Pacific County
HEARINGS EXAMINER

August 12th, 2024

Jeremiah Oliver
23328 17th Ave. SE
Bothell, WA 98021

RE: Special Use Permit, Application No. P2400445 - APPROVED
Tax Parcel ID No.: 73017011002/001

Dear Property Owner/Applicant:

The Pacific County Hearings Examiner acted at the July 29th, 2024 hearing to approve the above referenced application. Enclosed you will find a copy of the decision that includes the Findings of Fact and Conclusions of Law. The complete case file is available for review Monday through Thursday, 7:30 a.m. - 12:00 p.m. / 1:00 p.m. – 3:00 p.m., at our Long Beach office. Please contact me to set up an appointment to ensure that we are able to assist you.

The Hearings Examiner decision is final and conclusive unless an appeal is filed in accordance with RCW 36.70C. If no appeal is filed within the 21-day appeal period, the project is allowed to proceed once all conditions are met and other permits have been obtained.

Included with this letter is an invoice for the cost of the hearing. If you have permits pending as a result of this hearing, they cannot be issued until the balance is paid. Any outstanding balance will be forwarded to collections if not paid within 30 days from the date listed above.

If you have any questions, please do not hesitate to contact me at 360-642-9382 or via email zjohnson@co.pacific.wa.us

Sincerely,

Zane Johnson
Sr. Planner
Enclosure

c: Parties of Record
Parcel File

August 8, 2024

Pacific County Hearing Examiner's Decision

Permit application: P2400445

Subject property: Parcel #s 73017011001 and 002, 2104 Willow Road, Seaview

Applicant: Jeremiah Oliver, owner

Hearing: July 29, 2024; 7013 Sandridge Road, Long Beach, Washington, and over the internet via a Zoom meeting.

Witnesses:

Zane Johnson, Senior Planner, Pacific County Department of Community Development (Henceforth, "County" and "DCD")

Jeremiah Oliver, owner

Michael Ruzic, neighbor

Documentary Evidence

DCD packet, including report, application and related documents

Summary of Application and Testimony

This is an application by Jeremiah Oliver for a special use permit to allow a short-term vacation rental use in a General Residential (R-2) zoning district.

Zane Johnson testified stating the request and his conclusions. He offered the report into evidence.

Michael Ruzic testified that he was a neighbor at 2109 Willow Road and has a campground. He said that the neighborhood is inappropriate for a short-term vacation rental. He said that for three months of the year you can hear every conversation by a neighbor in their yard and for the other nine months you hear rain. He said that the subject property was generally uncared for since 2008. He said that a short-term rental was going to bring noise and trash throughout the year. He said that this neighborhood is at the border of Seaview and Ilwaco where the Sheriff's deputies do little. He said that he didn't blame the police because they are understaffed. He said that the homeless go from the beach to this neighborhood making it already unsafe and unclean. He said that the County doesn't provide enough services to this neighborhood. He concluded that a short-term vacation rental would bring strangers, noise and garbage to the neighborhood and was not appropriate here.

Jeremiah Oliver testified that he bought the property for a place for his friends and family to gather near the beach. He said that he could not use the property throughout the year and that he didn't want to rent it out as a long-term rental because that would preclude his use of the place. He said that this was a financial investment for him and that he intended to maintain the property to protect his investment. He said that the property was on a large lot with a pull-through driveway so people would not be backing out onto the street. He said that he didn't think that a short-term vacation rental would disrupt the enjoyment of people in the campground across the street.

Findings of Fact

The subject property is a four-bedroom single-family residence built in 1995 on four lots comprising a .61-acre parcel at 2104 Willow Road in Seaview. There is space on this property to park at least four vehicles with a private drive off Willow. The flat lot has an interior wetland with tree cover behind it to the east. The neighborhood has single-family residences along Willow Road to the north and south and a campground/RV park across the road to the west.

There are no other short-term vacation rentals within 300 feet of the subject property.

With four bedrooms the property would be limited to ten adult overnight guests.

The property has public water and sewer and will have trash hauled by Peninsula Sanitation. The applicant will contract with Beach Bear Property Services to manage the property. He has a local property manager, Sharon Urena, living in Chinook well within an hour away on call.

The subject property is located at the south end of Seaview close to the border of the City of Ilwaco. West of the property and the neighboring RV park/campground is seaside forest where homeless people frequently live.

Conclusions of Law

The subject property, being in a General Residential zoning district, requires a special use permit by Ordinance 194 §13(D)(4) for a short-term vacation rental.

Ordinance 194 §27(G) sets the criteria for granting or denying the special use permit:

> 1. [The] special use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;

The owner will not change the design of the existing property for the special use. The existing property and its neighbors are single-family residential dwellings or undeveloped land, with an RV park/campground across the street. The special use of being a short-term vacation rental is compatible with the character and appearance of its neighborhood. There was no evidence of any proposed development.

> 2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the permitted development or use of properties in the immediate vicinity of the special use;

The applicant does not seek to change the existing structure for the special use requested. The existing structure does not hinder or discourage permitted development or use of properties in its neighborhood. There was no evidence of any proposed development in this neighborhood. This permit would preclude others within a 300 feet radius from obtaining a special use permit to operate a short-term vacation rental but this density was purposive.

> 3. The special use is designed in a manner that is compatible with the physical characteristics of the subject property;

The subject property, like most of its neighbors' properties, was designed to be a single-family residence. The short-term vacation rental use is extremely similar to a long-term residential use whether by an owner/occupier or by a lessee. The use is compatible with the subject property's design and that of its neighbors.

> 4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

The petitioners request no modifications to the standards.

> 5. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the adjacent area;

The subject property has off-street parking for four vehicles. The special use of a short-term vacation rental is similar to the property's use as a long-term residence. There are no sidewalks in this area. There was no evidence presented of anticipated traffic.

> 6. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities;

There was no evidence presented that this proposed special use would require any more public facility or service than its current use or that its neighbors have. The site has public water and septic and adequate service by local utilities. The special use will have no greater burden on public facilities and services than if it remained solely a private residence.

> 7. The special use is not in conflict with the health and safety of the community nor detrimental to the public interest.

The proposed special use conforms with all relevant public health and safety laws and regulations.

A neighbor voiced opposition to this request. However, his opposition was to placing short-term rentals in a residential neighborhood, rather than particular issues with this request. The Pacific County Commissioners, the county's legislative and executive body, have made the decision that short-term rentals could be placed in a General Residential zone so long as they remained at least 300 feet apart and could otherwise prove by clear and convincing evidence that the application met the requirements of Ordinance 194 §27(G) as discussed above. That neighbor's concerns are about short-term vacation rentals in general rather than this application in particular. Thus the County Commissioners have already ruled on those issues.

As an aside, it was noteworthy that the only neighbor who complained – of the 19 people, corporations, and state agency that were notified of this application – had an RV park/campground. Ordinance 194 gives neighbors a means of complaining about short-term vacation rentals that includes the threat of the County revoking the license and permit. That ordinance is silent on similar noise and trash complaints about residents of RV parks and campgrounds, a conditional use in the General Residential zone.

Ordinance 194 §21(N)(16) states,

> The vacation rental shall be operated in a way that will prevent disturbances to neighboring properties not typical of a residential neighborhood, including but not limited to, loud music, loud noises, excessive traffic, loud and uncontrolled parties, junk/debris/garbage accumulation in the yards, trespassing, barking dogs, or excess vehicles, boats or recreational vehicles parked in the streets in front of the unit;

The ordinance contemplates all the anticipatory complaints lodged against this particular application.

Ordinance 194 §21(N) states:

> 22. Complaints. All complaints shall proceed as follows:

a. The complaining party shall first attempt to communicate with the local contact person designated on the permit and property management plan, describe the problem and leave a contact phone number for call back information;
b. The contact person shall respond promptly to the complaint, regardless of time of day and make reasonable efforts to remedy any situation that is out of compliance with the Section, and;
c. If the response is not satisfactory to the complaining party, then the complaining party may next provide a written complaint to the Pacific County Community Development Director, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the County. The Director of Community Development shall attempt to resolve the complaint. If so required, the owner of local contact person shall provide a written response to the complaint with the anticipated corrective action within ten (10) days. A copy of the complaint will be filed with the vacation rental license file.

23. Compliance and Revocation
a. Owners of vacation rentals shall obey all applicable Laws and Ordinances of the County and shall be subject to permit revocation procedures and appeals processes outlined in this Section and in Pacific County Ordinance 177, or any amendments thereto;
b. If there have been three (3) or more authenticated violations of this Ordinance related to the same vacation rental within one (1) calendar year, or if there have been three (3) or more authenticated violations of other County Ordinances related to the same vacation rental within one (1) calendar year, the Administrator shall revoke the vacation rental license and underlying vacation rental permit, and the property owner shall be prohibited from obtaining a new vacation rental permit & license for at least one (1) year from the revocation;
c. The property owner may appeal the revocation of the vacation rental license & permit pursuant to the appeals procedures outlined in Pacific County Ordinance No. 177, or any amendments thereto; and
d. Nothing in this subsection precludes Pacific County from proceeding with formal enforcement action against a property owner and/or occupant for violations of this Ordinance as authorized under Pacific County Ordinance No, 165, or any amendments thereto, or for violations to Board of Health Ordinance No. 2 (Solid Waste/Littering), or any amendments thereto, or Board of Health Ordinance No. 4 (Nuisance), or any amendments thereto.

If short-term vacation rentals don't comply, they can lose their license. You have no similar mechanism against bad long-term rental neighbors or neighbors who live in RV parks and campgrounds.

The application for the permit lists Sharon Urena as the local contact for the property management. It lists her telephone number as (360) 244-9885. The Pacific County Sheriff's Office non-emergency number is (360) 875-9395.

The special use permit request is congruent with the County's Comprehensive Plan and there are no Critical Area or Resource Land limitations.

The applicant should consider including in the emergency plan safety procedures for an earthquake or tsunami. While the risk of an earthquake and tsunami are extremely low, the magnitude of the danger is extremely high.

The applicant should also consider including directions to the nearest hospital and warnings about the dangers of swimming in the surf.

The County complied with the public notice requirements of Ordinances 177 and 194.

Ordinance 194 §21(N) regulates Short Term Vacation Rentals. The applicant has demonstrated with clear and convincing evidence that he has met all the required criteria and so the application is granted subject to the conditions listed below.

All findings of fact that are also conclusions of law shall be treated as such. All conclusions of law that are findings of fact shall be treated as such.

Conclusion

The applicant has proven by clear and convincing evidence that he has complied with all of the required criteria and so the application for a short-term vacation rental is approved subject to the following conditions:

The special use is permitted subject to the applicant complying with the plans submitted for this application. The insurance on this property shall not lapse during the period of occupancy. The applicant shall secure the required annual license. The applicant shall provide DCD with the land-line telephone number for this property.

The use shall conform in all other respects with Pacific County Ordinance 194 and all applicable state and local health, safety, and building codes. Any and all future development on this subject property requires approval from Pacific County.

The permit shall be issued to Jeremiah Oliver. It is non-transferable and does not guarantee future approval to others.

Pacific County may revoke this permit if the permittee fails to comply with the conditions listed.

The permit shall not begin and is not authorized until at least 21 days from the date of filing of this decision.

Please note that any appeal of this decision shall comply with the requirements of RCW 36.70C. The deadline for filing any appeal is both swift and definite. If

you have any questions concerning this strict deadline or the appeals process, please consult an attorney.

Signed this 8th day of August, 2024

Eric Weston, Hearings Examiner