain a complaint log of reported issues that must be made available upon request by the City's Code Compliance Official.

Short-term rental owners are required to report in writing to the city, the homeowner's association if applicable, and to property owners within 100ft of their short-term rental the name and contact information for the Local Contact. Upon changing local contacts, short-term rental owners shall immediately notify in writing the City, their homeowner's association (if applicable), and property owners within 100ft of their short-term rental of the new local contact's name and contact information.

A preferred contact, who does not reside within Clatsop County, may be listed for a short-term rental; however, a preferred contact does not replace the requirement for each short-term rental to list a local contact who resides in Clatsop County.

2. **Signage:** Short-term rentals may elect to place signage on their dwelling. Signage is limited to one 1.5 sq. ft., non-illuminated, name plate.
3. **Required Postings:** Short-term rentals are required to have their short-term rental license, business license, occupancy certificate, parking map, tsunami evacuation map, and good neighbor rules posted in a conspicuous place within the short-term rental.

4. **Code Compliance:** A short-term rental shall remain in substantial compliance with the City’s adopted building and fire codes, applicable state laws, and the City of Seaside Code of Ordinances.
5. **Re-Inspection:** All short-term rentals are required to be available for inspection by the City’s Code Compliance Official annually, subject to the applicable fee.

120.06 Vacation Rental Dwelling Standards

In addition to the standards in Section 120.05, Vacation Rental Dwellings shall comply with the following standards:

1. **Vacation Rental Dwelling Approved Locations:** Short-term rental licenses are permitted for vacation rental dwellings only in the following locations:
 - Properties that abut Sunset Blvd. from the Tillamook Head Parking area north to Ocean Vista Dr. including Whaler’s Point.
 - Properties that abut Ocean Vista Dr. north to S. Edgewood St.
 - All properties that abut S. Edgewood St. north to Avenue U from S. Edgewood St. west to the ocean shore.
 - Those properties that abut Avenue U east to the Necanicum River.
 - Properties that are west of the Necanicum River to the ocean shore north of Avenue U to 1st Ave.
 - Properties that are west of Holladay Dr. to the ocean shore from 1st Ave. north to 12th Ave.
 - Properties that are west of the Necanicum River to the ocean shore from 12th Ave. north to the Necanicum River estuary.(See Exhibit A)
2. **Spatial Distribution:** The density of Vacation Rental Dwellings within 100ft of an applicant’s property shall not exceed the percentage specified below depending on the property's location. Density is calculated by determining the total number of tax lots any portion of which are within 100ft of the applicant’s property that are licensed Vacation Rental Dwellings and dividing that number by the total number of tax lots any portion of which are within 100ft of the subject property. The subject property is not counted when calculating density percentages. For purposes of this calculation, condominium complexes will be treated as one tax lot.

100% Density

- Properties that have ocean frontage from the southern end of Sunset Blvd. north to Ocean Vista Dr.
- Properties that are on the east side of Ocean Vista Dr. across from the Cove parking lot north to the Sailor’s Grave.
- Properties that have ocean frontage north from the Sailors Grave to the end of N. Columbia St.
- Properties west of S Columbia St to the ocean shore from Avenue G north to Avenue A.
- Properties west of N. Downing St. to the ocean shore from 1st Ave. north to 9th Avenue.

50% Density

- Properties that abut Ocean Vista Dr. from the intersection of S. Edgewood St. north to Avenue U.
- Properties on the west side of Beach Drive from Avenue U north to Avenue G.

30% Density

- Properties that abut the east side of Sunset Blvd. from the Tillamook Head parking area north to the Cove Parking Lot
- Properties west of the Necanicum River to Beach Dr. from the intersection of Ocean Vista Dr. and S Edgewood St. north to Avenue A.
- Properties excluded from the 100% density areas west of N Holladay Dr. from 2nd Avenue north to 12th Avenue.
- Properties excluded from the 100% density areas west of the Necanicum River from 12th Ave. north to the Necanicum River estuary.

(See Exhibit B)

- 3. Parking:** One 9ft x 18ft off-street parking space must be provided for each bedroom in the unit, but in no event shall fewer than two off-street spaces be provided. The off-street parking spaces shall be easily accessible to renters and not require maneuvering that would deter renters from using them. Off-street parking areas using easement driveways shall provide space for maneuverability on the Vacation Rental Dwelling's property so renters are not required to back down from the easement to access the public right of way.

Parking spaces located inside garages or carports must have a minimum headroom clearance of 8ft. The garage door or carport opening must be a minimum of 8ft wide.

Off-street parking spaces and their access are required to be surfaced, concrete, pavers, or asphalt if access to those areas is from a surfaced public or private street. Street parking is strictly prohibited for guests of Vacation Rental Dwellings.

- 4. Residential Yard Areas:** Front, side, and rear yards must maintain a residential appearance by limiting off-street street parking within yard areas. At least 50% of each yard area that is not occupied by buildings must be permanently landscaped so that parking will not dominate the yard.
- 5. Trash Service:** Weekly solid waste pick-up is required during all months. All trash and recycling containers are required to have wind latches installed. Container size shall be sufficient to accommodate the occupancy of the Vacation Rental Dwelling as determined by the Code Compliance Official based on solid waste industry standards.
- 6. Occupancy:** The maximum number of renters shall not exceed three persons per bedroom with a maximum total occupancy of ten persons (whichever is less) unless an automatic fire suppression sprinkler system is installed in the dwelling in which case, the maximum total occupancy shall not exceed twelve persons (whichever is less). In the event a Vacation Rental Dwelling does not have sufficient parking to accommodate the number of bedrooms, the occupancy will be calculated at three persons per available off-street parking space. When calculating maximum occupancy, the number of persons includes any visitors to the property at any time during the rental.
- 7. Outdoor Fire Rings, Fireplaces, Hot Tubs, and Spa Facilities:** If these outdoor facilities are provided, their use will only be allowed between the hours of 7:00 a.m. and 10:00 p.m. These hours must be posted along with any other established rules governing the use of the amenity.
- 8. House Numbers:** A house number, clearly visible from the street shall be installed and maintained by the property owner.
- 9. Pets:** If the Vacation Rental Dwelling allows pets and they generate three (3) complaints within twelve (12) months related to running at large, trespassing, or causing a disturbance due to excessive barking; pets will be prohibited from that Vacation Rental Dwelling.

120.07 Vacation Rental Condominium Standards

In addition to the standards in Section 120.05, Vacation Rental Condominiums shall comply with the following standards:

1. **Occupancy:** The occupancy of a Vacation Rental Condominium shall not exceed three persons per bedroom and shall not exceed six people (whichever is less). When calculating maximum occupancy, the number of persons includes any visitors to the property at any time during the rental.
2. **Off-Street Parking:** Two 9ft x 18ft off-street parking spaces are required for each Vacation Rental Condominium. A parking map directing renters to which spaces are available for their use is a required posting inside the condominium. Street parking is strictly prohibited for all renters of Vacation Rental Condominiums.
3. **Trash Service:** Trash services for the multi-dwelling building shall be of sufficient size to accommodate the total number of units in the building.

120.08 Homestay Lodging Standards:

In addition to the standards in Section 120.05, Homestay Lodging establishments shall comply with the following standards:

1. **Owner Occupancy Required:** The property shall be the owner's primary residence and must be owner-occupied during the guest's stay.
2. **Maximum Rental Units:** The maximum number of separately rentable units within a Homestay Lodging shall be two. Each rentable unit shall have no more than one bedroom.
3. **Guest Occupancy:** The total occupancy shall not exceed five renters per homestay lodging.
4. **Parking:** Two 9ft x 18ft off-street parking spaces are required for the residents of the Homestay Lodging plus one 9ft x 18ft off-street parking space for each separately rentable unit. The guest parking spaces shall be independent of the two required owner parking spaces allowing independent access to the rental property.

Off-street parking spaces and their access are required to be surfaced, concrete, pavers, or asphalt if access to those areas is from a surfaced public or private street. Street parking is strictly prohibited for renters of Homestay Lodging establishments.
5. **Trash Service:** Weekly solid waste pick-up is required during all months. All trash and recycling containers are required to have wind latches installed. Container size shall be sufficient to accommodate the occupancy of the Homestay Lodging establishment as determined by the Code Compliance Official based on solid waste industry standards.

120.09 Complaints

All complaints regarding Short-Term Rentals which are submitted to the City will initially proceed through the informal resolution process provided herein. If the complaint is unresolved after completion of the informal resolution process, then a more formal process shall be utilized as set forth below.

1. The complainant shall attempt to communicate with the designated local contact. The complainant shall describe the problem in detail and the requested resolution to the local contact.
2. The local contact shall promptly respond to the complainant and make reasonable efforts to remedy any situation that is out of compliance with the provisions of this chapter. The local contact is required to take action on a complaint within 2-hours of receiving notice.
3. If the response from the local contact is not satisfactory to the complainant, the complainant may file a complaint, in writing, to the City.
4. The City shall notify the property owner and property manager/local contact of the complaint. The owner or their property manager/local contact shall respond to the complaint in writing within five (5) days of the notification. The response shall list

the date and time they were contacted regarding the complaint, the steps they took to resolve the complaint, and the steps they will take to prevent the same type of complaint in the future.

5. The City's Code Compliance Official shall document the complaint and response and issue a written determination to the parties involved. The Code Compliance Official may mediate any issues with a short-term rental and complainants. If the Code Compliance Official finds a violation of this chapter, the Code Compliance Official may take further enforcement action.

120.10 Enforcement

A person who violates or permits the violation of any of the provisions of this chapter shall, upon conviction thereof, be subject to a penalty as specified below. Each day on which a violation occurs or continues shall constitute a separate offense.

1. First offense: \$250 fine.
2. Second offense within a one-year period: \$500 fine and suspension of short-term rental license for a period of 6 months, or if unlicensed, a six-month waiting period before a license may be issued.
3. Third offense within a one-year period: \$1000 fine and revocation of a short-term rental license. The short-term rental license holder, and any other owner of the same property, will be ineligible to re-apply for a short-term rental license for a period of one year, provided the license holder remains an owner of the property. If unlicensed, a one-year waiting period shall apply before a license may be issued.
4. Fourth offense within a one-year period: \$1500 fine and permanent revocation of a short-term rental license. The short-term rental license holder, and any other owner of the same property, will be ineligible to re-apply for a short-term rental license while the license holder remains an owner of the property. If unlicensed, the owners shall be ineligible to apply for a short-term rental license.
5. Subsequent offenses within a one-year period: \$2000 fine.

120.11 Short-Term Rentals Prohibited

Short-term rentals are prohibited in the following dwellings and properties:

1. Properties that contain Accessory Dwelling Units.
2. Duplexes, except duplexes with each unit on a separate lot.
3. Triplexes, except triplexes with each unit on a separate lot.
4. Multi-dwelling attached apartment buildings not under a condominium form of ownership.
5. Properties with two or more single-dwelling detached units on one lot.

120.12 Estuary Properties

Pursuant to the purchase and sale agreement for the Estuary Park, twenty-five percent (25%) of the dwelling units incorporated in the Planned Development of tax lots 61015BC03800, 61015BC04201, 61015BC03000, and 61015BC02900 (See Exhibit C) shall be eligible for short-term rental licenses, notwithstanding any spatial distribution or dwelling unit type restrictions in this chapter, provided those dwelling units meet all other requirements of this chapter. The specific dwelling units to be eligible for short-term rental licenses under this section shall be designated by the developer at the time of the development approval and shall not be subject to change thereafter. No other dwelling units within said tax lots shall be eligible for short-term rental licenses.

120.13 Non-Liability of the City of Seaside

Neither the city nor any official or employee of the City shall be liable for any damages, or claims from any owner or third party relating to the enforcement of any provision of this chapter.

120.14 Delegation of Authority

The City of Seaside Community Development Department is delegated the authority and responsibility to adopt rules, procedures, forms, and practices consistent with the overall intent of this chapter, to implement, administer, and operate the licensing program for the city.

120.15 Severability

Each section, sentence, clause, and phrase hereto are declared severable. If any section sentence clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this chapter.

ADOPTED by the City Council of the City of Seaside on this ___ day of _____, 2024, by the following roll call vote:

YEAS:
NAYS:
ABSTAIN:
ABSENT:

SUBMITTED to and **APPROVED** by the Mayor on this ___ day of _____, 2024.

STEVE WRIGHT, MAYOR

ATTEST:

Spencer Kyle, City Manager

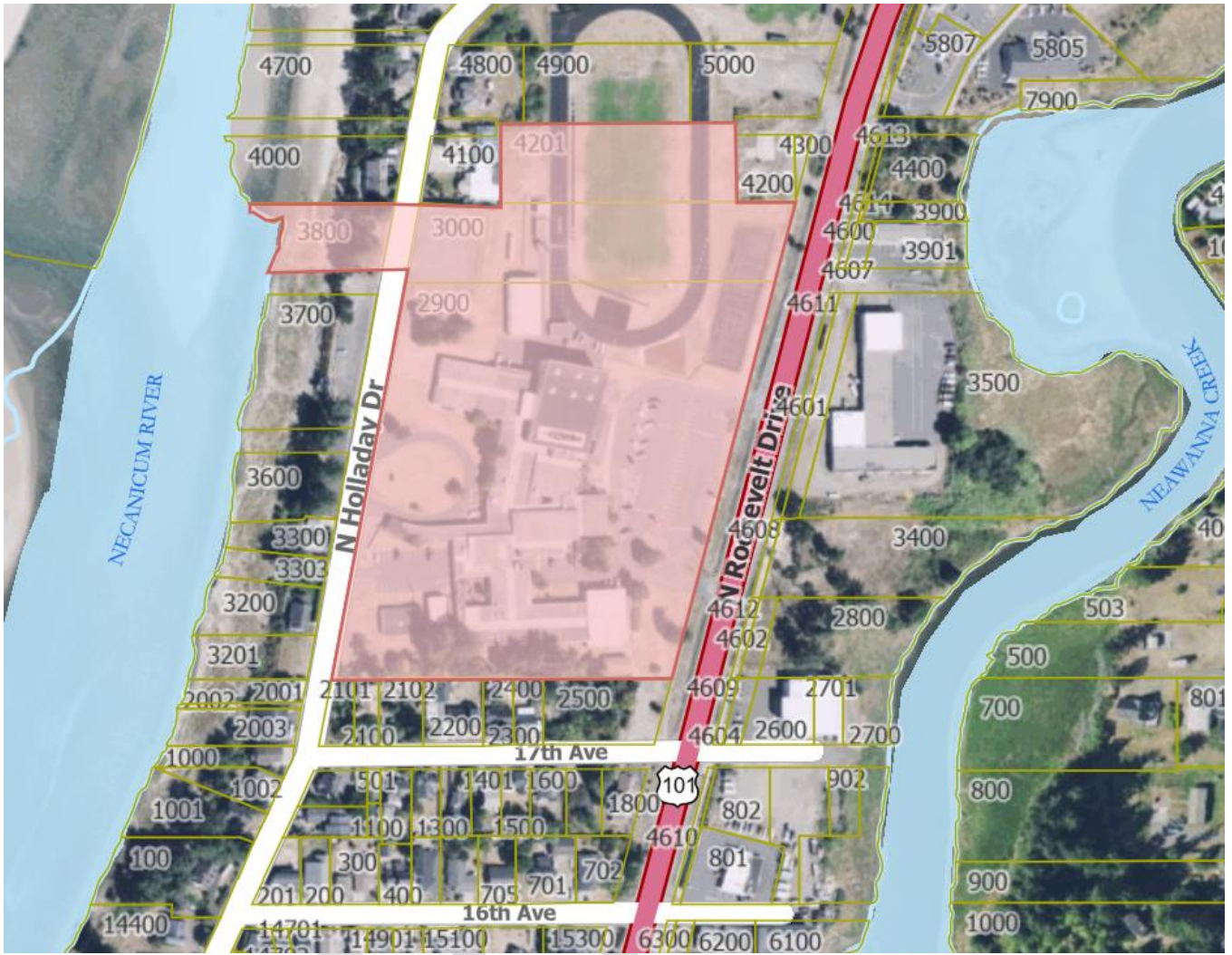
Exhibit A:



Exhibit B:



Exhibit C:



Jeff Flory

From: Seth Hague <Seth.Hague@magamb.com>
Sent: Tuesday, April 2, 2024 9:28 AM
To: Jeff Flory
Cc: mark@missiondg.com
Subject: Questions for Planning Commission's consideration at 4.2.23 meeting

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Hi Jeff, I hope you are doing well.

I wanted to forward a few of these questions (in no particular order) to you in hopes you can pass them along to the planning commission to consider asking the owner of the old high school property when discussing **Ordinance NO. 2024-04.**

- Factoring in the need for affordable housing – both low-income and missing middle – how does the short-term rental benefit the community in the long run.
- What kind of housing is planned for the high school site? And what is the timeline?
 - Price point of planned housing if for sale housing?
 - Has a site plan been reviewed by the city in a pre-con meeting?
- Has there been any consideration from the owner of the high school site to work with the city to develop the low-income housing project in the N40 in return for the STR zoning at their site? Or visa-versa?
 - If not the N40 site, is there another site that the owner of the old high school owns that would be willing to contribute to affordable rental housing?
- Has there been a market study conducted by the owner of the high school stie showing the demand for STR in that area?
 - If so, what are the findings?
 - If no, what is the justification for STR over the entire site and not specific sections?

I appreciate your time and consideration.

thanks,

--

Seth Hague
Founding Principal
C: 503.440.2981
seth.hague@magamb.com

MAG-AMB
DEVELOPMENT

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CITY OF
SEASIDE

From: Robert Houghton <robbadler@gmail.com>
Sent: Tuesday, April 2, 2024 3:45 PM
To: publiccomment <publiccomment@cityofseaside.us>
Subject: Comment on 769-24-000010-PLNG

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I am against the plan to remove Vacation Rental Dwellings and B&Bs from the Seaside Zoning Ordinance.

As a homeowner in Seaside, I am troubled by the plan to limit the use of my home. We bought a vacation home for my family, with the understanding that, in troubling times, we could convert the house to a rental to help support our income as my family has grown.

To have the city try and take away this right, without having published any reasoning on why, or a prospectus on the expected impact on:

- * Overall city rental capacity
- * Tourism dollar impact
- * Downstream job impacts (cleaning, landscaping, etc)
- * Home value in affected areas
- * Expected number of homes affected
- * Maps of zones affected

Furthermore, there are studies showing that implementing limits on Vacation Rentals can negatively impact community residential value. Services like Airbnb allow homeowners to make use of excess rooms in their homes for tourism, utilizing space that would otherwise be unused. Homes are purchased, refurbished, or renovated in order to make them appealing to renters. Removing the right, or applying barriers to entry, will

1

curtail the spend on residential property and renovation in the community.

See <https://ssrn.com/abstract=3874207> as an example.

Without having provided any of this supporting information, and possibly even if it were supplied, I cannot support a city motion to curb the rights of home owners. Do not repeal any allowances for Vacation Rental Dwellings in Seaside.

-Robert

March 27, 2024

Seaside Planning Commission

989 Broadway

Seaside, OR 97138

RE: Ordinance 2024-04

Dear Planning Commissioners,

I'm writing to comment on proposed Ordinance 2024-04 regarding VRD dwellings. It appears the driver of this ordinance is regarding the purchase of the estuary park in exchange for allowing 25% of the units to be Vacation Rentals in a planned development at the old high school.

I think allowing any more areas to allow VRDs in Seaside is a terrible idea. We DO NOT need any more vacation rentals. Seaside as well as the entire area & the state is in a crisis regarding available & affordable housing. Vacation rentals take away so much housing that would otherwise be used to house working families as well as professionals such as doctors, law enforcement, teachers & other needed professionals here.

I think the planned development of housing is a great idea. But it should be only housing, not VRDs. VRDs cause a lot of problems with parking, rude guests, late parties, etc. I can't imagine living in a neighborhood fulltime with 25% of the houses VRDs where most weekends there will be a bunch of inconsiderate renters disturbing the peace. Look at the stuff that goes on off N. Franklin on 14th. Those residents are furious about the VRDs in their neighborhood causing problems & they have every right to be furious.

VRDs are nothing more than commercial lodging operations in residential neighborhoods. I know the developers are asking for VRDs as VRD properties fetch a higher price since they make income. But at the same time I think they reduce value of surrounding properties that have to put up the VRDs in their neighborhood. Many cities & counties have recognized the negative effects of vacation rentals & have capped and/or reduced the number of VRD units. Some more extreme than others but the consensus is there that local residents are tired of VRDs. We should be focused on having enough housing for locals. Businesses are struggling to find employees & a root cause of this is there is nowhere for them to live. Also full time residents support our economy year around instead of VRDs that sit empty most of the winter except some weekends & are only full during summer months. Seaside needs much more than a seasonal economy.

The city got duped on the development on S Wahanna & S. When that was planned the developers stated the intent was to build affordable housing. Much work went into defining what affordable was & 300-350k was max. When rates were low that was ok. But what ended up getting built was over 600k. Some 700k. Definitely not affordable.

The old high school is a perfect opportunity for Seaside to address our housing crisis. It's a rare opportunity. Let's not screw it up by allowing a bunch more VRDs.

SUGGESTED CHANGES TO VRD and B&B ORDINANCES

No objections to the proposed deletions in Section 3. The February 15, 2024 memo from Community Development Direction states that a new Short-Term Rental Ordinance will be housed under Business Licensing. The following are suggested changes to the existing Ordinances that the **Planning Commission should suggest to the Council for incorporation in the new Ordinances.**

1. **Delete Section 6.136.1. (B&B).** This is an unlawful delegation of the Council's legislative authority. See attached Henningsgaard letter March 4, 2021 to Van Thiel.
2. **Section 6.135.2. (B&B) should include a definition of "owner occupied."** Currently, Zoning Ordinance Section 1.030 Definitions includes: "Owner: Includes an authorized agent of the owner." This definition should be included in the Business License Ordinance.
3. **Section 6.137.6.E. (VRD) should be deleted.** This section requires payment for a Business License and payment of Room Taxes and includes a penalty of revocation of the permit if payments are not made. There is no such requirement for B&Bs. The Business License & Room Tax Ordinances speak for themselves – a license & tax is required for all businesses (which includes VRD and B&B). The Business License Ordinance includes a penalty for failure to acquire a Business License. There is no reason to create a unique penalty for VRD's which does not exist for B&Bs or any other business.
4. **VRD and B&B distinctions should be replaced by an all-inclusive Short Term Rental category.** To preserve the essential differences the replacement Ordinance could state: "If occupancy up to and including 12 persons is approved, the premises make be occupied by the owner or not, at the owner's discretion. If occupancy of 13-15 persons is approved, the premises shall be owner occupied.



Don Godard
April 2, 2024
2411 Ocean Vista Drive
Seaside OR 97138



March 4, 2021

Dan Van Thiel
POB 805
Baker City OR 97814 vanthiellaw@gmail.com

Re: Seaside Variance Procedure for Bed and Breakfast Establishments - ZOS 6.136

Dear Dan,

I write to alert you to a conversation I anticipate you will have with the Seaside Mayor and /or planning staff. I represent Don Godard who resides at 2411 Ocean Vista Drive. My client's desire to increase the rental units in his bed and breakfast has collided with the objection of an absentee neighbor. For the reasons described below, I believe that ZOS 6.136(1) which allows an abutting property owner to veto a variance application violates Article I, section 21 of the Oregon Constitution. In its relevant part that section provides no law shall be passed "the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution* * *."

My client currently operates his home as a bed and breakfast under a variance from the city. He is in the process of increasing the number of bedrooms on his second floor and like to increase his allowable rental units. Any increase will require a variance for the additional units. The procedure is set forth in ZOS 6.136. This section provides:

Section 6.136 Variance Procedure For Bed & Breakfast Establishments. A variance for additional units may be considered if the following criteria are met:

1. Abutting property owners are in agreement.
2. House has architectural design that would accommodate the use without changing the character of the neighborhood.
3. Adequate approved parking is provided.
4. Building meets Fire & Life Safety Code with annual inspection required.

The only objection my client received from surrounding owners was from the trustee of a California trust that owns an adjacent property. Ironically the only beneficiary who regularly uses that house does not object. The objecting trustees are his parents, who live in Orange County and rarely come to Seaside. Their objection is not based on my

client's operation of the bed and breakfast but rather on a vague notion that there are enough visitors in the area already.

Several land use cases from Umatilla County hold that permitting private citizens to arbitrarily make a land use decisions is an unlawful delegation of decision making authority under Article I Section 21.

In *Cosner v Umatilla County LUBA* (2012) LUBA considered a county ordinance that allowed a private landowner to waive the two-mile setback to a wind power generator and substitute a lesser setback at the sole discretion of the landowner. That ordinance, just like ZOS 6.136.1 allowed a private citizen to arbitrarily make the decision. LUBA found that allowing the waiver in the "arbitrary and standardless" discretion of the landowner, ran afoul of the delegation clause of Article I, section 21 of the Oregon Constitution.

Umatilla County responded to the *Cosner* decision by adopting an ordinance which allowed a landowner to "effectively veto" an application by failing to sign a consent. The amended statute was also held to violate Article I, section 21 in *Iberdrola Renewables, LLC v Umatilla county* 67 Or LUBA 149 (2013).

In my mind there does not seem to be a significant difference between the defect LUBA found in the Umatilla ordinance and ZOS 6.136.1. I believe that this defect can be cured simply by disallowing the citizen veto. My client has met with Kevin Cupples concerning this problem and has a meeting scheduled with the mayor next week. If you have not already been advised of this issue I expect you will.

Please let me know if I can provide any further information or if you have questions.

Sincerely,



Blair J.
Henningsgaard cc
client

Jesse Taylor
2041 Aldercrest St
Seaside, OR 97138
March 14, 2024

RE: Ordinance No. 2024-04

To the Seaside Planning Commission,

I am writing in opposition to the portion of the proposed ordinance number 2024-04, section 120.12 Estuary Properties. This Planning Commission less than two years ago removed the ability for property owners to vacation rental their homes in this same area. The area removed was north of 12th Ave and west of Holladay Drive. The Planning Commission felt very strongly that they wanted to keep the residential feel of the neighborhoods. It was even said that this was one of the last affordable areas for locals to live and felt that vacation rentals were taking over. To hear that there is a proposal to allow VRD's in the new development is absurd, the proposed development wasn't even in the allowed VRD boundary beforehand. Per my conversation with Jeff Flory, there is no proposal for how many dwellings will be built. He said per the zoning, up to 10 dwellings per acre could be built which could equal 200+ dwellings. 25% equals 50+ VRD's, that is way more allowable VRD's than what could have been prior to the boundary change in 2022. How is that going to keep a residential feel?

Secondly, our family has owned a home on the west side of Holladay Dr since 1994. We had plans to vacation rental it, until the boundary change in 2022. How frustrated do you think we are to have that option taken away from us, and then less than 2 years later being offered to an investor ten-fold on a property not even in a previous VRD location?

I encourage the planning commission and the City of Seaside staff to go back and watch the YouTube videos from 04/19/2022, 05/03/2022, and 06/07/2022. It was very clear how you felt about VRD's in this proposed area. If this proposal passes for VRD's at the estuary lots, I couldn't think of a bigger F-you that you would be sending to all the surrounding property owners. It would probably be the most hypocritical decision the commission and city has made to date.

Thank you for your time,

Jesse Taylor