

SEASIDE PLANNING COMMISSION MEETING AGENDA

989 Broadway - City Hall Council Chambers

August 3, 2021

6:00 p.m.

1. CALL TO ORDER:
2. PLEDGE OF ALLEGIANCE:
3. OPENING REMARKS:
4. DECLARATION OF CONFLICT OF INTEREST OR EXPARTE CONTACTS:
5. APPROVAL OF MINUTES: July 6, 2021
6. PUBLIC HEARING:
 - A. **Continuance of 21-035CU:** A conditional use request by Steve Olstedt, Cross Creek Land 1 LLC, for a 72 unit housing development (eight 6-plexes and six 4-plexes) within the General Commercial (C-3) zone. The vacant property is located north and east of TLC Federal Credit Union at 2341 N Roosevelt (T6-R10-15BA-TL5800) and it will be accessed from the existing private road. In conjunction with this request, the applicant has submitted a Highway Overlay Zone request (21-036HOZ) and a preliminary subdivision plat (21-044SUB) that would create a separate lot for each of the housing units and common ownership of the access and off-street parking areas. The eastern portion of the property that abuts the Neawanna Creek Estuary Conservation Aquatic (A-2) zone will remain undeveloped open space. The western portion of the property abuts N Roosevelt Dr. (Hwy 101) and no new vehicular access is proposed at this time.
 - B. **21-054VRD:** A conditional use request by **Brandon Kahler** for a **four (4)** bedroom Vacation Rental Dwelling with a maximum occupancy of **ten (10)** persons regardless of age. The property is located at **311 10th Ave (T6-R10-16DC-TL0400)** and it is zoned **High Density Residential (R3)**.
7. ORDINANCE ADMINISTRATION:
8. PUBLIC COMMENTS: Not related to specific agenda items
9. PLANNING COMMISSION & STAFF COMMENTS:
10. ADJOURNMENT

MINUTES SEASIDE PLANNING COMMISSION

July 6, 2021

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

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Vice Chairman Robin Montero, Lou Neubecker, Teri Carpenter, Jon Wickersham, Kathy Kleczek, and Chris Rose. Staff present: Kevin Cupples, Planning Director, Jordan Sprague, Administrative Assistant, Jeff Flory, Transient Rental Compliance Officer.

APPROVAL OF MINUTES: June 1, 2021 minutes amended by Commissioner Carpenter to adjust language used for her statements regarding the delivery date of the packets. Commissioner Wickersham seconded the motion to correct the minutes.

INTRODUCTORY STATEMENTS

This is the time duly advertised for the Seaside Planning Commission to hold its monthly meeting. Agenda items can be initiated by the general public, any legal property owner, Seaside City Council, City staff, and the Seaside Planning Commission.

Vice Chair Montero asked if there was anyone present who felt the Commission lacked the authority to hear any of the items on the agenda. Commissioner Carpenter stated that she received the packet late and would potentially not vote on the items.

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

Vice Chair Montero stated it is standard procedure for the members of the Commission to visit the sites to be dealt with at these meetings. She then asked if any of the Commissioners wished to declare an ex parte contact or conflict of interest. Commissioner Carpenter stated that she received her packet late and would ask more questions regarding the projects during the hearing.

AGENDA:

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Vice Chair Montero:

1. The applicable substantive criteria for the hearing items are listed in the staff report(s) prepared for this hearing.
2. Testimony and evidence shall be directed toward the substantive criteria listed in the staff report(s) or other criteria in the plan or land use regulation, which you believe applies to the decision.
3. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.
4. The applicant will testify first, then any opposition will testify, and then the applicant will be given time for rebuttal.

PUBLIC HEARING

- A. **21-032VRD:** A conditional use request by Sanchez Seaside Property LLC for a four (4) bedroom Vacation Rental Dwelling with a maximum occupancy of ten (10) persons regardless of age. The property is located at 2675 Sunset Blvd (T6-R10-28BC-TL1001) and it is zoned Medium Density Residential (R2). In conjunction with this request, the applicant is requesting a variance (21-033V) to the front yard landscaping requirement. The current parking area for the zero-lot line townhome takes up more than 50% of the required front yard. The applicant wants to maintain the five existing off-street parking spaces for the dwelling unit (two parking spaces inside the

garage and three parking spaces side by side in the driveway). The applicant does not plan to alter the current parking area.

Kevin Cupples, City Planning Director, presented a staff report, reviewing the request, decision criteria findings, conditions, and conclusion. Vice Chair Montero asked if there was anybody who would like to speak in favor of the proposal. Yesenia Sanchez-Chen, 55349 Columbia River Highway, Scappoose, OR, is joined with Paula Sanchez, same address, read the letter she had written to the Planning Commission.

Vice Chair Montero asked if anybody else would like to speak in favor. Mark Tolan, 524 N Roosevelt Dr., stated that the house was previously rented through his company and they currently have a good relationship with the neighbors.

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

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

Vice Chair Montero opened the discussion to the Planning Commission. Commissioner Wickersham asked the Commission if the parking within the garage would count towards the parking requirement. Vice Chair Montero stated that they would count towards the parking requirements. Mr. Cupples added that they would be counted if they met the parking space size requirements. Commissioner Kleczek questioned on if the number of off-street parking spaces that the Commission was going to approve was 5 total off-street parking spaces, not three. Vice Chair Montero asked Mrs. Sanchez-Chen to verify the number of off street parking spaces. Mrs. Sanchez-Chen stated they are proposing 5 off-street parking spaces. Mr. Cupples added that the owners would be required to have 4 off-street parking spaces per the Zoning Ordinance, but if additional parking spaces are provided they can use them. Commissioner Carpenter asked Mr. Cupples what additional conditions have been added to the surrounding VRDs. Mr. Cupples responded that the surrounding VRDs have the standard list of conditions. Commissioner Carpenter asked if the City had received letters from neighboring properties. Mr. Cupples stated that there had been no letters regarding this VRD. Mr. Tolan added to the response that their company advertises under parking capacity, so if there were any extra vehicles they are still within their approved parking requirement. Commissioner Carpenter asked if two cars could fit inside the garage. Mr. Tolan stated that he has seen two cars parked inside the garage before. Commissioner Kleczek asked if the parking lot across the street would be considered on-street parking or off-street parking. Mr. Cupples responded that on-street parking would be any parking space that takes place within the public right of way. He added that any time the City talks about off-street parking, they are talking about parking that is located on the owner's property. Commissioner Kleczek questioned if people could complain about renters parking in the parking lot for the vacation rental. Commissioner Wickersham stated that the parking along that area is not allowed for overnight parking. Vice Chair Montero asked Mr. Cupples that since the two applications were submitted in tandem, would they require separate votes. Mr. Cupples responded that the two items are submitted together, but anybody could appeal each decision individually. Vice Chair Montero wanted to verify that the VRD license goes to the applicant and the variance decision goes with the property. Mr. Cupples stated that a decision of a conditional use is only valid for up to a year unless the use is utilized, but the variance would continue to exist after the property has changed hands. Vice Chair Montero recommended to the Commission that in order to maintain the look of a residential neighborhood, the maximum number of parking spaces be limited to 4, 2 parking spaces inside the garage and 2 outside the garage, and landscaping elements to be installed within the 5th parking space. Commissioner Kleczek responded that the neighboring properties do not have the landscaping requirements along their driveways, so adding these requirements would be considered extreme. Commissioner Wickersham stated that without clarification of what landscaping elements would entail, and the parking arrangement fits with the current neighborhood, so he would prefer to not include this additional condition. Commissioner Kleczek asked if parking became an issue, could a condition to lower the parking spaces to maximum of 4 be added. Commissioner Wickersham responded that he was speaking to the landscaping elements, but does not have an issue with allowing 5 parking spaces. Vice Chair Montero stated that this would allow for a consistency with

the other units within the area that have a maximum parking of 4. Commissioner Wickersham asked how many parking spaces the previous owner was allowed to have. Vice Chair Montero responded that the previous decision was in 2005 which allowed for 4 parking spaces. Commissioner Kleczek motions to approve 21-032VRD and 21-033V. Commissioner Wickersham seconded the motion. The motion passed unanimously.

- B. 21-035CU:** A conditional use request by Steve Olstedt, Cross Creek Land 1 LLC, for a 72 unit housing development (eight 6-plexes and six 4-plexes) within the General Commercial (C-3) zone. The vacant property is located north and east of TLC Federal Credit Union at 2341 N Roosevelt (T6-R10-15BA-TL5800) and it will be accessed from the existing private road. In conjunction with this request, the applicant has submitted a Highway Overlay Zone request (21-036HOZ) and a preliminary subdivision plat (21-044SUB) that would create a separate lot for each of the housing units and common ownership of the access and off-street parking areas. The eastern portion of the property that abuts the Neawanna Creek Estuary Conservation Aquatic (A-2) zone will remain undeveloped open space. The western portion of the property abuts N Roosevelt Dr. (Hwy 101) and no new vehicular access is proposed at this time.

Kevin Cupples, City Planning Director, presented a staff report, reviewing the request, decision criteria findings, conditions, and conclusion. Mr. Cupples added that what staff recommends that the decision be made on the conditional use permit and the highway overlay zone permit and grant a continuance on the subdivision to have a more refined subdivision plat submitted for the next Planning Commission meeting. Vice Chair Montero asked if there was anybody who would like to speak in favor of the proposal. Adam Daily, PO Box 973, introduced himself as the engineer who compiled the planning narrative and the preliminary plan for the project.

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

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

Vice Chair Montero opened the discussion to the Planning Commission. Commissioner Kleczek asked Mr. Cupples to clarify how the split decision works for voting on two of the applications and continue the third. Mr. Cupples responded that whenever the Planning Commission is reviewing a packaged application, there would be one public hearing, have all the testimony from the public in that hearing, and then the decisions could be separated for each permit application. Commissioner Kleczek verified if the high overlay zone has standards that are based on the City of Seaside's Transportation System Plan (TSP) and Oregon Department of Transportation (ODOT) requirements. Mr. Cupples confirmed this information. Commissioner Kleczek asked if the traffic impact study submitted was performed in 2018 or 2021. Mr. Cupples stated the study was done in 2021. Commissioner Carpenter stated that traffic will be a major issue with this project, and asked if ODOT had plans for updating the highway in that location. Mr. Cupples replied that when the TSP was compiled it showed that this section the highway would have 3 lanes, as the highway sits now. Commissioner Rose expressed his concern with the amount of traffic that would be using the entrance, which is shared with other businesses. Mr. Cupples stated that the traffic study showed that the intersection onto the highway wasn't going to be a problem, but would have traffic queueing for exiting the area. Commissioner Wickersham added that Dutch Bros. already has cars backed out into the access road during peak hours. Mr. Cupples replied that there will be heavy traffic during peak hours, potentially backed up into their development. Commissioner Kleczek stated expressed her concerns with pedestrian and bicycle access to the development, and read a quote from ODOT website regarding the amount of bicycle and pedestrian related accidents along the highway in Seaside. Mr. Cupples stated that the existing pedestrian walkway is being connected to this new development and will have a sidewalk system within their development. Commissioner Kleczek responded that the tenants would want to walk to other sections of Seaside, but there is not a safe route to the other side of the highway. Vice Chair Montero asked what type of housing would this complex be. Ryan Osburn, 33485 SW Old Pine Drive, Warrenton, stated that the rent range would be roughly \$1,200 to \$1,400, but the lots for the apartments would be sold to different builders. Commissioner Wickersham asked if the development of the site would be completed in one phase, while the building of the units would be developed at a separate time. Commissioner

Carpenter continued the question if the units would have to match, or if the builders could choose their own building. Mr. Daily responded that there would be continuity to the units as they would have to build using the submitted elevations. Mr. Osburn added that there would be a parking lot easement agreement with all the owners of the complex. Commissioner Kleczek asked who would be responsible for paying the common fees for the development. Mr. Osburn stated that the fees would be shared amongst the owners at that time. Vice Chair Montero asked if the study was performed in 2017, and if it has have the numbers been adjusted to reflect the current conditions. Mr. Cupples responded that the date of the traffic study was June 17, 2021. Vice Chair Montero asked if there was a proposal with ODOT to reduce the speed limit from 40 to 35 in this section of the highway. Mr. Daily responded that as of right now there is not, but there is a center turn lane and a right turn lane to enter the property. Commissioner Kleczek requested that a safety measure of a pedestrian crossing light at the intersection with the highway be added. Vice Chair Montero suggested to the Planning Commission to vote for a continuance for this project to allow for more time to review the submitted plans and documents. Mr. Cupples responded that if the Planning Commission was wanting final plans to approve the development, the final plans are not reviewed by the Planning Commission but they are approved by the Building Official. Commissioner Carpenter stated that a continuance would be needed to perform additional review of the project to verify if the correct questions are being asked. Commissioner Wickersham asked the Commission what additional information is being requested from the applicant, or what information is holding the Commission back from making a decision. Commissioner Carpenter responded that the traffic is the biggest concern and would require more review. Mr. Cupples stated that as a follow up on Commissioner Kleczek's concerns, as the Commission starts making requirements for offsite improvements, the burden as a decision make becomes higher. Mr. Cupples suggested that the Planning Commission could request the developers discuss the possibility of having a pedestrian crossing with Lancaster and ODOT. Mr. Daily stated that ODOT had reviewed the study and the conclusions on page 16 show that there are no requirements for any additional improvements. Commissioner Kleczek motioned to continue to the August 3rd meeting at 6 o'clock in the City Council Chambers. Commissioner Rose seconded the motion. The motion passes unanimously.

ORDINANCE ADMINISTRATION

Vice Chair Montero had questions about the density maps for vacation rental applications, and if unbuildable wetland and the other non-improved open space parcels should be included in the density ratios. Mr. Cupples stated that not counting these lots would be out of convention. Vice Chair Montero stated that including these lots skews the numbers of VRD ratios within the areas, with lots that are unable to be improved being counted towards the ratio. Vice Chair Montero suggested making a decision or recommendation to not include unbuildable lots. Mr. Flory asked for clarity if it would just pertain to the open park zoning designations. Vice Chair Montero responded that to obtain accurate percentages of VRDs within an area, eliminating open space and undevelopable lots would reflect a true count.

COMMENTS FROM THE PUBLIC

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

COMMENTS FROM COMMISSION/STAFF

Commissioner Carpenter stated that in the last meeting, the packets would be delivered 7 days before the next meeting. Mr. Cupples responded that the packets were delivered 6 days prior to the meeting. Commissioner Carpenter suggested that the packets be delivered 6 business days in advanced. Mr. Cupples replied that the most common time the City receives public comments is close to the day that the staff report is written. The further the mailed notice is sent out from the hearing date, the less likely the City will receive public comments. Commissioner Carpenter asked what is preventing the mailed notice being sent out earlier in the month. Mr. Cupples responded that the deadline for Planning Commission meetings are the previous month's Planning Commission meeting. Commissioner Kleczek suggested that the published notice date be adjusted to 10 days in advanced. Mr. Cupples stated that the published and mailed notice could be adjusted, but the change will affect how the City accepts applications. Commissioner

Kleczek asked for clarification on how this change will affect how the City accepts applications. Mr. Cupples replied that the time needed between application intake and mailed notice is for City staff to put the file together, get the notices written, get the notification published, and the notices mailed. With adjusting the date the packets are sent out, the staff report would be written during the time the first notices were being sent out. Commissioner Kleczek suggested that if the mailed notice was sent out 5 days in advanced, would that provide City staff the 5 additional days to get the staff report written. Mr. Cupples stated that he would attempt to get the notices and packets out in advanced, as requested by the Commission. Commissioner Wickersham stated that he would be gone for the September Planning Commission meeting. Mr. Cupples stated that Chair Hoth had stepped down from the Planning Commission, and asked if Vice Chair Montero would be willing to serve as interim Chair for the time being. Vice Chair Montero agreed to act as interim Chair.

ADJOURNMENT: Adjourned at 7:28 PM.

Robin Montero, Vice Chairman

Jordan Sprague, Admin. Assistant

CITY OF SEASIDE STAFF REPORT

To: Seaside Planning Commission
From: Planning Director, Kevin Cupples
Date: July 21, 2021 for Public Hearing on August 3, 2021
Applicant: Brandon Kahler
Owner: 11461 NW Melody Ln. Portland, OR 97229
Location: 311 10th Ave Seaside, OR 97138, T6-R10-S16DC TL#0400
Subject: Conditional Use 21-054VRD, Four Bedroom Vacation Rental Dwelling with Limited Occupancy of Ten (10) Persons.

REQUEST:

The applicant is requesting a conditional use that will allow the establishment of a Vacation Rental Dwelling (VRD) at **311 10th Ave.** The subject property is zoned **High Density Residential (R-3)** and the **applicant is** requesting a maximum occupancy of **ten (10) persons regardless of age**, within the existing **four (4)** bedroom dwelling.

The review will be conducted in accordance with Article 6 and Article 10 of the Seaside Zoning Ordinance which establishes the review criteria and procedures for a conditional use. The specific review criterion for Vacation Rental Dwellings is included in Section 6.137 of the Ordinance.

DECISION CRITERIA, FINDINGS AND CONCLUSIONS:

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

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

- A. **Parking.** One 9' x 18' off-street space will be provided for each bedroom in the unit, but in no event shall fewer than two spaces be provided.
- B. **Number of Occupants.** The maximum number of occupants cannot exceed three persons (over the age of three) per bedroom. The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations.

The number of overnight renters or the maximum number of occupants may be reduced by the Code Enforcement Officer or Fire Marshal at the time of inspection for valid code reasons.

- C. Residential yard areas. Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area which is not occupied by buildings must be landscaped in some fashion so that parking will not dominate the yard.
- D. Local responsible party. A local responsible party that permanently resides within the County must be identified by the owner. The responsible party will serve as an initial contact person if there are questions regarding the operation of the VRD. The owner shall provide the telephone number of the local contact person to the City, and to the immediate neighbors within the notification area (within 100' of the subject property).
- E. Spatial distribution requirements. Within the medium density residential (R-2) zones and high density residential (R-3) zones, not more than 20% of the properties within 100' of the subject property can be currently licensed for VRD use without Planning Commission review based on the following additional criteria:
 - 1. The use of the property as a VRD will be compatible with the surrounding land uses.
 - 2. The VRD will not contribute to excessive parking congestion on site or along adjacent streets.

A decision by the Commission to approve a VRD request may include conditions that would restrict the number of renters or total occupants in the VRD.

FINDINGS & JUSTIFICATION STATEMENTS:

- 1. Mailed Notice Request Summary: **21-054VRD**: A conditional use request by **Brandon Kahler** for a **four (4)** bedroom Vacation Rental Dwelling with a maximum occupancy of **ten (10)** persons regardless of age. The property is located at **311 10th Ave. (T6-R10-S16DC-TL0400)** and it is zoned High Density Residential (R-3). The applicant's submitted justification is adopted by reference and summarized below:
 - a. The applicant's plot plan indicates there will be at least **four (4)** off-street parking spaces. **One space inside the garage and 3 spaces stacked in the driveway.**
 - b. The existing **four (4)** bedroom residence will have a limited occupancy of **ten (10) persons regardless of age.**
 - c. The plot plan shows that the parking will not take up over **50% of the required front, rear, or side yards.**
 - d. **Brandon Kahler has listed Seaside Vacation Homes, 524 N. Roosevelt Dr. as the local contact for the VRD and they can be reached at 503-738-0982.**
 - e. The owner/applicant, **Brandon Kahler**, has read all of the standards and conditions applicable to VRDs.
- 2. The proposed VRD is located within a developed residential neighborhood primarily consisting of single-family dwellings. Currently **21.4%** of the surrounding properties

within 100' of the subject property are licensed for VRD use and **13%** are licensed within 200'. All of the surrounding property within 100 feet is zoned **High Density Residential (R-3)**.

3. The City of Seaside Planning Commission has established a policy concerning the maximum density of VRDs within neighborhoods that are not zoned Resort Residential (RR). Depending on the location, the Commission will only support VRDs where the surrounding density of VRD licensed properties, within 100 feet; is equal to or less than 40% or 50% depending on their proximity to the beach front areas of Seaside. At the time of submittal, the density of the surrounding VRDs was below the **40%** threshold the Planning Commission believes should be used to limit additional VRDs within this area.
4. The property **has not** undergone a preliminary compliance inspection. Any corrections noted during the inspection must be completed and approved by the Community Development Department prior to any transient rental of the property unless an alternative time period is identified for specific items.
5. The City of Seaside Planning Commission adopted a list of policies and a uniform list of conditions they believed should be incorporated into the vacation rental dwelling review process. These are intended to be consistent with the provision in Section 6.031 which in part states: "the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area of the city as a whole."

In recognition of the Planning Commission's efforts and in keeping with the purpose statement for conditional uses, these conditions are incorporated into any decision to approve a VRD in an effort to promote compatibility of the proposed VRD with surrounding uses.

6. All property owners within 100 feet of the subject property were notified of the applicant's request. At the time of this report, the Community Development Department **had not received any letters** expressing concerns about the request.
7. The proposed use is located within the tsunami inundation zone identified by the State of Oregon.
8. Negative impacts to a neighborhood cannot be predicted based solely on a change from full time occupancy, part-time occupancy, long term rental, or short-term rental. Short term vacation rental dwellings (VRDs) are a regulated use subject to review. It is true that VRDs exhibit short term stays by nonresidents; however, negative impacts can be caused by other permitted uses of longer duration. VRDs do have an identified local contact, restrictions that exceed those applied to the other uses of single-family dwellings, and a complaint resolution process that exceeds the "normal" restrictions applied to non-VRDs.
9. The property **was previously** permitted as a VRD in 2002. The VRD permit was active until the property was sold to the new owner, Brandon Kahler.
10. The glare from outdoor lighting can have an impact on adjacent properties. All exterior lighting should conform to the newly adopted Outdoor Lighting Ordinance even if any pre-existing outdoor lighting would normally be exempt under the provisions of the ordinance. This would basically require shielding of any exterior lighting fixtures such

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

11. The Commissioners have indicated their expectation for a local contact's response to complaints should be made very clear to the applicant and the local contact. In light of this, they have recognized a need for the local contact to sign and return a Local Contact Acknowledgment Form in an effort to clarify their role as it relates to the VRD's conditions of approval.
12. Pet friendly rentals can create problems for neighboring property owners if the pets are allowed to run at large, trespass onto neighboring property, or cause a disturbance due to excessive barking when left unattended.
13. Repeatedly violating the conditions of approval could render the use incompatible with the surrounding uses and undermine the basis for approving the request. The conditions of approval could include provisions that would allow the permit to be suspended and/or revoked by the Planning Director or his designee in the event the conditions are repeatedly violated. Such action would be subject to review by the Planning Commission at the applicant/owner's expense.
14. Outdoor fire rings, fire places, hot tubs, & spas can lead to late night disruption in neighborhoods where sound seems to carry even more at night and people talk loudly. Smoke from outdoor fires can also be annoying to the occupants of neighboring properties. Staff routinely requires owners and managers to establish hours of use for these types of outdoor facilities to avoid late night use and suggest limiting their use between the hours of 10:00 p.m. & 7:00 a.m.
15. There is a formal process to bring VRDs back before the Planning Commission for reconsideration based on noncompliance with VRD standards & conditions. The City encourages reporting problems with VRDs to the local responsible party and/or owner so problems can be resolved before any City action is required. If there are problems with a VRD that are not being resolved, staff can take actions intended to resolve the issues and can ultimately bring the matter before the Planning Commission if they are not resolved. Prior to review by the Commission, staff works with the owner and/or manager to try and address any noncompliance issues in an effort to address neighboring property owners concerns. Past action by the Commission reiterated that additional conditions should be applied conservatively. They believe staff and the Commission can address additional conditions after a VRD is approved if and when an issue arises, instead of attempting to address every potential concern that may never actually come to fruition.
16. This area was not identified by the City Council or the Planning Commission as a residential area where VRDs should be discouraged due to the destabilizing impacts caused by repetitive property flipping within neighborhoods where the majority of homes are owned by local residents or distinct factors applicable to a defined neighborhood that would conflict with the intent of the Comprehensive Plan & Zoning Ordinance.

CONCLUSION TO CRITERIA #1:

The Vacation Rental Dwelling requirements have been adequately addressed by the applicant and the request can be approved subject to the following list of special and standard conditions of approval:

1. **Compliance Inspection:** The proposed vacation rental dwelling (VRD) must pass a compliance inspection conducted by the Community Development Department prior to any transient rental. This inspection will verify compliance with all VRD standards and conditions of approval and the applicant is hereby advised that failure to meet certain standards can result in a reduction in the maximum occupancy. The final occupancy will be noted in land use file **(21-054VRD)** and reflected on the City of Seaside Business License. The license is not valid until the appropriate occupancy has been established by the approval of a final compliance inspection by the Community Development Department.

Please be advised the VRD has not undergone a preliminary compliance inspection. Any corrections noted during the inspection must be completed and verified prior to transient rental unless an alternative time period for completion is identified for specific items.

2. **Parking spaces: Four (4) off-street parking spaces (9' X 18' per space) are required on site.** These spaces shall be permanently maintained and available on-site for use by the vacation rental occupants. Vacation Rental Dwelling (VRD) tenants are required to park in the spaces provided on site for the VRD. No on-street parking associated with this VRD is allowed at this location. Vehicles parked at VRDs may not project over the sidewalk and block pedestrian traffic. A parking map shall be posted inside the dwelling for the VRD tenants. **The map must clearly indicate:**

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

3. **Maximum number of occupants: Ten (10) persons regardless of age.** The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations. If the number of occupants is less than the original number requested, it may have been reduced for valid code reasons.
4. **Applicability of Restrictions:** Properties licensed for VRD use will be expected to adhere to the VRD standards and rules throughout the entire year even when they are not being rented for profit. This will not apply to the dwellings when members of the owner's family are present.
5. **Open Yard Areas:** Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area that is not occupied by buildings must be landscaped in some fashion so parking will not dominate the yard.
6. **Local Contact: Seaside Vacation Homes, 524 N. Roosevelt Dr. as the local contact for the VRD and they can be reached at 503-738-0982.** The local contact must be available 24 hours a day to address compliance issues while the property is rented. Upon any change in the local contact, the owner must provide formal notice of the updated contact information to the City and all of the neighboring property owners within 100'. Managers are required to notify the City any time they stop representing a VRD.

Local contact information is available at the Community Development Department (503) 738-7100, City Hall (503) 738-5511, or after business hours at the Seaside Police Department (503) 738-6311.

The local contact must sign a Local Contact Acknowledgement Form that indicates they are aware of the Planning Commission's expectations concerning response to complaints by neighboring residents and maintain a complaint response log that would be made available to the city upon request. The signed form must be returned to the Community Development Department so it can be included in the land use file. An updated form must be submitted by the owner any time a new contact person is established.

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

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

13. **Conflicts & Potential Denial for Non-Compliance:** Upon receipt of two written complaints from two or more occupants of different residences who claim to be adversely affected by the use of the property as a vacation rental dwelling, or by notice from the City Code Compliance Officer that requirements or conditions of approval are not being met, the Planning Department will work with the parties involved to settle any

conflicts. If the problems are not resolved, the permit will be reviewed by the Planning Commission as provided in Zoning Ordinance Section 6.137, Subsection 5 at the applicant's expense. Failure on the applicant's part to meet the standards or conditions will result in modification or denial of the permit.

- 14. Complaints:** Applicants are hereby advised the City Code Compliance Officer routinely follows-up on individual complaints if there is a valid code issue that needs to be addressed by the owner and/or manager of a VRD. Staff does not wait until the occupants of two different residences submit written complaints before they take action to achieve compliance. The VRD complaint procedures are outlined in an attachment to the notice of decision and an electronic complaint form can also be accessed on the City of Seaside's web site:

<https://www.cityofseaside.us/planning-department/webforms/vacation-rental-complaint>

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

- 15. Time Period for Approval, Required Re-inspection:** This VRD will be subject to an annual compliance inspection (subject to applicable fee) during the second year of operation to ensure it maintains compliance with the VRD policies, conditions of approval, and ordinances applicable at the time of re-inspection. Re-inspection notices will be provided annually to the owner and the local contact. Failure to schedule an inspection or failure to correct any deficiencies identified during the inspection will result in the expiration of the conditional use permit and a new application must be approved prior to obtaining a business license to allow the use. Any new application will be subject to the VRD policies, conditions of approval, and ordinances applicable as of the date the new application is accepted.
- 16. Tsunami Information & Weather Radio:** The owner shall post or otherwise provide a tsunami evacuation map in a conspicuous location within the VRD that clearly indicates "You Are Here". In addition, a NOAA weather radio, with automatic alert capabilities, must be provided in a central part of the VRD along with an informational sheet that summarizes the warning capabilities of the radio in the event of a distant tsunami.
- 17. Grace Period:** If a currently licensed VRD sells to another party, staff is allowed to grant a temporary grace period of not more than 60 days in which current bookings can be cleared without being recognized as a violation. The manager or owner must provide staff with a list of the bookings during the grace period and no additional bookings can be taken during that time.
- 18. Pet Friendly Rental:** If the rental allows pets and they generate complaints related to running at large, trespass onto neighboring property, or causing a disturbance due to excessive barking; additional restrictions or containment measures will be required by the Planning Director. The additional restriction can include prohibiting pets at this VRD.
- 19. Repeated Violation of Conditions:** As a conditionally permitted use, owners must understand their use is expected to comply with their conditions of approval and they, their local contacts, and/or property managers will be held accountable for addressing compliance issues. Repeated violations will be subject to citations; and if the violations constitute a pattern of disregard or neglect resulting in adverse impacts to the neighboring property owner(s), their permit can be suspended and/or revoked by the Planning Director or his designee. Any such action would be subject to review by the Planning Commission to determine if the use can be reauthorized in the same manner as the original request, but

subject to revised conditions. Review by the Commission would be at the applicant's expense based on the review fee applicable to the request at the time of review.

20. Outdoor Fire Rings, Fire Places, Hot Tubs, & Spa Facilities: If these outdoor facilities are provided, their use will only be allowed between the hours of 7:00 a.m. & 10:00 p.m. These hours must be posted along with any other established rules governing use of the amenity. It is recommended the rules include a reminder there should be **NO EXCESSIVE NOISE AT ANY TIME** and renters should be considerate of the residents that live around the rental dwelling they are staying at.

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

FINAL STAFF RECOMMENDATION

Conditionally approve application **21-054VRD** allowing the establishment of a Vacation Rental Dwelling (VRD) with a maximum occupancy of **ten (10) persons regardless of age at 311 10th Ave.** This decision can be supported by the Commission adopting the findings, justification statements, and conclusions in this report subject to the previously stated conditions.

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

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

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

Attachments: Applicant's Submittal
 VRD Density Maps



City of Seaside, Planning Department

989 Broadway, Seaside, OR 97138 (503) 738-7100 Fax (503) 738-8765

Land Use Application

Kevin Cupples, Director

ORIGINAL
7-9-21 us

PLEASE PRINT OR TYPE

NAME OF APPLICANT Brandon Kahler	ADDRESS 11461 NW Melody Ln, Portland, Or	ZIP CODE 97229
STREET ADDRESS OR LOCATION OF PROPERTY 311 10th Ave, Seaside OR, 97229		

ZONE R3	OVERLAY ZONES N/A	TOWNSHIP 6	RANGE 10	SECTION 16DC	TAX LOT 00400
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PROPOSED USE OF PROPERTY AND PURPOSE OF APPLICATION(S):

Personal vacation property and short term rental to help cover the costs.

(PLEASE INCLUDE THE APPROPRIATE PLOT PLAN.

IF ADDITIONAL SPACE IS NEEDED OR SUPPLEMENTAL INFORMATION IS REQUIRED PLEASE ATTACH)

OWNER:	APPLICANT/REPRESENTATIVE (OTHER THAN OWNER):
PRINT NAME OF PROPERTY OWNER Brandon Kahler	PRINT NAME OF APPLICANT/REPRESENTATIVE Seaside Vacation Homes
ADDRESS 11461 NW Melody Ln Portland, OR	ADDRESS 524 N. Roosevelt Seaside OR 97138
PHONE / EMAIL 503-983-0684 / Broilr@gmail.com	PHONE AND EMAIL egm@seasidevacationhomes.com 503.738.0982
SIGNATURE OF PROPERTY OWNER Brandon Kahler 6/25/2021	SIGNATURE OF DULY AUTHORIZED APPLICANT/REPRESENTATIVE Sarah Mudrak Dba Seaside Vacation Homes



CHECK TYPE OF PERMIT REQUESTED:

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> CONDITIONAL USE | <input type="checkbox"/> NON CONFORMING | <input type="checkbox"/> SUBDIVISION | <input type="checkbox"/> ZONING CODE AMENDMENT |
| <input type="checkbox"/> LANDSCAPE/ACCESS REVIEW | <input type="checkbox"/> PLANNED DEVELOPMENT | <input type="checkbox"/> TEMPORARY USE | <input type="checkbox"/> ZONING MAP AMENDMENT |
| <input type="checkbox"/> MAJOR PARTITION | <input type="checkbox"/> PROPERTY LINE ADJUSTMENT | <input checked="" type="checkbox"/> VACATION RENTAL | <input type="checkbox"/> APPEAL |
| <input type="checkbox"/> MINOR PARTITION | <input type="checkbox"/> SETBACK REDUCTION | <input type="checkbox"/> VARIANCE | <input type="checkbox"/> |

PLANNING DEPARTMENT USE:	
DATE ACCEPTED AS COMPLETE 7/14/21	BY VF
CASE NUMBER (S) 21-054 VRD	
HEARING DATE 8-3-21	P.C. ACTION

OFFICE USE:	
FEE	RECEIPT
DATE FILED	BY

CITY OF SEASIDE

JUL 09 2021

cc
\$950

PAID

**CITY OF SEASIDE
VACATION RENTAL DWELLING (VRD) APPLICATION**

The City of Seaside requires approval for short term (less than 30 day) rental as an accessory use of certain types of residential property. These uses are referred to as vacation rental dwellings (VRDs) and they must be approved in accordance with the conditional use provision in Chapter 6.137 of the Seaside Zoning Ordinance (see attached). Although most requests can be reviewed by the Planning Director; in some cases, the requests require a public hearing before the City Planning Commission. In both cases, VRD applicants must provide the following information.

In addressing the following questions, additional information and supporting evidence can be referenced and attached to the submittal.

SUBMITTAL INFORMATION

1. Applicant's Name: Brandon Kahler
2. Mailing Address: 11461 NW Melody Ln, Portland, Or 97229
3. Telephone #: Home 503-983-0684, Work _____,
Fax _____, E-Mail Brollr@gmail.com
4. If the applicant is not the current owner, the applicant must also submit a signed statement from the owner that authorizes the VRD application.
5. VRD Street Address: 311 10th Ave, Seaside OR, 97229
6. What is the total number of off-street parking spaces (9' X 18') that will be available for VRD occupant use? 4 The VRD ordinance states: One 9' X 18' off-street space will be provided for each bedroom in the unit, but in no event shall fewer than two spaces be provided.
7. How many bedrooms are in the dwelling? 4. Is the applicant requesting that all the bedrooms be used to calculate the maximum occupancy, and if not, how many are being proposed? yes Please multiply the last number by three (3) to indicate the requested maximum occupancy for the VRD 10. The VRD ordinance states: The maximum number of occupants cannot exceed three persons (over the age of three) per bedroom; however, regardless of the number of bedrooms, no more than 10 can be allowed unless the building is protected by an approved sprinkler system. The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations. The number of overnight renters or the maximum number of occupants may be reduced by the Code Enforcement Officer or Fire Marshal at the time of inspection for valid code reasons.
8. All off street parking spaces must be clearly indicated on the applicant's site plan. Will the existing parking spaces or any planned expansion of parking take up more than 50% of the property's yard areas? No. The VRD ordinance states: Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area which is not occupied by buildings must be landscaped in some fashion so that parking will not dominate the yard.
9. Who will be acting as the local responsible party for the VRD owner?
Name: Seaside Vacation Homes Phone # 503-436-5035
Address: 504 N. Roosevelt Seaside OR 97103. The VRD ordinance states: A local responsible party that permanently resides within the county must be identified by the owner. The responsible party will serve as an initial contact person if there are questions regarding

the operation of the VRD. The owner shall provide the telephone number of the local contact person to the City, and to the immediate neighbors within the notification area (within 100' of the subject property).

10. What is the zone designation of subject property? R-3. The VRD ordinance states: Within the medium density residential (R-2) zones and high density residential (R-3) zones, if more than 20% of the dwelling units within 100' of the subject property are currently licensed for VRD use, a public hearing and review by the Planning Commission is required.

11. Provide a site plan, drawn to scale, which indicates the following: the actual shape and dimensions of the lot, the sizes and locations of buildings and off street parking spaces (existing & proposed). In addition to the site plan, a floor plan(s) must be included which clearly indicates the intended use of all interior areas (e.g. bedrooms, kitchen, living room, storage etc.).

12. The following is a list of standard conditions that apply to VRDs:

- Vacation rentals must comply with City ordinances regarding noise, smoke, dust, litter, odor, and solid waste collection Weekly solid waste pick-up is required during all months.
- Prior to issuance of a vacation rental dwelling permit, the building in question must be inspected and be in substantial compliance with the Uniform Housing Code.
- It is the property owner's responsibility to assure that the vacation rental dwelling remains in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes; and Traveler's Accommodation Statutes, and with the Uniform Housing Code.
- Vacation rental dwelling permits are personal in nature and accordingly are not transferable. Upon transfer of the property, the new owner, if he or she desires, may apply for a new permit in accordance with the VRD ordinance.
- A City Business License is required and all transient room tax provisions apply to VRD's. The business license must be obtained prior to any rental of the property. Renewals must be made in January of the permit year. If the business license fee or the transient room tax payments are thirty (30) days past due, the VRD Permit will be revoked unless a written extension is granted by the Finance Director.
- Upon receipt of two written complaints from two or more occupants of different residences who claim to be adversely affected by the use of the property as a vacation rental dwelling, or by notice from the City Code Compliance Officer that requirements or conditions of approval are not being met, the Planning Department will work with the parties involved to settle any conflicts. If the problems are not resolved, the permit will be reviewed by the Planning Commission as provided in the VRD ordinance. Failure on the applicant's part to meet the standards or conditions will result in denial of the application. This would be in addition to any violation procedures specified in Article 12 of the Seaside Zoning Ordinance.

Has the owner or the duly authorized applicant read all the standard conditions and answered all of the questions honestly based on their understanding of the VRD request? yes.

By signing this application, the applicant is also acknowledging that if the request requires review by the Planning Commission (Ordinance Provision 6.137E), the Applicant or a duly Authorized representative must attend the Public Hearing.

Applicant's Signature: Brandon Kahler, Date: 06/25/2021

-----**For Office Use Only**-----

At the time of submittal, the applicant must pay the annual business license fee based on the proposed occupancy of the VRD: 1-5 occupants \$475.00, 6-10 occupants \$500.00, 11+ occupants 550.00. This fee must be accompanied by a one time filing fee of \$20.00.

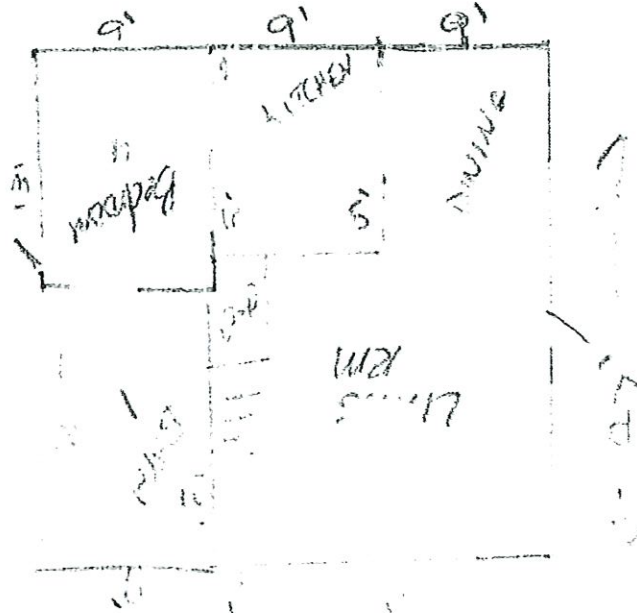
In addition to the business license fee, a \$430.00 planning review fee must be submitted with this application. If the surrounding density of VRDs (see question 10) requires a Planning Commission review, an additional fee of \$240.00 must be paid before staff will schedule the public hearing to review the application.

If the VRD application is not approved, only the business license fee will be refunded.

Submittal Date: 7.12.21 Amount Paid: \$950 to city HALL

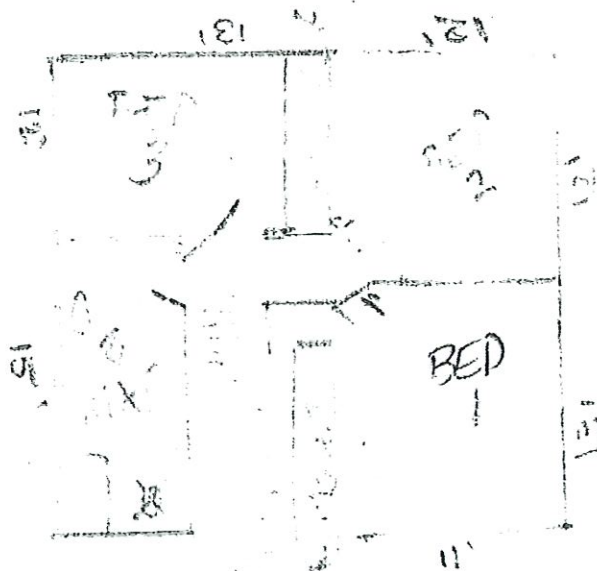
311 10th AVE

MAIN FLOOR



10th Ave.

TOP FLOOR



26 23

26'

23'

Garage

X 10'



18'



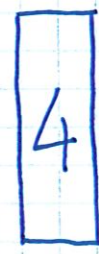
← 40



12'

House

40'



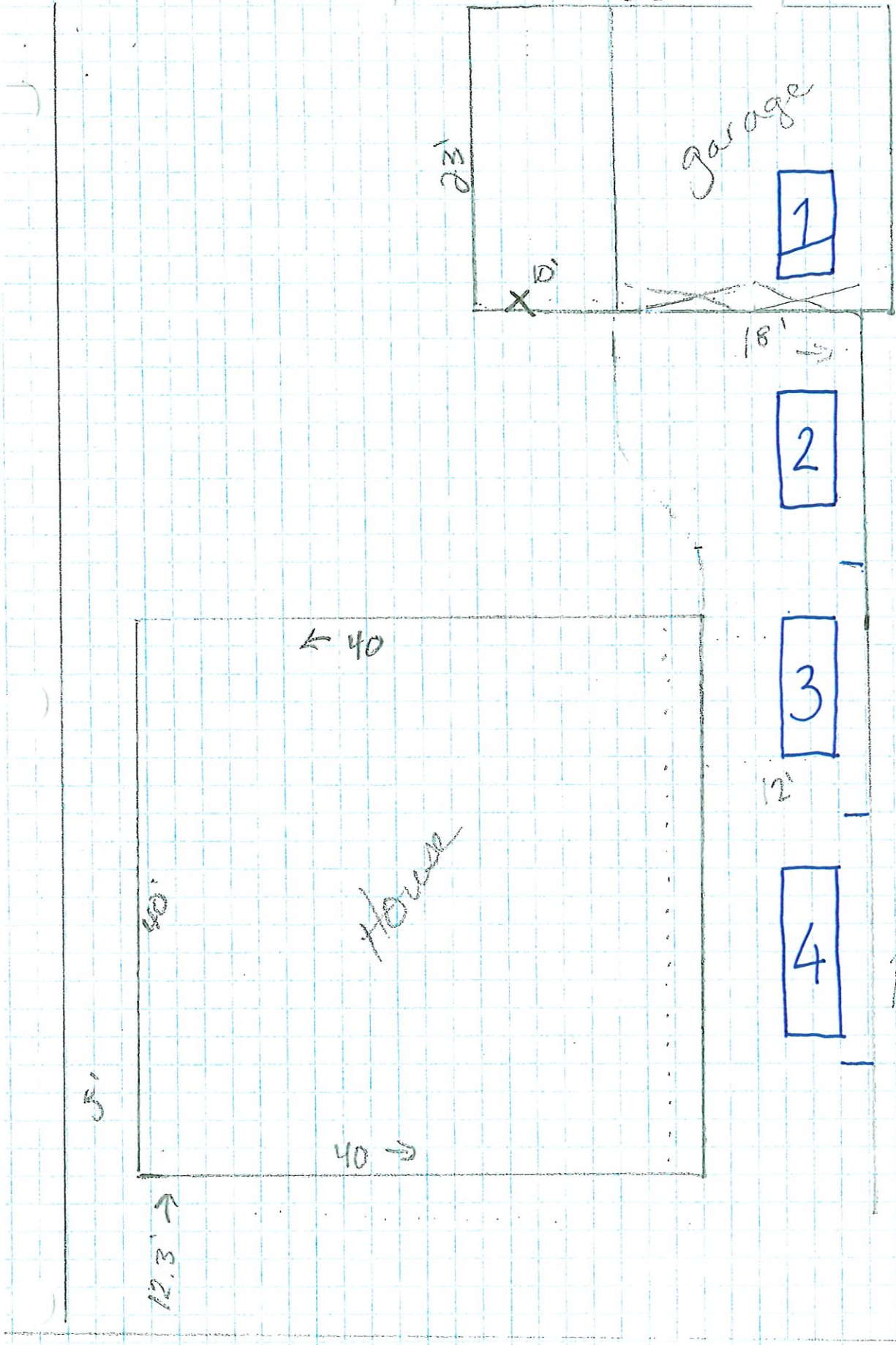
9'

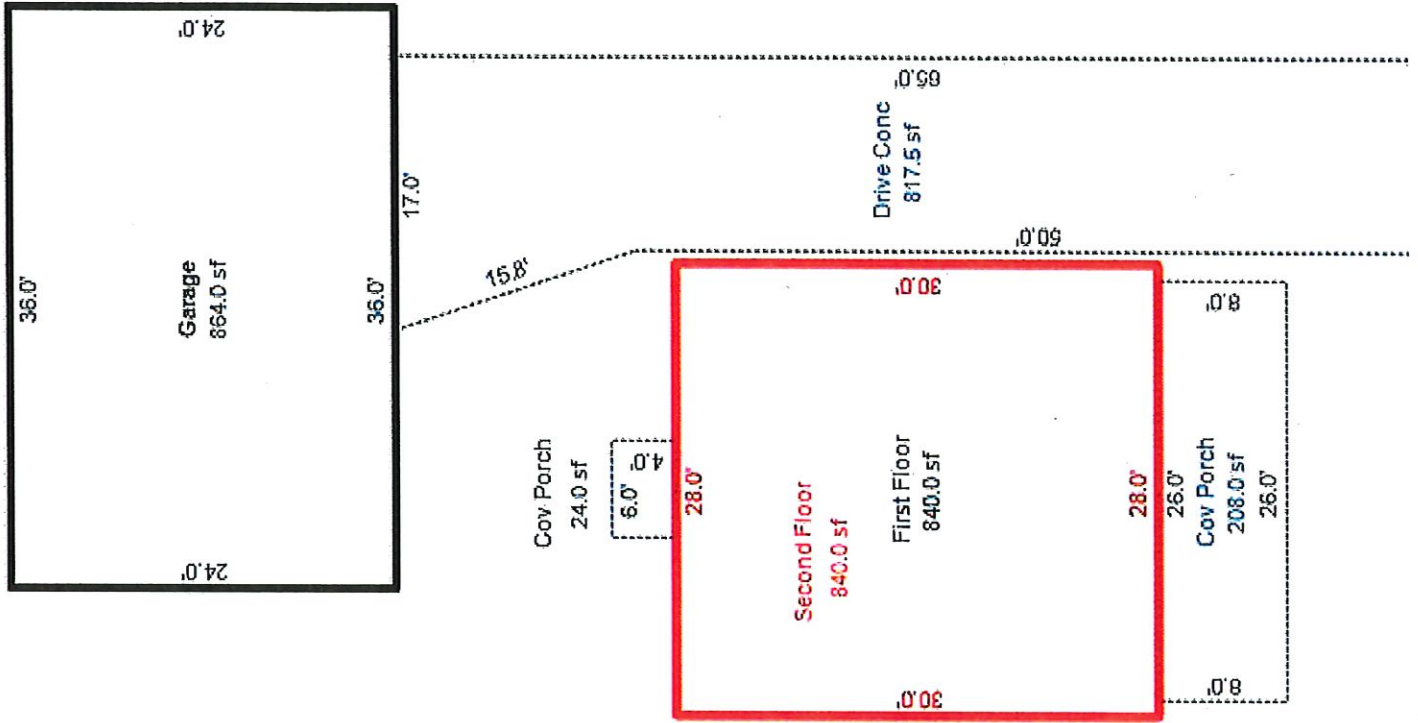
5'

40 →

12.3' ↑

10th Ave.





311 10th Ave

Density Analysis

100' Analysis

1	61016DA16200	330 10th Ave
2	61016DA15900	240 10th Ave
3	61016DA16000	250 10th Ave
4	61016DA16100	310 10th Ave
5	61016DA14300	320 10th Ave
6	61016DC00100	341 10th Ave
7	61016DC00200	331 10th Ave
8	61016DC00300	321 10th Ave
9	61016DC00400	311 10th Ave
10	61016DC00500	251 10th Ave
11	61016DC00600	235 10th Ave
12	61016DC00700	310 9th Ave
13	61016DC00800	320 9th Ave
14	61016DC00900	330 9th Ave
15	61016DC01000	350 9th Ave

3 / 14 = 21.4%

Density as of 07/12/21

200' Analysis

15	61016DA14200	341 11th Ave
16	61016DA14301	311 11th Ave
17	61016DA14400	261 11th Ave
18	61016DA14500	245 11th Ave
19	61016DA14700	131 11th Ave
20	61016DA14600	221 11th Ave
21	61016DA14800	125 11th Ave
22	61016DA15700	210 10th Ave
23	61016DA15800	226 10th Ave
24	61016DA16300	350 10th Ave
25	61016DA16400	1020 N Franklin
26	61016DA17300	1019 N Franklin
27	61016DC00700	225 10th Ave
28	61016DC00800	211 10th Ave
29	61016DC01600	238 9th Ave
30	61016DC01601	260 9th Ave
31	61016DC02100	370 9th Ave
32	61016DC02200	908-910 N Franklin
33	61016DC02300	912 N Franklin
34	61016DC02400	914 N Franklin
35	61016DC02500	916 N Franklin
36	61016DC02600	822 N Downing
37	61016DD00503	411 10th Ave
38	61016DD00600	911 N Franklin
39	61016DD01200	403 9th Ave
40	61016DD01300	369 9th Ave
41	61016DD01500	341-351 9th Ave
42	61016DD01400	361 9th Ave
43	61016DD01600	335 9th Ave
44	61016DD01700	329 9th Ave
45	61016DD01800	821 N Downing
46	61016DD01900	815 N Downing

6 / 46 = 13%

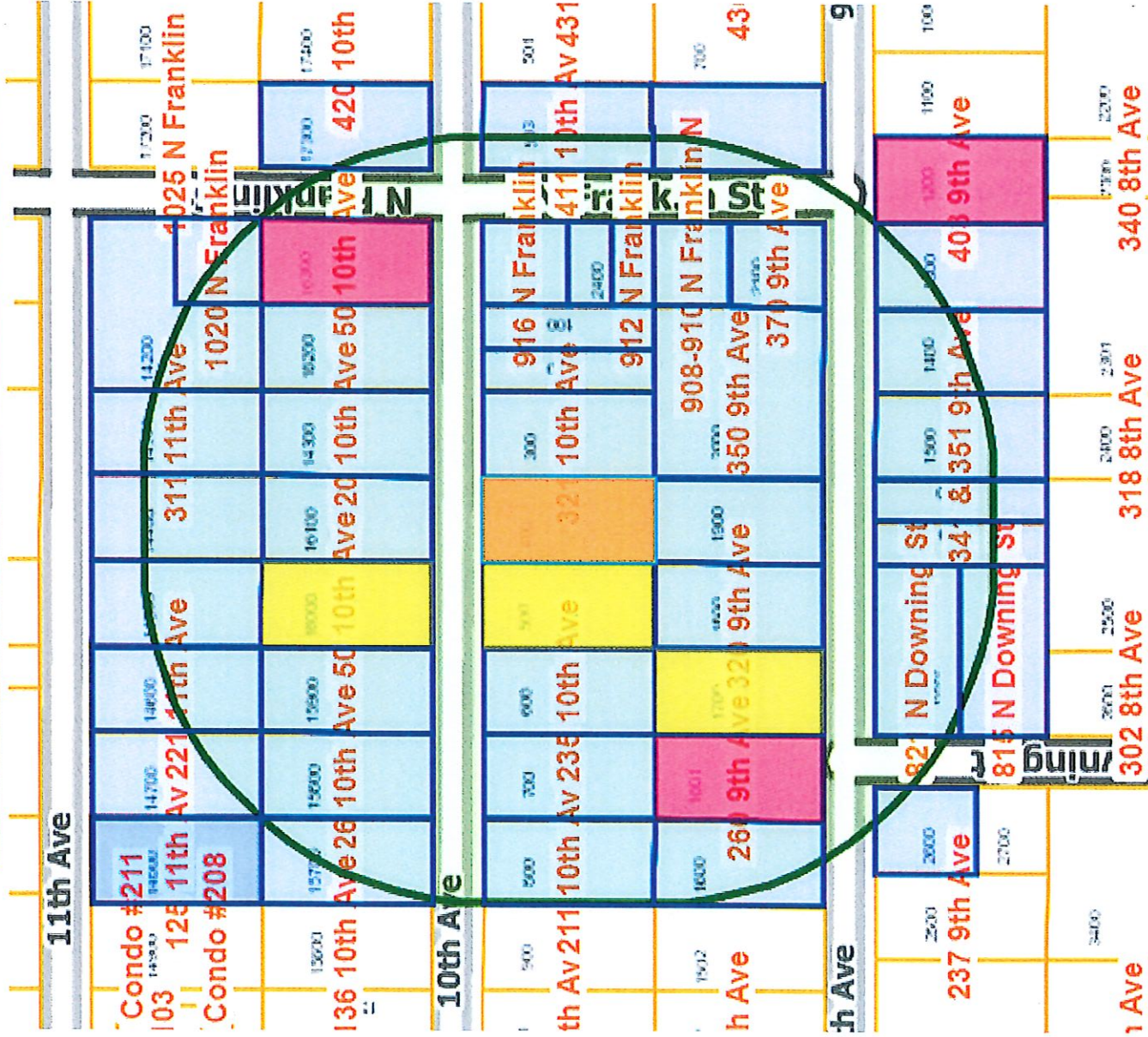
Applicant

Existing VRD
100'

Existing VRD
200'

311 10th 200' Density Analysis

6 / 46 = 13%



Applicant
Existing VRD

3 / 14 = 21.4%

311 10th Ave 100' Analysis

