

# CITY OF GEARHART

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

October 12, 2017

MEMBERS: Carl Anderson, Virginia Dideum, Richard Owsley, David Smith, Russ Taggard

STAFF: Carole Connell, Chad Sweet, Mark Brien Building Official

## Minutes

The regular meeting of the Gearhart Planning Commission for October 12, 2017 was called to order at 6:00 pm by President Virginia Dideum.

On **MOTION** by Smith, 2<sup>nd</sup> by Owsley, the minutes of September 14, 2017 were unanimously approved.

There was no financial report.

### STAFF REPORTS

Connell noted Commissioners now have copies of the approved Transportation System Plan.

Sweet report on short term vacation rental noting; 58-60 applications have been approved, 6 applications are pending parking approval, 15 are in the process of safety upgrades, and 3 applications have taken no action, totaling 81 in process.

Council met in a work session to discuss Dune Vegetation beginning the review process with items they could all agree on. In November the discussion will be on items that do not have full agreement on and begin working through those to start crafting an ordinance for the zone code. Dideum asked if dune vegetation would be coming back to the commission for processing, Sweet said it would be up to the council to decide how it will be handled it could come back to the commission.

Sweet reported the fire station committee is looking at other properties in town to supplement the park location; they are working with a site plan to determine feasibility of potential lots.

On **MOTION** by Smith, 2<sup>nd</sup> by Anderson, Commissioners Jeremy Davis and Terry Graff were unanimously granted excused absences from the October 2017 Commission meeting.

### COMMISSIONER REPORTS

Owsley noted this would be his last meeting as his term of office is over and he would not be reapplying for the positions.

Staff and Commissioners thanked Owsley for his service.

Sweet reported there will be an opening in the Planning Commission; advertising will be posted to the Blog, website and newspaper. The Council will vote on a position in the November meeting.

#### GOALS LIST

No action was taken

#### CORRESPONDENCE

None

#### VISITORS COMMENTS NOT RELATED TO AGENDA ITEMS

None.

#### PUBLIC HEARINGS

Dideum read the disclosure statement into the record for the three public hearings this evening. She asked if there was any ex parte 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.

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

Connell reviewed the history of the application process noting the staff report still stands; there is nothing new to report in the resolution of the water issue. The applicant has requested one 60 day extension; the commission must make a decision this evening or the applicant will need to request another extension.

Ray Romine, applicant – 2170 Skyline Drive, Seaside – Romine intended to ask for a continuance as his representative is still working with the City Attorney and staff to resolve the differences. Romine agreed to another 60 day extension.

Staff confirmed with Romine concurrence and for the record the extension was an additional 60 day extension from the original October 25th 120-day deadline adding an additional 60 days after the December 25<sup>th</sup> extension bringing 120 day deadline to February 23,2018 to work out the water issues.

On **MOTION** by Taggard, 2<sup>nd</sup> by Owsley, by unanimous motion the commission allowed the 60-day extension passed the December 25<sup>th</sup> extension for application #17-008P.

File #17-007V reconsideration of parking variance for Bob & Clare Carson for property located at 226 Ridge Drive and further describes as Assessors Plat 6 10 10BA, Tax Lot 2500.

Connell reviewed her memorandum of October 5, 2017 noting the original application to allow one parking space in the garage was denied. The Carson's have a pending appeal of the decision before the City Council and have requested a reconsideration of their application since they were not able to attend the initial hearing. On July 13, 2017 the commission agreed to reconsider the variance request. Connell noted the police chief report the hedge in front of the house has been trimmed by 3 or 4 feet allowing plenty of room to park in front of the house.

Bob Carson, applicant, 705 Boyer, Walla Walla, WA 99362 – they rented property in Gearhart for 40 years before buying, a demonstrated financial burden is the need to partially vacation rent to recover taxes, insurance and maintenance, another potential financial burden would be to make a 3<sup>rd</sup> off street parking space anywhere in the yard, another burden is the fact it is difficult to rent to fewer than 6 guests. Carson showed colored photographs pointing out ample space for the parking spots in the garage and driveway for 3 parking spots even though they only allow two cars. He pointed out the entire yard has fences, hedges, shrubs and sprinkler system making it impractical to make a 3<sup>rd</sup> off street parking space in the yard. He is open to having garage inspections to assure the garage remain available for owner/guest parking.

Dideum asked for clarification noting advertising allowing only 2 vehicles.

Carson – correct, but the current ordinance requires one parking space for every 2 persons over the age of 2 years old. Per his property manager they are not viable for getting much business if they can only rent to 4 adults.

Dideum noted when she drove by the property, today the garage was full and the commission would like to know the garage would be available for parking.

Carson – noted they were painting a bench and a device to conceal the water heater. The original garage was a 2 ½ car garage but having added a stairway it is now a 1 ½ car garage and will accommodate a huge vehicle.

Testimony was open to proponents.

Erin Barker, P O Box 408, Seaside, Oregon – Carson property manager for 6 years, she has always managed properties with the illusion of regulation prior to the ordinance to be good at what they do and be good neighbors. They have never had problems when renting in the past at times it was rented for 8 persons with 4 parking spaces. One bedroom has been turned into a reading room. The house is more house than 4 people can use. Her agency is accustomed to requiring people park in a garage which they do it. The request to use the garage is reasonable and she requests the commission reconsider the reasonableness based on a history of no problems.

Testimony was open to opponents.

Carol Lucas, 702 3<sup>rd</sup>, P O Box 2221, Gearhart, Oregon 97138 – she is concerned about going down a slippery slope and granting exceptions for every other house with a garage. She is of the understand there were 3 approved parking spots.

Connell noted the dimensions of the proposed parking drawing with a car parked behind the two in the driveway in the opposite direction blocked both from backing out do not fit the standard dimensions. The spots needed to be 9 X 18; it was a creative solution that did not work so they asked for parking in the garage.

Testimony was open to neutral comments.

None

Applicant Rebuttal

None

The public hearing was closed.

Discussion followed on parking layout, hedge removal from right of way, financial not being an issue in considering hardship; on **MOTION**, by Anderson, 2<sup>nd</sup> by Owsley, file #17-007V for property located at 226 Ridge Drive and further described as Assessors Plat 6 10 10BA, Tax Lot 2500 was granted approval to park one vehicle in the garage to fulfill requirements of Section 7.030 Vacation Rental Permit Standards 2) off-street Parking. Motion passed 4-1 (Smith – nay) (See attached)

File #17-013V variance from occupancy requirement for vacation rental submitted by Candace Remer for property located at 871 Hager Street and further described as Assessors Plat 6 10 10CB, Tax Lot 4000 & 4101.

Connell reviewed the staff report stating the applicant is seeking an increase in occupancy from 8 to 16 persons. Sweet added clarification stating he and the fire chief measured the site and it is adequate for 6 vehicles that do not park over the septic system has sufficient fire access, if the request is approved the applicant will need to submit an updated parking plan to verify dimensions. Connell said all 3 variance criteria must be met.

Dideum asked for clarification that a previous application was made and granted.

Connell said the applicant has a valid license for 4 bedrooms 8 occupants.

Smith questioned answers on the application related to bedroom sizes noting applicant requests is based on oversized bedrooms, should the commission be considering a criteria for bedroom size? The applicant submitted detailed information on bedroom size but no details on septic system, drain fields or parking dimensions.

Connell said there are no criteria for bedroom size; she said the bedrooms are not that big they have just put more beds in the rooms. Clarification was made the house has four bedrooms two rooms measuring 16' x 16', one at 11.5' x 17.3' and one room at 7' x 14.5'.

Smith said in his experience he has not come across criteria designating bedroom size.

The applicant was not present.

Testimony was open to proponents.

None

Testimony was open to opponents.

Susan Adkison, 5382 SW Wichita St, Tualatin, OR 97062, home on E Street – she is glad the city is regulating rentals, when managed properly the neighbors can bare the impact. She stated the Remer home already has more renters beyond the 8 approved, the area also has 3 rental properties of significant size, there can be as many as 50 guest renters on the street tipping the balance of residential properties, small family renters are respectful, large group dynamics forget common courtesy and their impact on surrounding neighbors of parking, traffic congestion and speed, fireworks; a party mentality compromising the livability of the neighborhood. With a potential burden to the septic system and the proximity to the estuary a system failure could be disastrous. Giving a concession regarding occupancy would open the door to others and undo an important part of the regulations.

Claire McIntyre, 912 Little Beach Drive, P O Box 2056, Gearhart, Oregon, 97138 – speaking against the request as it would overburden the community; with four sizable rentals in the neighborhood they are impacted by increased traffic and noise Hager and H Street are the only access to the neighborhood, she expressed concerns about burdening a septic system that is right on the estuary. Quality of life has been restored to the neighborhood due to the new vacation rental standards the proposed increase in occupancy tips the balance of the residential feeling. Large groups tend to dominate and overtake the residential environment making living there unpleasant for neighbors living around them. If the commission grants concession on this property others will want the same consideration negating the new regulations. She asked what the Remer's undue hardship is when making this request?

Stephanie Dudley, 924 Little Beach Drive, P O Box 2373, Gearhart, Oregon 97138 – she presented photographs showing the Remer house on the estuary and the open proximity 200 feet from her house, she said noise has been so loud at times they have left their bedroom to sleep on the other side of their house. She said Remer's have developed a party area with a hot tub that drains into the estuary, picnic table and fire pit allowing noise to carries to the Dudley home. She showed a picture of worst case showing 8 cars parked along the Remer property noting the congestion along at best the one way street and concerns should a situation requiring emergency responders be necessary. She showed a picture of a drone/ airplane being used by one of the guest impacting the estuary, her property and the Seaside Airport flight path. She showed a picture of a bonfire started inches from the dune grass in front of her house on July 7, 2016 at 1205 am by 16 guys who when they left did not put out the fire. She showed a picture of fireworks being lit in the estuary in October noting this type of activity goes on year round, she also said a firework has been set off on the Remer deck that hit the Dudley house. She said activities on the Remer property impact properties to the east.

John Dudley, 924 Little Beach Drive, P O Box 2373, Gearhart, Oregon 97138 – he confirmed the photographs were taken in 2016. There are no 2017 photos since the establishment of the ordinance the occupancy has been reduced to 8 the problems no longer exist. Dudley disagreed with the applicant's assurance that the neighbors are shielded from guest's noise. In 1972 Frank Strange bought the Lodge adjacent to his property, when activities grew to impact the nearby neighbors Strange never thought of the bottom line but a solution that would be a good fit for the neighborhood, recently they have stopped hosting large events, reduced occupancy by 30% and are focusing on a client base of small families that wish to stay longer. Less is more. He expressed concerns for traffic safety, congestion, and septic health, he said the city does not allow on street parking and asks if on street parking would be allowed for the Remer's?

Dianne Widdop, 1236 Fifer Heights, P O Box 2116, Gearhart, Oregon 97138 – the short term rental ordinance was enacted by a unanimous vote of the city council after several years of public hearings, work sessions and weekly conversations with residents and investment property owners. The ordinance was written as a compromise that would cause the least amount of impact in the effected neighborhoods and being within the standards of a single family home, it is not the city's problem if an investment owner is not able to make the desired profit on his rental.

Carol Lucas 702 3<sup>rd</sup> Street, P O Box 2221, Gearhart, Oregon 97138 – she said the Ridge Path used to go all the way to the estuary, several years ago the city lost the traditional assess to the estuary which was either on or adjacent to the Remer property, with discussion of hardship she feels it is a hardship for the whole town to not have access to little beach.

Jeanne Mark, 1209 N Cottage, P O Box 2627, Gearhart, Oregon 97138 – Said there are 5 STRs in this area a quarter-mile in radius, a lot of commercial activity in a designated R1 zone. ORD 901 was crafted after several years of deliberation and needs to be upheld, Ordinance 901 worked at striking a balance of commercial activity in the R1 zones. The R1 residents deserve to have their rights respected. She asked the commission deny the request and uphold Ordinance 901 it is appropriate and fair.

The testimony was open to neutral comments

None

The public hearing was closed.

Following discussion on bedroom size, room vs. sleeping area and septic system capacity, on **MOTION** by Anderson, 2<sup>nd</sup> by Owsley, based on the findings in the staff report by unanimous motion file #17-0013V submitted by Candace Remer requesting a variance to an increase vacation rental occupancy from 8 to 16 persons for property located at 871 Hager and further described as Assessors Plat 6 10 10CB, Tax Lots 4000 & 4101 was denied. (See attached)

OLD BUSINESS

None

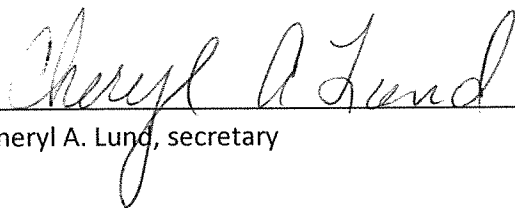
NEW BUSINESS

None

CONCERNS OF THE COMMISSION

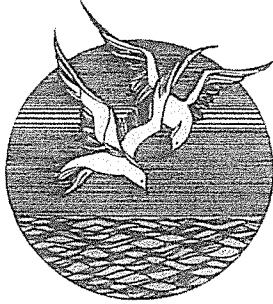
Dideum stated she would not be at the November commission meeting; Commissioner Smith will be in charge.

The meeting was adjourned at 7:40 pm

  
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Cheryl A. Lund, secretary

\_\_\_\_\_  
approved





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## BEFORE THE PLANNING COMMISSION OF THE CITY OF GEARHART

**IN THE MATTER TO RECONSIDER DENIAL OF ) FINAL FINDINGS  
A PERMIT FOR A VRD PARKING VARIANCE ) AND ORDER**

CITY FILE #17-007V Carson Vacation Rental Parking Variance - RECONSIDERATION

An **APPROVAL** of a Variance seeking relief from vacation rental off-street parking requirements to allow use of the garage for one parking space

Property Owner: Bob & Clare Carson  
705 Boyer  
Walla Walla, WA 99362

Applicant: Same as Owner

Location: 226 Ridge Drive; Tax Lot 2500 Map 06N10W Section 10BA

Procedures: Completeness: 05-03-17  
Notice Mailed: 05-18-17  
Notice Published:05-18-17  
Initial Hearing: 06-08-17  
120-day deadline:09-02-17  
Denial NOD: 06-13-17  
Appeal Filed: 06-23-17  
Reconsideration Request: 07-31-17  
Notice Published:09-22-17  
PC Reconsider Hearing: 10-12-17

Exhibits: Applicant's application, site plans & photos  
Applicant's reconsiderations statement and photos

Gearhart Volunteer Fire Dept.: no comment  
Gearhart Building Inspector: letter 5-4-17  
Gearhart City Manager: email 5-26 & 5-31-17 and photos  
Gearhart Police Chief: comments 5-4-17 & 7-13-17  
Gearhart Public Works: no comment  
Letter from Charlie & Ruth Kero: 5-31-17

Applicable Criteria: GZO Section 3.1 Low Density Residential Zone R-1  
GZO Section 6.130 Off-Street Parking Requirements  
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 9.040 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 the existing garage for one of three required off-street spaces to meet occupancy and parking requirements for a 3-bedroom vacation rental dwelling.
- B. **Site information:** The subject parcel has frontage on Ridge Drive a narrow local street with no sidewalks. The street ROW width is 30 feet and the pavement width is 18 feet. The site is flat, fully fenced and landscaped. The existing hedge in the front yard between the dwelling and the street has been significantly trimmed back from the right-of-way, providing a practical extra parking space for the dwelling. The drain field is south of the dwelling in the side yard. Because of the unusually short lot depth, the front yard area is smaller than a typical standard lot.
- 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 specifies 7 Vacation Rental Standards and Procedures.
- D. **Agency Coordination:** City departments were notified and responded as follows:

The City Building Official said “the applicants are proposing to utilize their garage as one of the required off-street parking spaces. During my inspection of the dwelling, the garage did have a vehicle parked inside and was clearly not being used as storage. Since the owners in fact use the garage for parking, and the substantial impact it would have on

their yard, landscaping, and privacy hedges to create another off-street parking space, I believe a variance would be appropriate in this case.”

The City Police Chief illustrated on the applicant’s aerial site plan that the hedge is located in the street right-of-way where utilities are located. The Chief noted on July 13, 2017 the hedge has been trimmed back 3 to 5 feet.

The City Administrator said (summarized) the permit application provides three parking stalls of adequate size if one in the garage is approved. He said the three bedroom dwelling could attract more than one family and people may find it inconvenient to park in the garage when they arrive if cars are already parked in the driveway. The front hedge has grown and is encroaching in the right-of-way whereas in the past it was smaller and there was additional space for parking. He said aesthetically use of the garage would allow for the lawn and landscaping to remain as is, making for a more residential feel.

On May 30, 2017 the City Administrator measured the site and found the driveway length is 18 feet from the garage to the property line. Again on June 1 the City Administrator took photos and measurements illustrating the property pin in relation to the street and hedge.

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 site is zoned low-density residential R-1 and the subject dwelling is a permitted single family residential use. The applicant applied for a vacation rental permit for 3 bedrooms whereby permit issuance depends on use of the garage for one parking space.

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. See Section 7.030 below for vacation rental parking requirements that override the standard parking requirements for a single family dwelling.

**FINDINGS:** The subject dwelling met the zone requirement for two off-street parking spaces when the house was built because it had a two-car garage. Subsequent to a

remodel there are now three paved spaces, one in the garage and two in the driveway. The applicant estimates the driveway depth is 18'. 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: The parking was satisfied for the original single family dwelling because the minimum of two garage spaces and two driveway spaces were provided. The recently adopted vacation rental standards increased the parking requirements requiring one space per bedroom. The existing parking on the site is not in conformance with the vacation rental requirements because two outside spaces are provided where three are required for the 3-bedroom dwelling.

#### G. GZO Article 7 Vacation Rental Standards and Procedures

##### Section 7.030 Maximum Occupancy Calculation

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: The vacation rental permit for 3-bedroom occupancy requires 3 off-street parking spaces that are on-site and outside and do not include the garage. The allowance for smaller compact spaces does not apply in this case because the property has less than four spaces proposed.

The application indicates the two exterior driveway spaces are 9' x 18'. The City Administrator's confirmed the distance from the garage door to the property line is 18 feet. The total driveway width is 17' - 18' for two 9' wide stalls. The applicant proposes to provide one 14' x 22' stall in the garage which exceeds the standard stall size.

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 proposed parking plan meets the outside location requirements for two spaces. The Planning Commission finds the garage space is practical in this case. Further, the right-of-way obstruction by the hedge has been removed and provides an additional space. The proposed parking plan is required to be posted for renters and all spaces are to be available.

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:

- 1. Prove 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: Ridge Drive is a local street with a 30' ROW and a pavement width of 18.5 feet. Current traffic volumes on the street are low. Ridge Drive connects to 5<sup>th</sup> Street. The Gearhart Transportation System Plan (TSP) indicates that traffic volumes in the city are projected to increase. Further, 5<sup>th</sup> Street from Summit Drive to the highway is proposed to provide a highway crossing for bicycles, pedestrians and emergency evacuation. An increase in traffic on 5<sup>th</sup> Street could increase traffic on Summit Drive and Ridge Drive.

The physical circumstances on the site would require partial removal of established landscaping and an established hedge between the front of the house and Ridge Drive in order to create an additional outside parking space wholly on the property. The site was originally developed for a 4-bedroom dwelling with a two-car garage and a driveway onto Ridge Drive. The dwelling was remodeled

by incorporating one of the two garage parking spaces into the interior living area. The applicant plans to advertise their dwelling as a 3-bedroom rather than 4 bedroom rental due to the parking limitations on the site.

The Planning Commission finds that Ridge Drive is narrower than most thru-streets in the vicinity and that the lot depth of the parcels on the block is shorter than standard. These dimensions create a situation where the land area in front of the homes on this street combined with the narrow street-right-of-way result in reduced land area in the front yard for vehicle parking. In this case, the low traffic volume on Ridge Drive and the site's physical limitations support use of the garage to provide additional parking on site for rental guests.

The Planning Commission finds evidence was provided by Charlie and Ruth Kero who live two houses to the north that "...parking at the Carson property has been a problem for thru traffic with cars and boat impeding the roadway..." The Commission finds the applicant significantly trimmed the front hedge so that guests may now park in the right-of-way instead of partially in the street. Permitting use of the garage will also reduce overflow parking in the street. Therefore the Commission finds the site specific circumstances warrant granting a variance allowing use of the garage for one on-site parking space

2. Prove 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: The Planning Commission finds the narrowness of the street and the limited depth of front yards on Ridge Drive limit the amount of front yard space available for parking. The Commission finds granting a variance to allow one garage space will reduce the parking or loading of vehicles on the street that may interfere with the free flow of traffic. Further, although the dwelling has 4 bedrooms the applicant stated they advertise just 3 bedrooms in order to reduce the amount of guest vehicles. The recent hedge trimming created an additional outside space adjoining the front yard so that vehicles will not be parked on the pavement.

3. Prove 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: The Planning Commission finds that a potential safety hazard created by excess guest vehicles will be reduced if the applicant is permitted to provide one parking space in the garage.

The following Comprehensive Plan policy is relevant to the request.

- *“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;”*

FINDINGS: The City adopted standards and procedures for vacation rental dwellings to protect residential neighborhoods from the negative impacts of the transient rental of property and to discourage increased levels of traffic and similar disruptions. A neighbor resident indicated parking at the Carson’s has been a problem for thru traffic due to vehicles impeding the roadway because of the hedge location in the street right-of-way.

The Planning Commission finds upon reconsideration and additional notice to the neighbors there were no objections after the hedge was trimmed. The Commission finds it is unreasonable in this case to require major modification of the established landscaping in the front yard for an additional outside space when one space can be made available in the garage.

### III. DECISION

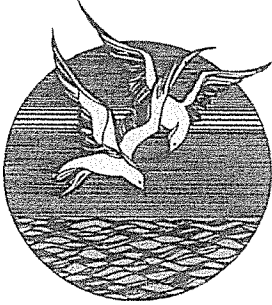
Based on the findings in this decision on October 12, 2017 the Planning Commission decided reconsider and APPROVE a variance allowing one of the required parking spaces to be in the existing garage.

Signed: Virginia Dideum  
Virginia Dideum, Planning Commission President

Date: 10/25/2017

DATE MAILED: 10/26/2017

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 FOR A ) FINAL FINDINGS  
VACATION RENTAL OCCUPANCY VARIANCE ) AND ORDER

CITY FILE #17-013V Remer Vacation Rental <sup>Occupancy</sup> ~~Parking~~ Variance

A **DENIAL** of a Variance seeking relief from vacation rental occupancy requirements in order to increase the occupancy from 8 to 16 persons in a 4 bedroom dwelling

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

Applicant: Same as owner

Location: 871 Hager Street, 0.4 acre parcel; Tax Lot 4000 & 4101 Map  
06N10W Section 10CB

Completeness: 09-08-17  
 Notice Mailed: 09-22-17  
 Notice Published: 09-22-17  
 Initial hearing: 10-12-17  
 120-day deadline: 01-06-17

Exhibits: Applicant's original application & narrative  
 Applicant's 4th revised parking plan 9-28-17  
 City Rental Permit file, site plan and aerial photo



Hager Street ROW aerial photo  
Clatsop County Public Health Department Certificate of Compliance, 6-28-17; email clarification 10-6-17  
Gearhart Fire Chief: comments 9-28-17  
Gearhart Building Inspector: comments 9-28-17  
Gearhart City Manager: comments 9-25-17  
Gearhart Police Chief: no comment 9-11-17  
Gearhart Public Works: no comment  
Public testimony: Mike Cranston 9-13-17 object  
Harold & Jane Gable 9-27-17 support; see minutes and record for hearing testimony on 10-12-17

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.1) Bedrooms/Occupancy
- GZO Section 9.040 Variances
- GZO Article 13 Application, Notice and Hearing Procedures

I. FINDINGS

A. Proposal: The purpose of the request is to approve a variance that allows doubling the occupancy limit from 8 to 16 persons for a 4-bedroom vacation rental dwelling. The applicant currently has an approved vacation rental permit for 4 bedrooms and a maximum 8 person occupancy.

A. Site information: The waterfront property includes two parcels totally 0.41 acres in size. The dwelling has a private setting buffered by a large setback from the street, mature vegetation and open space on two sides.

The front façade of the residence faces Hager Street with access to the street by an estimated 124-foot gated driveway to the front property line. On the west side of the graveled parking area there is a new septic drain-field system.

The subject parcel has frontage on Hager Street, designated a local street. The gated driveway is located on a sharp corner of the street, a narrow street with an estimated driving width of 15 – 20 feet and a ROW width of 60 feet. The private driveway is in the Hager Street ROW. The original public trail to Little Beach was partially located in the ROW before the adjoining property owner fenced off the south terminus of the trail.

B. 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. Surrounding properties are zoned R-1.

C. Agency Coordination

The Building Official inspected and approved the rental for potentially six complete sleeping areas/bedrooms on 9-28-17. He also informed staff that the building code residential classification for the dwelling is not affected by occupancy which means the commercial building code does not apply to the subject request.

The Fire Chief letter dated 9-28-17 said there is off-street parking for 6 vehicles. He said “no-parking” signage shall be posted from the entry gate to the parking area to prohibit blocking the driveway.” He said the entry gate is too narrow to allow fire engine access through the gate, which would cause a possible life safety issue if a fire were to occur.

The City Manager said it was the Planning Commission and City Council’s desire to address the impact of transient lodging in the residential zones within Gearhart.

The Police Chief had no comment.

Clatsop County Public Health Dept.: A Certificate of Compliance for the dwelling’s septic system was issued on June 28, 2017. In a 8-30-17 phone conversation with Mike McNickle, Clatsop County Health agent he said the new septic system is designed for a 4-bedroom dwelling not to exceed a capacity of 450 gallons of water per day. However, the county does not review on-going water usage records to verify usage. He said if the system fails it will set off a loud alarm and the sewage may back-up into the home. He said the city could report water usage to the county and if water usage exceeds 450 gallons per day the system is no longer in compliance. On 10-6-17 he clarified “the maximum number of bedrooms allowed with the system as installed is four, and that means only 8 people maximum (2 people per room and 55+/- gallons per day per person). Anything over that, then it is outside the system’s ability to handle the wastewater flow.”

D. 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. The single family residence is a permitted use in the R-1 Zone. Surrounding land uses are single family dwellings zoned R-1, with the exception of the Lodge at Little Beach.

Article 7 Section 7.020 Special Standards governing Vacation Rentals subsection 2 states that “vacation rental dwellings are similar to a commercial business use and therefore are not a permitted use in the RA, R-1, R-2 and RCPD zones.” However, subsection 4 permits a one-time opportunity for property owners to file an application for a rental permit. The applicant filed for and was granted a permit with an 8-person occupancy limit and septic approval for a 4-bedroom rental.

E. GZO Article 7 Vacation Rental Standards and Procedures

1. Section 7.030 Maximum Occupancy Calculation

a. Occupancy of the rental will be calculated using the three criteria below. Final occupancy will be set by the most limiting criterion. In accordance with the provisions of Article 9 Variances, an applicant may file an application for a variance to the Maximum Occupancy Calculation Standards.

1) Bedrooms/Occupancy: The maximum occupancy for a vacation rental permit shall be two persons over the age of 2 years old per bedroom. Occupancy includes occupants sleeping on the property.

FINDINGS: The City has issued a vacation rental permit for the subject 4 bedroom dwelling with a maximum occupancy of 8 persons over the age of 2. The applicant requests variance approval to allow an occupancy of 16 persons.

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: The subject vacation rental is required to have 4 off-street parking spaces for the 4-bedroom dwelling. The applicant's parking diagram (revised 9-28-17) illustrates there are 6 (9 x 15) parking spaces, which exceeds the 50%

compact limit. The Fire Chief and City Administrator said there is sufficient area for 6 vehicles.

2) Septic System Capacity:

Septic systems must be inspected and the inspection must be reviewed and approved by the Clatsop County Public Health Department. Cesspools are prohibited for use with transient rentals.

FINDINGS: The applicant recently installed a new septic system and the drain-field is located on or a few feet below the driveway near the dwelling. The septic system is designed for a 4 bedroom dwelling which means an 8 person maximum occupancy. The system is not designed for 16 people. The system may be located within 50 feet of the Necanicum River estuary.

2. 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: A scaled parking plan has not been provided. The Fire Chief states there is sufficient parking area to accommodate 6 vehicles to be parked on the property. The parking area is graveled and adjoins the septic system, although it is not clear if parking will occur on the septic drain-field. The number of vehicles parked on-site at any given time cannot be easily enforced. Testimony at the public hearing included photos of the driveway full of parked vehicles and additional guest vehicles parked outside the gate on the street right-of-way.

F. GZO Section 9.030 Criteria for Granting Variances

A Variance to requirements of this ordinance with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance decks and walls, and other quantitative requirements, may be granted only 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: No variance may be granted which will permit a use not permitted in the applicable zone.

FINDINGS: The occupancy limit is a quantitative requirement so Article 7 allows for a variance request to occupancy requirements, therefore the variance request is valid. But the applicant must prove all of the variance criteria have been met.

1. Prove the request is necessary to prevent a hardship to the applicant; and

FINDINGS: The Planning Commission finds an occupancy variance is not necessary to prevent a hardship. Based on the factors below, there is no evidence that the applicant will suffer a hardship unless on a nightly rental basis 16 people are permitted to occupy the single family dwelling.

a. Relevant factors to be considered in determining whether a hardship exists include:

(1). Physical circumstances related to the property involved;

FINDINGS: The applicant indicates three large bedrooms in the dwelling justify adding beds for additional occupancy. The Planning Commission disagrees that the size of a bedroom is a factor to allow an occupancy increase. The Commission finds there are no physical circumstances related to the property that create a hardship for the applicant to justify doubling the occupancy for the single family dwelling. On the contrary there are numerous negative impacts caused by large group rentals because of the physical location and physical characteristics of the property.

The off-street parking for large groups has been shown to be inadequate, exacerbated by the narrow, dead-end street. Disruptions such as noise, unattended bonfires and other impacts from large groups affect the residents in the neighborhood, many of whom are permanent residents. The negative impacts conflict with the purpose of low-density residential zoning. The septic system is near the estuary and does not have a capacity for more than 8 occupants. There is no physical circumstance that creates a hardship to the applicant who has a vacation rental permit consistent with the number of bedrooms and septic capacity of the dwelling.

(2). Whether reasonable use can be made of the property without the variance;

FINDINGS: The Planning Commission finds that reasonable use of the property as a residence or a rental has been and can continue to be made without a variance to the occupancy limitation.

(3). Whether the hardship was created by the person requesting the variance;

FINDINGS: The Planning Commission finds the applicant has already been granted a vacation rental permit by the city and installed a septic system with an occupancy limit of 8 persons, based on 2 per bedroom. The applicant has since decided they want to double the occupancy limitation to 16. The hardship was created by the person requesting the variance.

2. Prove the proposed development that will result from the granting of the variance will not be injurious to the adjacent area in which the property is located; and

FINDINGS: The Planning Commission finds testimony from property owners in the area indicates there are numerous negative impacts to the area. Views and privacy from adjacent property are significantly affected by an increase in occupants. Fire safety and septic capacity cannot be guaranteed if the occupancy is doubled. Noise and other disruptions increase if the number of vehicles and activities of renters is doubled. Adequate on-site parking for 16 occupants cannot be guaranteed.

a. Relevant factors to be considered in determining whether the proposed development will be injurious to the adjacent area include:

The physical impacts such development will have such as:

(1) Views from adjacent property;

FINDINGS: The Planning Commission finds the existing land use and zoning is residential in the adjacent area. Views from adjacent properties are significantly affected by large groups, illustrated by photos provided at the hearing by a neighbor within 200 feet (Dudley) who said “the power of a larger group is dominating”. From the east and the south there is an open view of the dwelling, the patio and the bonfire area.

(2) Privacy available to adjacent property;

FINDINGS: The Planning Commission finds the privacy of neighbors is negatively impacted from the applicant’s rental dwelling, their outdoor patio and

the bonfire area. There is no fencing or landscaping to buffer large party groups from neighbors. A requirement to add buffering could interfere with oceanfront views for the applicant and the Lodge at Little Beach. The Dudley's provided a photo of a drone airplane operated by a renter of the applicant that flew very close to their home. This kind of disruptive activity could not be mitigated by a fence or hedge buffer. The occupancy limitations adopted by the city are designed to minimize the negative impacts from vacation rentals.

(3) Ability to provide and maintain public improvements such as streets, utilities and drainage;

FINDINGS: The Planning Commission finds the subject variance request may result in a failed septic system, an increase in fire incidents and parking overflow onto the public street thereby potentially compromising public services. The existing septic system is not designed for 16 occupants. The septic system is located in close proximity to the estuary. Hager Street is the only street access in and out of the neighborhood for all residents on the street.

(4) Potential for geologic hazard; and

FINDINGS: The Planning Commission finds approval or denial of the subject variance request will have no bearing on the potential for geologic hazards on the site or in the area.

(5) Noise Generated.

FINDINGS: The Planning Commission finds the request to double the rental occupancy will result in more noise from vehicles, large group gatherings, fireworks, airplanes the septic alarm and other disruptions.

3. Provide the request is necessary to enable reasonable use of the property; and

FINDINGS: The Planning Commission finds there is not enough evidence to support that a variance from the rental occupancy limitation is necessary to enable reasonable use of the property as a residence or a vacation rental.

4. Prove the request is not in conflict with the Comprehensive Plan.

FINDINGS: The Planning Commission finds a relevant policy in the Comprehensive Plan that requires vacation rentals to be compatible with the residential character of Gearhart, as follows:

- *“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 transient rentals in Gearhart. The dwelling is located in a large, strictly low density residential R-1 zone with a single narrow street access in and out. Every resident in this area must pass the subject dwelling at a narrow pinch point corner. An increase in traffic levels and disruptions caused by vacation rentals already occurs in this area due to the dense development pattern east of the site and the narrow street.

In response to the Comprehensive Plan policy the applicant said “we see no safety hazard or any other condition that would affect the Comprehensive Plan by granting the variance.”

But the Commission finds that if 16 people occupy the dwelling it will be difficult to limit and enforce the number of vehicles on-site. Vehicles will continue to park in the narrow street right-of-way. The influx of numerous vehicles arriving at once, repeatedly, is inconsistent with the patterns of a typical single family use. Approval will increase the potential for septic system failure or damage by vehicles; will increase the potential for fire incidents and will increase noise and other disruptions that come from a party house. These conflicts will be exacerbated in the future as the city grows.

The intent of the Comprehensive Plan is supported by the vacation rental occupancy limitation, which was enacted to protect the low density residential neighborhood from negative impacts. The Planning Commission finds granting a variance conflicts with the Comprehensive Plan policy.

### III. DECISION

Based on the findings in this decision on October 12, 2017 the Planning Commission decided to DENY a variance to double the occupancy from 8 to 16 persons in the 4 bedroom dwelling.



Signed: Virginia Dideum  
Virginia Dideum, Planning Commission President

Date: 10/25/2017

DATE MAILED: 10/26/2017

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