



**BEFORE THE TALENT PLANNING COMMISSION
STATE OF OREGON, CITY OF TALENT**

IN THE MATTER OF PLANNING COMMISSION FILE NO. SPR)
2015-004 LOCATED AT 530 TULIPAN WAY [MAP NO. 38-1W-25CA)
TAXLOT 401], THE CITY OF TALENT PLANNING COMMISSION)
FINDS THE FOLLOWING:)

ORDER

1. The Planning Commission held a properly noticed public hearing on this matter on June 25, 2015;
2. The Planning Commission asked the Community Development Director to present a staff report and a proposed final order with findings and recommendations;
3. At the public hearing evidence was presented and the public was given an opportunity to comment;
4. The Commission found that the proposed application, with conditions in all other respects complied substantially with the criteria for approval in 8-3C.4 and 8-3L.1 of the Talent Zoning Code.

The Talent Planning Commission approves the Site Development Plan (SPR 2015-004) with the following conditions of approval:

GENERAL CONDITIONS:

1. Register the vacation rental transient tax collection with the City on a form provided by the City, within fifteen (15) days from the date of final the approval of the Site Development Plan review.

PRIOR TO ISSUANCE OF BUSINESS LICENSE:

2. Provide Community Development with evidence from the Oregon Health Authority (OHA) that the proposed vacation rental is licensed in accordance with ORS 624.020 and serves no more than five (5) guests or provide evidence from OHA that no licensing is required.
3. Provide a revised site plan that identifies two (2) standard parking spaces and one (1) off-street handicap space. Handicap space shall be provided off-street or through a joint parking agreement in accordance with Section 8-3J.555 and shall meet the parking stall dimensions provided in Table 570-1. Use of a joint parking agreement for any required off-street parking shall require a City approved recorded deed, lease, contract or other appropriate document to establish the joint use.

IT IS HEREBY ORDERED THAT the Talent Planning Commission approves with conditions the requested site development plan to operate a vacation rental based on the information presented in the Staff Report and Findings of Fact below:

In the following, any text quoted directly from City codes appears in *italics*; staff findings appear in regular typeface.

8-3C.430 BUILDINGS AND USES SUBJECT TO TYPE-II SITE DEVELOPMENT PLAN REVIEW

B. Boarding and rooming houses not exceeding accommodations for five (5) residents.

FINDING: The subject parcel is zoned Multiple Family-High Density which allows boarding and rooming houses not exceeding accommodations for five (5) residents. The proposed use is a vacation rental, which is similar in nature to that of a boarding or rooming house. The Planning Commission, pursuant to Section 8-3C.420(E) has determined that the allowed use and the proposed use are similar in nature and has also determined that vacation rental facilities may have specific licensing requirements by the State of Oregon. As a condition of approval, the applicant shall prior to issuance of a business license, provide Community Development with evidence from the Oregon Health Authority (OHA) that the proposed vacation rental is licensed in accordance with ORS 624.020 and serves no more than five (5) guests or provide evidence from OHA that no licensing is required.

As listed, a vacation rental is a Type II review. However, Section 8-3L.120 (B) requires that all site development plans that change the use or intensity of a parcel or its operation be reviewed by the Planning Commission as a Type III review. This application is being reviewed by the Planning Commission and therefore is consistent with this section.

Talent Ordinance #556 approved on January 15, 1992 requires that all uses designed for occupancy by transients for lodging or sleeping, including a bed and breakfast pay a transient tax in the amount of six percent (6%) of the rent charged. As a condition of approval, the operator shall register the bed and breakfast transient tax collection with the City on a form provided by the City, within fifteen (15) days from the date of final approval of the Site Development Plan review. **The provisions of this section have been met subject to conditions of approval.**

8-3C.460 DENSITY AND DIMENSIONAL REQUIREMENTS

FINDING: The site is an existing single-family dwelling. No expansion of the building footprint is being requested. **The provisions of this section are not applicable.**

8-3C.476 LANDSCAPING, FENCES, WALLS AND SIGNS

Landscaping and screening shall be provided in each multiple-family development and shall satisfy the following minimum requirements in addition to those set forth in Article 8-3].4:

- A. *All areas not occupied by structures, roadways or parking areas, walkways, bicycle paths, patios or other specific uses, shall be landscaped and maintained.*
- B. *Screen plantings, masonry wall, or fencing shall be provided to screen objectionable views effectively within a reasonable time. Views to be screened include laundry drying yards, garbage trash collection stations, and other similar uses.*
- C. *Other plantings of adequate size, quantity and character shall be planted and maintained to provide an attractive setting, adequate privacy and pleasant outlooks for dwelling units.*
- D. *It shall be the responsibility of the management to see that landscaped areas and yards are well maintained.*

FINDING: The proposed use is in an existing residential unit landscaped to current standards. **The provisions of this section have been met.**

8-3C.474 BUFFERING

When a development or use is proposed on property in the RM-22 zone, which abuts or is adjacent to a conflicting land use zone or an incompatible but permitted use within the same zone, the Planning Commission shall require a buffer sufficient to protect the intent of the adjacent zone or the integrity of the incompatible use. In many cases, a fence, wall, berm, hedge or screen planting along the property line closest to the conflicting use or zone will be sufficient. However, the type of buffer shall be considered in relation to existing and future land use, the degree of conflict between adjacent uses, and the amount of permanence desired. Buffers may consist of spatial separation, physical barriers, landscaping, building and window location and orientation, natural topography or other features. The greatest amount of buffering shall be required where necessary to protect an agricultural resource. Proposed buffers shall be subject to the approval of the Planning Commission, which shall review the buffering for adequacy and appropriateness as part of the site plan review process.

FINDING: The subject property is a very small single-family lot with approximately ten (10) feet of space between the adjacent dwelling to the east and directly connected by a common wall on the west. Other dwellings in the area have the same space separation due to the nature of the high density development. The proposed use is “residential” in nature and does not pose a threat as a conflicting or incompatible use and therefore does not require any additional buffering. **The provisions of this section have been met.**

8-3J.450 DEVELOPMENT STANDARDS—LANDSCAPING PLANNING

New subdivision or Site Development Plan Review applications subject to review by the Planning Commission shall include a plan for Street Trees along arterial, collector, and local streets and a general landscaping plan for all undeveloped areas on the property. The general landscape plan should consider the use of native and drought resistant species, erosion control, and water quality mitigation.

FINDING: The proposed use is in an existing residential unit that is landscaped to the current standards. **The provisions of this section have been met.**

8-3J.540 NUMBER OF PARKING SPACES REQUIRED

A. The number of off-street parking spaces required shall be not less than as set forth in (the following) Table 540-1, except as otherwise provided in this Article.

| <i>Use</i> | <i>Standard</i> |
|---|--|
| <i>Residential Uses.</i> | |
| <i>One- and two-bedroom dwelling unit</i> | <i>two (2) spaces per dwelling unit</i> |
| <i>greater-than-two-bedroom dwelling unit</i> | <i>two (2) spaces plus one (1) space per additional bedroom, up to five (5) spaces</i> |

The following parking shall be provided for disabled persons, in conformance with the Americans with Disabilities Act (Table 540-2). Disabled parking is in addition to the minimum number of required parking spaces in 8-3J.540(A). Handicapped parking spaces shall be located in a safe location in close proximity to a building entrance.

Table 540-2. Minimum Number of Accessible Parking Spaces
ADA Standards for Accessible Design 4.1.2 (5)

| <i>Total Number of Parking spaces Provided (per lot)</i> | <i>Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)</i> | <i>Van Accessible Parking Spaces with min. 96" wide access aisle</i> | <i>Accessible Parking Spaces with min. 60" wide access aisle</i> |
|--|---|--|--|
| | <i>Column A</i> | | |
| <i>1-25</i> | <i>1</i> | <i>1</i> | <i>0</i> |

FINDING: The property owner shall provide a minimum of one (1) handicapped parking space. The required handicapped stall must be in close proximity to the building, however, considering the very dense nature of the subdivision and that Tulipan Way is often congested, dedicating a handicapped space on the street is not appropriate.

As a condition of approval, the applicant shall prior to issuance of a business license, provide a revised site plan that identifies two (2) standard parking spaces and one (1) off-street handicap space. Handicap space shall be provided off-street or through a joint parking agreement in accordance with Section 8-3J.555 and shall meet the parking stall dimensions provided in Table 570-1. Use of a joint parking agreement for any required off-street parking shall require a City approved recorded deed, lease, contract or other appropriate document to establish the joint use. **The provisions of this section have been met subject to conditions of approval.**

8-3J.560 BICYCLE PARKING FACILITIES

Commercial/industrial facilities & multiple-family dwellings shall provide adequate, safe & conveniently located parking facilities for bicycles. All uses subject to Site Design Review shall provide bicycle parking in conformance with the following standards, which are evaluated during Site Design Review:

A. *Number of Bicycle Parking Spaces. A minimum of 2 bicycle parking spaces per use is required for all uses with greater than 10 vehicle parking spaces. The following additional standards apply to specific types of development:*

FINDING: The site plan with uses as proposed, requires two (2) spaces including the handicap parking stall. The proposed plan does not require ten (10) vehicle spaces and does not require bicycle parking. **The provisions of this section are not applicable.**

8-3L.150 REQUIRED FINDINGS FOR APPROVAL OF PLAN

After an examination of the site, the planner shall approve, or approve with conditions the site development plan if all of the following findings are made:

A. *All provisions of this Chapter and other applicable City ordinances and agreements are complied with.*

FINDING: The subject parcel is zoned Multiple Family-High Density which allows boarding and rooming houses not exceeding accommodations for five (5) residents. The proposed use is a vacation rental, which is similar in nature to that of a boarding or rooming house. The Planning Commission, pursuant to Section 8-3C.420(E) has determined that the allowed use and the proposed use are similar in nature and has also determined that vacation rental facilities may have specific licensing requirements by the State of Oregon. As a condition of approval, the applicant shall prior to issuance of a business license, provide Community Development with evidence from the Oregon Health Authority that the proposed vacation rental is licensed in accordance with ORS 624.020 and serves no more than five (5) guests or provide evidence from OHA that no licensing is required.

Talent Ordinance #556 approved on January 15, 1992 requires that all uses designed for occupancy by transients for lodging or sleeping, including a bed and breakfast pay a transient tax in the amount of six percent (6%) of the rent charged. As a condition of approval, the operator of the bed and breakfast shall register the transient tax with the City on a form provided by the City, within fifteen (15) days from the date of final approval of the Site Development Plan review. **The provisions of this section have been met subject to conditions of approval.**

B. *The proposed development will be in conformance with the intent and objectives of the zone in which it will be located.*

FINDING: According to TZC 8-3C.430 the Multiple Family High Density (RM-22) zone is intended to accommodate housing alternative to conventional housing and an area where small economic enterprises, such as home occupations can occur. The use of the property as a vacation rental is consistent with the provisions of this section. **The provisions of this section have been met.**

C. *All applicable portions of the City comprehensive plan or other adopted plan are complied with;*

FINDING: The proposed site development plan is consistent with the approval criteria addressed in this staff report and meets the overall intent of the Comprehensive Plan designation. **The provisions of this section have been met subject to conditions of approval.**

- D. *The proposed development will be compatible with or adequately buffered from other existing or contemplated uses of land in the surrounding area.*

FINDING: The proposed bed and breakfast is adjacent to other high density residential uses. Considering that the proposed use is “residential” in nature, no additional buffering is required. **The provisions of this section have been met.**

- E. *That no wastes, other than normal water runoff, will be conducted into City storm and wastewater facilities.*

FINDING: The proposed use utilizes an existing single family dwelling. No wastes, other than normal water runoff is anticipated. **The provisions of this section have been met.**

- F. *The following are arranged so that traffic congestion is avoided; pedestrian and vehicular safety, solar access, historic sites, and the public welfare and safety are protected; and there will be no adverse effect on surrounding property:*

- (1) buildings, structures, and improvements;*
- (2) vehicular and pedestrian ingress and egress, and internal circulation;*
- (3) parking and loading facilities;*
- (4) setbacks and views from structures;*
- (5) walls, fences, landscaping and street and shade trees;*
- (6) lighting and signs; and*
- (7) noise generation facilities and trash or garbage depositories.*

FINDING: The proposed site plan identifies two (2) off-street parking spaces. On-street parking is available, but would only be available on a first come, first served basis. Table 540-1 and 540-2 detail the required spaces for the use. Since there are only two (2) bedrooms and the proposed vacation rental is not a typical bed and breakfast housing multiple guest at one time, it can be assumed that the parking required would be consistent with that of a single family home.

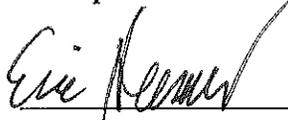
The proposed site plan does not include the construction of new buildings, structures or improvements and changes to the configuration of the parking and loading areas have not been proposed, therefore no new concerns of traffic safety are being created. **The provisions of this section have been met.**

- g) *The applicant has made any required street and other needed public facility and service improvements in conformance with the standards and improvements set forth in this Chapter and the applicable portions of the City Subdivision Code, or has provided for an adequate security arrangement with the city to ensure that such improvements will be made.*

FINDING: The proposal does not require any street related or other needed public facilities. **The provisions of this section are not applicable.**

This approval shall become final 14 days from the date this decision and supporting findings of fact are signed by the Chair of the Talent Planning Commission, below. A Planning Commission decision may be appealed to the Hearing's Officer within 14 days after the final order has been signed and mailed. An appeal of the Hearing's Officer decision must be submitted to the Land Use Board of Appeals within 21 days of the Hearing Officer's decision becoming final.

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.



Eric Heesacker
Chair

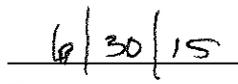


Date

ATTEST



Zac Moody
Community Development Director



Date