

CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

August 10, 2017

MEMBERS: Carl Anderson, Jeremy Davis, Virginia Dideum, Terry Graff, Richard Owsley and David Smith.

STAFF: Carole Connell

Minutes

The regular meeting of the Gearhart Planning Commission for August 10, 2017 was called to order at 6:00 pm by President Virginia Dideum.

On **MOTION** by Graff, 2nd by Smith, Commissioner Taggard was unanimously granted an excused absence from the August 10, 2017 commission meeting.

On **MOTION** by Davis, 2nd by Owsley, the minutes of July 13, 2017 were unanimously approved.

The financial report as of August 1, 2017 was as follows:

Planning Commission expenses:

Year to date	2,083.61
Balance	7,916.39

Planning Commission Secretary Expenses:

Year to date	2,574.75
Balance	27,425.25

On **MOTION** by Anderson, 2nd by Owsley, the financial report of August 1, 2017 was unanimously approved.

STAFF REPORTS

Connell reported the council took the commission recommendation and adopted the Transportation System Plan with directions to the staff to write an ordinance for adoption at the September council meeting. She further reported the fire station and dune committee are on hold.

COMMISSIONERS

Commissioner Owsley will not be at the September commission meeting he will be attending his 50 year class reunion.

Commissioner Anderson requests an excused absence from the September commission meeting for his 50 year anniversary.

GOALS LIST

No action at this time.

CORRESPONDENCE

None

VISITORS COMMENTS NOT RELATED TO AGENDA ITEMS

None

PUBLIC HEARINGS

Dideum read the disclosure statement to cover all 3 public hearings. She asked if there was any exparte contact, conflict of interest or bias. None was declared.

She asked if there were any audience challenges to the commission hearing the applications before the commission. None was voiced.

Dideum opened the public hearing at 6:06 pm.

File #17-008P Land Partition submitted Ray Romine to partition one parcel of land into two (2) lots for property located on Hillila Road approximately 490' east of Highway 101 and further described as Assessors Plat 6 10 3BD Tax Lot 3300.

Connell reviewed the staff report including the development history of the property noting it has been incrementally subdivided instead of a master subdivision plan addressing the improvements and developed the project in phases, a way of subverting the subdivision ordinance. She noted additional correspondence from Moberg & Rust disputing water service to the property. Connell said per applicant agreement with city staff the city water line is to be extended, the applicant through his attorney does not want to extend the water line due to the expense.

Smith asked for additional information on Parcel 1 having no street frontage and if it required a variance.

Connell stated due to the wetland the logical partitioning is away from the street frontage, the code allows for private easement to substitute for frontage and an easement is not a bad solution.

Dideum asked if the application was a subdivision or the whole development was a subdivision.

Connell said the application is a 2 lot land partition, she said sometimes you get into problems with a subdivision when the development is piece by piece instead of an overall plan including water and street layout.

Davis asked if the water was for the house or hydrant and fire.

Connell said everything, she said it is a requirement to have water. Connell confirmed the dispute is not over having water but whose water should be serving the property.

Ray Romine, applicant – 2170 Skyline Drive, Seaside – he said the endeavor started in 2007 when he was in the Urban Growth Boundary later annexed by the City of Gearhart. The rub is the city requirement of installing a 12" water main, 500 feet to service 2 houses, he said he did not want to install a 12" waterline for 2 houses and at that point went to the City of Warrenton to obtain water service. He said he received approval from Warrenton for water service. Sweet did not accept the proposal due to creation of an intergovernmental agreement. He was told he had no choice if he wanted to build a house and at that point he went to Goal 11 of the Comp Plan which allows for residences within the water service area to be free to obtain water in other services from other governmental agencies. Romine stated he is 10 feet away from Warrenton water that has a 20-inch main. He commented on the cities responsibility to have funds to provide services for properties they annex. Romine said the wetland delineation has been done and utilities are in progress, he cannot do anything else until the water issue is resolved and it is costing him time and money every day. He said changing the wording in the staff report from *main* to *service* on pages 7, 8 and 10 and on page 10 #3 change *city water* to *water* will resolve the issue since and stated the comp plan does not support the demand.

Smith asked about his statement of being within 10 feet of Warrenton water.

Romine said the connection was at the corner of Hillila and Tressel Road about 10-20' west towards his property is a 20" main running north and south.

Connell asked about location of water from the west end and if he installed it.

Romine said he did install the water and pointed to the location of the fire hydrants and end of the water line.

Connell said annexation does not occurs without owner's consent when a majority of the properties request annexation. Connell said early on city public works and the building inspector said the water main needed to be extended, this only becoming an issue when the applicant figured out how much it

would cost. Romine confirmed he bought the entire property and Connell pointed out he only partially extended water service and in a subdivision process the water would have been extended across the entire frontage.

Dideum asked if the applicant agreed at one time to hook up to the city then changed his mind?

Romine said a 2-inch line would be more than plenty to serve 2 lots, moving to a 12-inch main requires a \$5000 engineering bill, an agreement and permit from the state to install public water service. Romine did not want the cost or responsibility of installing a 12-inch service to build the house, he needed to begin construction on the house, he was given no option but to put a 12 inch water main so he signed the agreement because he needed to have a job.

Connell asked if the fire chief was involved.

Romine said the chief was at the meeting and suggested either sprinkling the houses or installing a fire hydrant.

There were no proponents, no opponents and no neutral comments.

Romine restated portions of the comp plan with regards to annexation and the cities requirement to provide public services and encourages the city to be responsible in the future. He further quotes the plan as allowing residences to obtain water from the City of Warrenton.

On **MOTION** by Anderson, 2nd by Graff, the public hearing was continued until the water issue is resolved. Motion failed 2-4. Anderson -aye, Owsley – aye, Graff – nay, Davis – nay, Smith – nay, Dideum – nay.

On **MOTION** by Graff, 2nd by Smith, by unanimous motion the public hearing for file # 17-008P land partition submitted by Ray Romine was continued until September 14, 2017.

Dideum opened public hearing file #17-010V variance request submitted by Stephen Rickles seeking relief from Section 9.040 Variance of Off-Street Parking and Loading Facilities for vacation rental property at 837 Neacoxie Blvd and further described as Assessors Plat 6 10 4DA Tax Lot 2900.

Connell reviewed the staff report.

Stephen Rickles, applicant – 2855 SW Champlain Drive, Portland, OR 97202 – Rickles said there is a full 10 feet between the edge of the road and the hedge, with regards to the undeveloped portion of 8th Street due to the city shore pine plantings there is no access and they have never been able to park cars in the back yard. He concurred with the staff report noting the street is 50' wide, they can park all 4 cars in front of the house the undeveloped pedestrian walkway will not be impacted, they are not asking for anything new just approval to park in front of the house as they have done for 30 years with no calls to the police and fire regarding this house. He confirmed they are able to park 4 full size cars in front of the house, with regards to traffic volume Rickles said there is a 'dead end' sign about 100' down the street resulting in some cars entering the street then turning around. Granting the request would not impact neighboring houses. They maintain a gardener, the Escallonia is trimmed twice a year.

Smith asked how long the property has been a short-term rental

Rickles said he mother began renting the house in 1994 and the brothers have been renting since 2010. Rickles said his mother bought the spec house for the development noting it was approved without a garage or driveway, the family bought a completed house and has owned the home since 1989.

Graff asked if he has a property manager.

Rickles said he is the manager.

There were no opponents, no proponents and no neutral comments.

Rickles noted on page 4 of the staff report the parking is grandfathered without the required two off-street parking spaces.

Public hearing was closed at 7:30 pm.

Discussion followed on criteria for granting parking variance, lack of available alternative parking, setting precedence, potential number of additional parking variances.

Commissioner Anderson left the meeting at 7:45pm due to a work obligation.

On **MOTION** by Davis, 2nd by Owsley, a motion was made based on findings in the staff report to approve variance file #17-010V subject to a condition the hedge be trimmed back so there is always 10' wide parking along Neacoxie. Motion failed 2-3. Owsley – aye, Graff – nay, Davis – aye, Dideum – nay, Smith nay.

On **MOTION** by Smith, 2nd by Graff, based on revised findings variance file #17-010V is denied. Motion failed 2-2, 1 abstain. Owsley – nay, Graff – aye, Davis – nay, Dideum abstain, Smith -aye.

ON MOTION by Davis, 2nd by Owsley, variance file #17-010V is approved granting relief of off- street parking requirements based on findings the property is in the R3 zone, and there are a limited number of applications that will fall within the R3 zone. Motion passed 3-2. Owsley – aye, Graff - nay, Davis – aye, Dideum – aye, Smith – nay. (See attached findings)

Dideum opened public hearing file #17-011V variance request submitted by Candance Remer seeking relief from Section 9.040 Variance of Off-Street Parking and Loading Facilities for vacation rental property at 701 S Marion and further described as Assessors Plat 6 10 9DA Tax Lot 1300.

Connell reviewed the staff report noting the applicant is counting on garage parking.

Dave Remer, applicant – 2929 1st Avenue Penthouse 8, Seattle, WA 98121 – Remer stated the only issue with the property is its location on Little Beach and there is nothing they can do about the location. He said the July 4th cars at the property were his as allowed by all property owners not renters cars. He said the real issue is fairness, they are property owners and tax payers. He asked if there is anything he can do to mitigate the traffic reports since they are at an intersection of 2 dead-end streets, Ocean and Marion with parking generated by families parking to go to the beach not renters or homeowners. Remer said he has upgraded the home from septic to appearances and landscape. He said they use Kukui a great management firm. Remer talked about the negative current of commissioners and his ongoing hostility with Commissioner Graff. Dideum repeatedly reminded Remer to stick to the subject. Candace Remer said they are considering being proactive and put Best Beach property stickers in cars of vacation rentals that are allowed to park, she does not think renters have parked on G Street.

Owsley asked if there were No Parking signs posted on that part of town.

Connell did not think so.

There were no proponents, no opponents and no neutral comments.

The public hearing was closed at 8:40 pm.

Discussion followed on parking enforcement, city staff comments, neighbor complaints, neighborhood congestion. Remer repeatedly and loudly interrupted commission discussion, Dideum gaveled him down a few times. He walked out of the meeting before a determination was made on the application.

On **MOTION** by Graff, 2nd by Owsley, by unanimous motion variance file #17-011V is denied based on findings. (See attached)

OLD BUSINESS

None

NEW BUSINESS

None

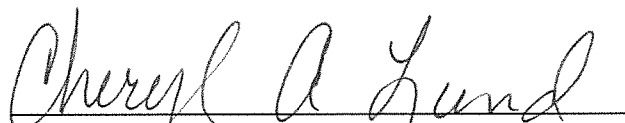
CONCERNS OF THE COMMISSION

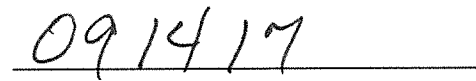
Graff reported Googling Gearhart rentals and reported VACASA has 40 plus rentals with over 2/3 renting for above the number of bedrooms. Connell said homes are supposed to be advertising for what properties are licensed for.

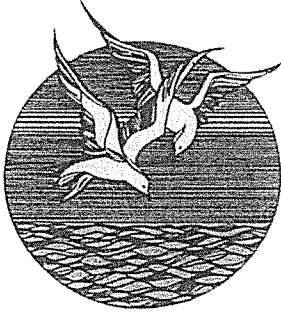
QUESTIONS FOR LAND USE ATTORNEY

None

On **MOTION** by Graff, 2nd by Owsley, the meeting was adjourned at 8:50 pm.


Cheryl A. Lund, secretary


approved



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BEFORE THE PLANNING COMMISSION OF THE CITY OF GEARHART

IN THE MATTER OF A PERMIT) FINAL FINDINGS
FOR A VRD PARKING VARIANCE) AND ORDER

CITY FILE #17-010V VRD Off-Street Parking - Rickles

APPROVAL of a Variance seeking relief from vacation rental off-street parking requirements for a vacation rental because the parcel has no garage or driveway

Property Owner: NSJ Properties, LLC
Stephen Rickles
2855 SW Champlain Drive
Portland, OR 97202

Applicant: Same as Owner

Location: 837 Neacoxie Blvd.; Tax Lot 2900 Map 06N10W Section 0DA

Completeness: 07-10-17

Notice Mailed: 07-21-17

Notice Published: 07-21-17

Initial hearing: 08-03-17

120-day deadline: 11-07-17

Exhibits: Applicant application, narrative, site plan, photos, 6-12 & 7-5-17
Gearhart Volunteer Fire: comments 7-24-17
Gearhart Building Inspector: comments 7-25-17
Gearhart City Manager: comments 7-18-17

Gearhart Police Chief: comments 7-10-17
Clatsop County Health: septic approval for a 4-bedroom dwelling
Public Notice response: none

Applicable Criteria:

- GZO Section 3.3 High Density Residential Zone R-3
- GZO Section 7.030 Vacation Rental Permit Standards and Procedures 1) Maximum Occupancy Calculations a.2) Off Street Parking; and 4) Off-Street Parking Requirements
- GZO Section 9.050 Variance Application and 9.040 Variance of Off-Street Parking and Loading Facilities
- GZO Article 13 Application, Notice and Hearing Procedures

I. FINDINGS

- A. Proposal: The purpose of the request is to allow for the use of road right-of-way (ROW) for all of the required four off-street spaces to meet occupancy and parking requirements for a 4-bedroom vacation rental dwelling.
- B. Site information: The subject parcel has frontage on Neacoxie Blvd. and 8th Street. Both are designated local streets. 8th Street is undeveloped except for an informal trail between the current terminus of the street to the east and its intersection with Neacoxie Blvd. The Neacoxie Blvd. ROW width is 60 feet. There are no sidewalks. The 8th Street ROW width is 50 feet.

The front façade of the residence faces Neacoxie Blvd. Staff believes the front hedge on the west side of the residence is in the ROW, based on the location of the existing water meter and GIS map data. On the east side of the residence there is a septic tank and drain field, lawn and landscaping. It is not known if landscaping and the fence on the south side of the dwelling is in the undeveloped 8th Street ROW.

- C. Plan and Zone Standards: The site is designated Residential by the Gearhart Comprehensive Plan and is designated High Density Residential R-3 by the Gearhart Zoning Ordinance. The GZO Article 7 specifies Vacation Rental Standards and Procedures. Section 7.020 3. R-3 Zone specifies a single family dwelling in the R-3 zone shall obtain a permit for a vacation rental.

D. Agency Coordination:

The Fire Chief said if the request for on-street parking does not in any way block regular access of the traveled street he has no issues with on-street parking, 7-24-17.

The City Building Official commented he had no objections provided they are not blocking the street/fire department access, 7-25-17.

The City Manager concerns are 1) that the visitor parking on the south side of the dwelling may impede the walking trail on the unimproved 8th Street ROW and suggested improvements be made to assure the 8th Street trail is accessible to the public; and 2) that there is adequate space for four vehicles to park on the Neacoxie Blvd ROW if the front hedge is trimmed back to accommodate a 10-foot wide parking space, 7-18-17.

The Police Chief said in summary to okay the variance because the Windward and Cottage condominiums across the street make this area more commercial. He also said this is an area where people park if they don't want to drive onto the beach, 7-10-17.

Clatsop County Public Health Department: approved a septic permit for a four bedroom dwelling.

E. GZO Section 3.3 R-3 Zone

The purpose of the High Density Residential R-3 zone is to provide for high density multi-family development with a maximum density of 16 dwelling units per net acre. Also to provide space for the orderly development and expansion of overnight accommodations and related businesses such as gift shops. Other uses such as churches, parks, government buildings and utilities are provided for in this zone. Conversion to resort uses should be provided with a minimum of disruption to existing residential values.

FINDINGS: The single family residence is a permitted use in the R-3 Zone. Surrounding uses are single family dwellings and the Windward and Cottage condominiums. The zone is intended to accommodate overnight accommodations and high density uses. The dwelling owner was permitted to apply for a Vacation Rental Dwelling Permit in the zone.

F. GZO Section 6.130 Off-Street Parking Requirements

A single family residence is required to have a minimum of two off-street parking spaces that are either graveled or paved. The parking space shall be located on the same lot with the dwelling.

FINDINGS: There is no on-site parking at the dwelling, therefore it does not comply with the requirement for two off-street parking spaces for a single family dwelling, and is grandfathered as such. Currently all parking for the dwelling is in the Neacoxie Blvd. and 8th Street right-of-ways.

Further, in accordance with Section 6.150 Off-Street Parking and Loading – General Provisions:

1. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Should the owner or occupant of a lot or building change the use to which the lot or buildings is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.

FINDINGS: When the building permit was issued for the dwelling it appears the minimum off-street parking was not required. The recently adopted vacation rental standards increased the parking requirements from two spaces to four spaces for the four bedroom dwelling. Without a variance approval the existing parking on the site is not in conformance with the vacation rental requirements because no outside off-street spaces are provided.

G. GZO Article 7 Vacation Rental Standards and Procedures
Section 7.030 Maximum Occupancy Calculation

Section 2) Off-Street Parking:

One outside parking space per bedroom is required. A standard parking space shall be a minimum of 9' x 18', except that a 9' x 15' space is permitted for existing structures where the structure is only 15' from the property line. For uses requiring four or more spaces, up to fifty percent of the spaces may be compact in size. A compact space shall be a minimum of 8' x 16', or 15' in depth where the structure is only 15' from the property line. Residential parking spaces are not required to be marked.

FINDINGS: As the site is now developed the applicant cannot comply with the rental permit parking requirements. The applicant requests continuation of its four bedroom dwelling occupancy by granting a variance permitting all four parking spaces to be located in the public street right-of-way.

In this location Neacoxie Blvd terminates as a dead end street because the ROW is undeveloped south of 8th Street. The applicant's sketch indicates the spaces are an estimated 8' x 17'. The City Administrator recommends the applicant trim the overgrown hedge in order to widen the parking strip on Neacoxie Blvd. to a minimum of 10-feet in order to minimize conflicts between occupants and vehicles turning around. On 8-3-17 he noted concern about vehicles blocking the pedestrian path on 8th Street. He said all areas around the house should be maximized to accommodate parking for guests and access to the trail.

Section 4. Off-Street Parking Requirements

- a. The approved off-street parking spaces must remain available for renters. A parking diagram of the approved parking spaces must be provided to renters and be available in a prominent location within the dwelling. Parking stalls shall meet the minimum standards of Section 7.030 (1) (a) (2) above, and are not required to be paved.
- b. No more vehicles shall be parked on the property than there are designated off-street parking spaces. Off-street means within private property boundaries.

FINDINGS: The dwelling cannot satisfy the parking requirements unless the property is significantly modified to incorporate four off-street parking spaces. The applicant's sketch illustrates the location of four stalls, three in the Neacoxie Blvd. ROW and one in the 8th Street ROW. The City cannot guarantee parking for a dwelling will always be available in public street right-of-way.

H. GZO Section 9.040 Variance of Off-Street Parking and Loading Facilities

A Variance to the requirements of this ordinance with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation and evidence submitted by the applicant all three (3) of the following expressly written findings are made:

Approval Criteria

1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Ordinance; and

FINDINGS: The present traffic volumes at the site or in the vicinity have not been quantified. Future traffic volumes in Gearhart are projected to increase as described in the Gearhart Transportation System Plan (TSP).

There is evidence that visitors' park in this general area as an alternative to driving on the beach. The area is often used as a turnaround point because the paved street terminates a few hundred feet to the south. Parking and turning around here is feasible because of the large amount of unused street right-of-way where Neacoxie and 8th streets intersect.

A four-bedroom vacation dwelling could attract multiple families. The City Manager said he does not recall any complaints about parking at this rental in the past six years. There is no evidence that the present or projected increase in traffic volumes on Neacoxie Blvd. or 8th Street will result in negative impacts on traffic flow in the area. If Neacoxie Blvd. is improved southward the traffic could increase and conflicts may arise that do not appear to exist now. But according to the Gearhart TSP, Neacoxie Blvd. is not planned to be developed.

The Planning Commission found present traffic volumes and a lack of known conflicts in this area do not appear to require strict or literal interpretation and enforcement of the vacation rental parking requirement. Further, the existing parking arrangement appears manageable due to the dead end nature of Neacoxie Blvd. and the lack of a public attraction at the end of the street. Further, the literal interpretation of the parking requirement creates an impractical solution to radically alter the parcel that was allowed to be built without any off-street parking.

2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the street; and

FINDINGS: There is no evidence that the use of the vacation home has resulted in the parking or loading of vehicles on Neacoxie Blvd. in such a manner as to materially interfere with the free flow of traffic on the street. Further, the adjoining dwelling to the south (SE corner of Neacoxie and 8th) was allowed to be built on the west

property line without a front yard setback and was allowed to install landscaping in the Neacoxie ROW. The landscaping extends significantly further into the ROW than the applicant's improvements, (see applicant's photos). Prior building permit approvals imply that Neacoxie Blvd. would never be developed to the south.

The adjoining unimproved 8th Street ROW is used as a public pedestrian trail. On the south side of the subject dwelling a graveled parking area has been established in the 8th Street ROW to accommodate parking for the rental. The street ROW is also used as a public turnaround area for drivers who decide not to proceed south on Neacoxie because the pavement narrows and public access is uncertain. But there is no evidence that parking at the dwelling materially interferes with the free flow of traffic.

3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this ordinance or policies contained within the Comprehensive Plan.

FINDINGS: Traffic volumes in Gearhart are projected to increase in the Gearhart TSP. At this time no evidence has been provided that parking and loading in this area has or will create a safety hazard in this location..

The following Comprehensive Plan policy requires development to be compatible with the residential character of Gearhart.

- *“The City will recognize the importance of the City’s residential neighborhoods and the need to protect them from the negative impacts of the transient rental of property, and to discourage increased levels of traffic and similar disruptions;” and;*

FINDINGS: The Planning Commission finds the adopted standards and procedures for vacation rental dwellings were established to protect residential neighborhoods from the negative impacts of the transient rental of property including traffic and similar disruptions created by vehicles to adjoining streets. In this case the subject area is a high-density R-3 zone that anticipates tourist accommodations and increased traffic. The Commission finds there is no evidence that use of the dwelling has resulted in unusual levels of traffic, safety hazards or traffic disruptions due to the existing parking arrangement.

II. DECISION

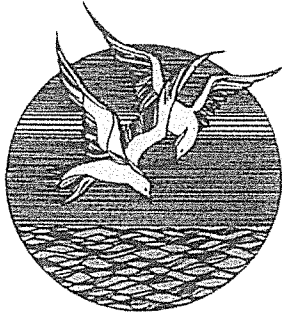
Based on the findings herein, on August 10, 2017 the Planning Commission decided to approve the Variance granting relief from the required off-street parking requirements for a vacation rental permit.

Signed: Virginia Dideum Date: 8/16/2017
Virginia Dideum, Planning Commission President

DATE MAILED: 08/17/17 CY

APPEAL

In accordance with the Gearhart Zoning Code Section 13.060, the decision of the Planning Commission may be appealed to the City Council within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information described in Section 13.060.



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BEFORE THE PLANNING COMMISSION OF THE CITY OF GEARHART

IN THE MATTER OF A PERMIT) FINAL FINDINGS
FOR A VRD PARKING VARIANCE) AND ORDER

CITY FILE #17-011V VRD Off-Street Parking - Remer

DENIAL of a Variance seeking relief from vacation rental off-street parking requirements that prohibit use of the garage as an option for parking at the four bedroom dwelling

Property Owner: Candace & David Remer
2929 1st Avenue Penthouse 8
Seattle, WA 98121

Applicant: Same as Owner

Location: 701 S. Marion Avenue; Tax Lot 1300 Map 06N10W Section 9DA

Completeness: Memo to proceed without completeness 7-19-17
Notice Mailed: 07-21-17
Notice Published: 07-21-17
Initial hearing: 08-10-17
120-day deadline: 11-07-17

Exhibits: Applicant's original application & narrative
Applicant's supplemental narrative received 8-2-17& 8-10-17
City Rental Permit site plan and aerial photo
Gearhart Fire Chief: comments 7-24-17

Gearhart Building Inspector: no comment
Gearhart City Manager: comments 7-26 & 8-3-17
Gearhart Police Chief: comments 7-24-17
Gearhart Public Works: no comment
Public testimony: Paula Madden 7-31-17
Patricia Van Dyke 8-10-17

Applicable Criteria:

- GZO Section 3.1 Low Density Residential Zone R-1
- GZO Section 7.030 Vacation Rental Permit Standards and Procedures 1) Maximum Occupancy Calculations a.2) Off Street Parking; and 4) Off-Street Parking Requirements
- GZO Section 9.050 Variance Application; 9.040 Variance of Off Street Parking and Loading Facilities
- GZO Article 13 Application, Notice and Hearing Procedures

I. FINDINGS

- A. Proposal: The purpose of the request is to allow use of an existing two-car garage to park two of the four off-street spaces needed to meet occupancy and parking requirements for a 4-bedroom vacation rental dwelling.
- B. Site information: The subject parcel has frontage on Marion and G streets. Both are designated local streets in this particular location. There are no sidewalks on either street in this area. A sidewalk is planned on G Street (Gearhart TSP). The Marion Avenue ROW width is 60 feet and the G Street ROW width is 60 feet.

The front façade of the residence faces Marion Avenue and appears to be an estimated fifteen feet from the property line. The north façade faces G Street and is only a few feet from the property line. Site landscaping is located in the ROW of both Marion and G streets. On the east side of the residence there is a septic system and landscaping. An attached aerial photo illustrates site improvements extending into the right-of-way of both streets. Parking at the subject dwelling regularly occurs on the Marion Ave frontage.

- C. Plan and Zone Standards: The site is designated Residential by the Gearhart Comprehensive Plan and is designated Low Density Residential R-1 by the Gearhart Zoning Ordinance. The GZO Article 7 specifies Vacation Rental Standards and Procedures.

D. Agency Coordination:

The Fire Chief said on-street parking shall not, in any way, block regular access of the traveled street. If this requirement can be met there are no issues, he said.

The City Building Official said he had no objections provided they are not blocking the street/fire department access, 7-25-17.

The City Manager said the graveled frontage on Marion is wide enough to accommodate vehicles but there is no available parking on G Street due to site landscaping in the ROW. He suggests trimming of landscaping if parking is allowed on the Marion Avenue ROW, 7-26-17. He added that it was the PC and CC's desire for the parking requirements to reduce the impact of rentals in residential neighborhoods, 8-3-17.

The Police Chief said "No, this area is already crowded with vehicles. Vehicles for this residence have also been using G Street right-of-way. The area is R-1 and not near any "C" commercial zones."

Clatsop County Public Health: The Certificate of Compliance indicates the septic system is designed to accommodate a maximum 3-bedroom house and a peak flow of 375 gallons per day, 7-28-17.

Therefore, at this time the 4-bedroom dwelling is limited to 3-bedroom occupancy by the county certification. It is not known if the applicant plans to upgrade the system to permit 4-bedroom occupancy.

E. GZO Section 3.1 R-1 Zone

The purpose of the Low Density Residential R-1 zone is to provide for low density single family development with a maximum density of four dwelling units per acre. These areas are characterized by residential qualities and provide for other uses which are consistent with residential neighborhoods such as churches, schools and community uses.

FINDINGS: The R-1 zone is a low density residential zone. Surrounding uses in all directions are single family dwellings zoned R-1. . The subject single family residence is a permitted use in the R-1 Zone. The dwelling owner was permitted to apply for a Vacation Rental Dwelling Permit.

F. GZO Section 6.130 Off-Street Parking Requirements

Generally, a single family residence is required to have a minimum of two off-street parking spaces that are either graveled or paved. The parking space shall be located on the same lot with the dwelling.

FINDINGS: The subject dwelling met the requirement for two off-street parking spaces for a single family dwelling building permit by providing at least two spaces in the driveway and garage.

In addition, the following Section 6.150 Off-Street Parking and Loading – General Provisions recognizes that changing the dwelling to a vacation rental increases the off-street parking requirements for the dwelling:

1. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Should the owner or occupant of a lot or building change the use to which the lot or buildings is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.

FINDINGS: The recently adopted vacation rental standards increased the parking requirements from two spaces to four outside spaces for the four bedroom dwelling. The existing parking on the site is not in conformance with the vacation rental requirements because only two outside spaces are provided by the driveway on the property. The applicant requested a variance to use the garage for two additional spaces so they can advertise the dwelling as a four bedroom rental.

G. GZO Article 7 Vacation Rental Standards and Procedures

- Section 7.030 Maximum Occupancy Calculation
 - 1) Occupancy per Bedroom; 2) Off-Street Parking; 3) Septic System:

The subject four bedroom dwelling is limited to eight occupants. One outside parking space per bedroom is required. A standard parking space shall be a minimum of 9' x 18', except that a 9' x 15' space is permitted for existing structures where the structure is only 15' from the property line. For uses requiring four or more spaces, up to fifty percent of

the spaces may be compact in size. A compact space shall be a minimum of 8' x 16', or 15' in depth where the structure is only 15' from the property line. Residential parking spaces are not required to be marked.

FINDINGS: On June 28, 2017 the application was submitted pending payment of the fee. On July 10, 2017 the City Planner requested additional site information, including a site plan, photos and a substantive response to the application requirements and approval criteria for a parking variance. An example of a site plan illustrating the parking stall locations, dimensions and other site details was provided to the applicant. The applicant did not reply and the City Planner requested the information again on July 17, 2017. The applicant did not provide the scaled site plan with parking space and garage dimensions required information for the variance application. In a letter to the applicant dated July 19, 2017 the City Planner stated the information still had not been received but the City would proceed with requesting city department comments, publishing a public hearing notice and writing the staff report so the application could be heard by the Planning Commission at their August 10, 2017 meeting. The staff used incomplete information from the vacation rental permit application file illustrating four 9 x 15 spaces, two in the garage and two in the driveway. But no property lines, setbacks, street measurements or other detail was on the plan to adequately inform the staff or the Planning Commission in evaluating the request. On August 2, 2017 the applicant supplied an incomplete response to the variance approval criteria and a photo but no site plan details. On August 10, 2017 (the day of the hearing) the applicant provided a brief written response to the off-street parking variance approval criteria. The garage and driveway dimensions have not been verified and staff did not go on site to take the necessary measurements.

- Section 4. Off-Street Parking Requirements
 - a. The approved off-street parking spaces must remain available for renters. A parking diagram of the approved parking spaces must be provided to renters and be available in a prominent location within the dwelling. Parking stalls shall meet the minimum standards of Section 7.030 (1) (a) (2) above, and are not required to be paved.
 - b. No more vehicles shall be parked on the property than there are designated off-street parking spaces. Off-street means within private property boundaries.

FINDINGS: The Planning Commission finds there is not adequate off-street parking to meet the parking demands for the subject rental. There is evidence that renters have parked on the street, sometimes in the street and not in the garage. There is daily evidence in Gearhart that visitors do not make an effort to park inside the garage of a

rental, especially when cars are in the driveway at the time they are looking for a parking space. Consequently they park in the street right-of-way. This is why the parking requirements do not allow for garage parking to meet the required number of spaces.

H. GZO Section 9.040 Variance of Off-Street Parking and Loading Facilities

A Variance to requirements of this ordinance with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation and evidence submitted by the applicant all three (3) of the following expressly written findings are made. Where a variance request is being reviewed for off-street parking, only the criteria of this section shall be addressed. The criteria of Section 9.030 Criteria for Granting Variances are not applicable.

Off-Street Parking Variance Approval Criteria

1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Ordinance; and

FINDINGS: Current traffic volumes at the site or in the vicinity have not been quantified. Summertime volumes are significantly higher than annual average volumes. Future traffic volumes in Gearhart are projected to increase as described in the Gearhart Transportation System Plan (TSP), 2017.

The Planning Commission found the four-bedroom vacation dwelling may attract multiple families and more than four vehicles. There is evidence from the City Police Chief that this area gets crowded with vehicles, exacerbated by visitors parking in the ROW to access the popular public trail to the beach. There is evidence of neighbor complaints indicated in letters from Paula Madden and Pat Van Dyke concerning multiple cars parking in the right-of-way on this block. Accessible parking adjoining the dwelling is constrained because established trees and landscaping on the property occupy a portion of G Street and Marion Avenue ROW. A "No Parking" sign is posted on the north side of G Street. There is evidence that vehicles regularly park in the ROW in front of the dwelling

A projected increase in traffic volumes and pedestrian travel on Marion Avenue and G Street will increase the negative impacts on traffic flow in the subject area. The Planning Commission finds this is a location where strict enforcement of parking requirements applies because there is no guarantee that renters will use the garage, the

number of vehicles coming to the rental could easily exceed four, the rights of way are encroached upon by landscaping and the two streets provide parking and pedestrian access to two popular beach trails.

In response to this criterion the applicant said “we anticipate no current or future impact with regard to traffic volumes by granting this variance. There is ample available off street parking directly in front of our property on the unpaved shoulder.” The statement implies the shoulder is available for their guest parking.

The Planning Commission finds present and future traffic volumes generated by the transient rental of the subject four bedroom dwelling require strict interpretation and enforcement of the requirement to provide four on-site, outside parking spaces on the property in this location.

2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the street; and

FINDINGS: There is no evidence that counting interior garage spaces towards the minimum of four required outside parking spaces will guarantee the garage will be used by vacationers, or improve existing and projected traffic volumes and conflicts. There is evidence from the City Police Chief and neighbors that the vacation home currently attracts multiple vehicles that are parked on both S. Marion Avenue and G Street in such a manner as to materially interfere with the free flow of traffic in the area. There is evidence that the subject garage is not regularly used for occupants of the subject dwelling.

In response to this criterion the applicant said “granting this variance will not result in any interference with regard to traffic flow as the footprint is more than adequate to accommodate 2-3 vehicles in front of our property.” The Planning Commission finds the dwelling has a two-car garage yet there is evidence that rental use currently generates guest parking in the road that interferes with the free flow of traffic and pedestrians in this particular area.

3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this ordinance or policies contained within the Comprehensive Plan.

FINDINGS: According to the Gearhart TSP, traffic volumes and vehicle conflicts on S. Marion Avenue and G Streets are projected to increase. Pedestrian conflicts will

also increase because G Street is a popular pedestrian route to a beach trail to the west and Marion Avenue provides access to a primary beach trail to the south. The TSP identifies a need to provide a future sidewalk on G Street for pedestrians. If renters decide it is too inconvenient to park in the garage they will choose the easier option to park in the ROW. Evidence has been provided that parking and loading in this area creates a safety hazard for pedestrians now. Further, emergency vehicles that need to access this block or the two heavily used beach trails may be blocked by vehicles in either street ROW abutting the subject dwelling.

The following Comprehensive Plan policy requires development to be compatible with the residential character of Gearhart.

- *“The City will recognize the importance of the City’s residential neighborhoods and the need to protect them from the negative impacts of the transient rental of property, and to discourage increased levels of traffic and similar disruptions;” and;*

FINDINGS: The Planning Commission and City Council spent considerable time over a three-year period to develop vacation rental controls in order to protect residential neighborhoods from the negative impacts of the transient rental of property in Gearhart. The dwelling is located in a large, low density residential R-1 zone that encompasses an estimated 10 square blocks of single family homes. An increase in traffic levels, vehicles and disruptions caused by vacation rentals occur in this block. The Gearhart TSP anticipates there will be increased traffic and pedestrian use in this area.

The Commission finds the dwelling has a garage but evidence indicates renters at the dwelling do not use the garage and consistently park in the street right-of-way, and sometimes in the street. The parking patterns caused by street parking in this location are inconsistent with the low density residential qualities of the R-1 zone. The Planning Commission finds the intent of the Comprehensive Plan policy is supported by the vacation rental parking restrictions that were enacted to protect the low density residential neighborhood from known negative impacts such as those in this block.

In response to this criterion the applicant said “we see no safety hazard or any other condition that would affect the Comprehensive Plan by granting the variance.” The Planning Commission finds that granting of a variance to count the garage spaces as parking at this dwelling will not resolve the existing negative impacts created by vehicles parked at the rental property and the potential safety

hazard created by vehicles parking on the street. There is evidence the existing garage is not used nor will be used by guests in the future. The Commission finds the City Police Chief said the rental currently causes traffic disruption in this area and those conflicts will be exacerbated as traffic volumes and pedestrian activity increase in the future.

II. DECISION

Based on the findings herein, on August 10, 2017 the Planning Commission decided to deny the Variance request to allow the dwelling to use the two garage parking stalls for two of the four required off-street parking stalls required for the dwelling.

Signed: Virginia Dideum Date: 8/16/2017
Virginia Dideum Planning Commission President

DATE MAILED: 08/17/17 cd

APPEAL

In accordance with the Gearhart Zoning Code Section 13.060, the decision of the Planning Commission may be appealed to the City Council within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information described in Section 13.060.