Pacific County
HEARINGS EXAMINER

September 26th, 2024

Daniil & Tatyana Voropay
11302 NE 50th Ave.
Vancouver, WA 98686

RE: Special Use Permit, Application No. P2400519 - APPROVED
Tax Parcel ID No.: 75015026023

Dear Property Owner/Applicant:

The Pacific County Hearings Examiner acted at the September 18th, 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

September 25, 2024

Pacific County Hearing Examiner's Decision

Permit application: P2400519

Subject property: Parcel # 75015026023; 27910 U Street, Ocean Park.

Applicants: Daniil and Tatyana Voropay, owners

Hearing: September 18, 2024; 7013 Sandridge Road, Long Beach, Washington, and over the internet via a Zoom meeting.

Witness:

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

Daniil and Tatyana Voropay were in attendance but did not testify.

Documentary Evidence

DCD packet, including report, application and related documents

Letter from Janet Askew, neighbor, Filed September 16, 2024

Summary of Application and Testimony

This is an application by Tatyana and Daniil Voropay for a special use permit to allow a short-term vacation rental use in a Rural Residential (R-R) zoning district.

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

Janet Askew wrote a letter in opposition to the application. She lives across the street from the subject property. She said that she has friends who live across from similar short-term rental properties and they have problems, including cars in the street, loose dogs, loud parties, and fireworks at all hours. She said that the police do not respond quickly in their area to non-life-threatening reports and that there is no police staffing in the early morning hours. She said that she moved into this area because it was uncrowded and near the beach. She worried that this short-term rental would attract the wrong kind of person, one who was not interested in being a good neighbor.

Findings of Fact

The subject property is a two-bedroom unit of a duplex built in 2023 on a .23-acre double-lot parcel at 27910 U Street in Ocean Park. There is space on this property to park at least four vehicles with a private drive off Willow. The property is mostly flat, cleared of vegetation, and in a neighborhood of single-family residences, duplexes, and undeveloped lots. The property has an existing driveway to U Street and there are no sidewalks in this neighborhood.

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

With two bedrooms the property would be limited to six adult overnight guests.

There was no evidence as to who owned the other side of this duplex or what their opinion was of this application.

The property has an approved private well and a septic system that was approved by the County in March, 2024. The applicant will contract with MIMT LLC to manage the property. They have a local property manager, William Knysh, on call living in Ocean Park within an hour away.

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, duplexes, or undeveloped land. 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.

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 an approved well and septic system and has 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, her 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 Rural 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.

Ms. Askew did not write whether the friends next to other short-term vacation rentals were in this jurisdiction. Other jurisdictions may not have the same controls over behavior that Pacific County has.

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.
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> 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 neighbors.

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

The applicants should be commended for including procedures in the emergency plan safety procedures for an earthquake or tsunami.

The applicants 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 applicants have proven by clear and convincing evidence that they have 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 applicants complying with the plans submitted for this application. The insurance on this property shall not lapse during the period of occupancy. The applicants shall secure the required annual license. The applicants 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 Tatyana and Daniil Voropay. 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 25th day of September, 2024

Eric Weston, Hearings Examiner