

City of Bandon

CITY COUNCIL AGENDA DOCUMENTATION	DATE: March 6 th , 2023
SUBJECT: ORDINANCE 1654 – AMENDING TITLE 16.12.090(K) OF THE BANDON MUNICIPAL CODE REGARDING VACATION RENTAL DWELLINGS AND ADDING A DEFINITION	ITEM NO: 4.2

BACKGROUND: The Planning Commission has forwarded a recommendation of approval on the amendments to Title 16.12.090(K) of the Bandon Municipal Code. The proposed code and justification can be found in the attached staff report and supporting materials.

FISCAL IMPACT: We do not anticipate any fiscal impact from the adoption of the proposed ordinance.

RECOMMENDATION: Hold a public hearing to take testimony on Amending Title 16.12 of the Bandon Municipal Code regarding the regulation of Vacation Rental Dwellings.

1. Request the City Attorney read Ordinance 1654 by Title only.
2. Motion 1: Pass Ordinance to a second reading by roll call vote.
3. If a full Council is present and the motion to pass to a second reading was approved unanimously, request the City Attorney read Ordinance 1654 by Title only for the second time.
4. Motion 2: Adopt Ordinance 1654 by roll call vote.

SUBMITTED BY:

Dana Nichols

Dana Nichols, *Planning Manager*

ORDINANCE 1654

AN ORDINANCE MAKING CHANGES TO TITLE 16.12 OF THE BANDON MUNICIPAL CODE REGULATING VACATION RENTAL DWELLINGS AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF BANDON ORDAINS AS FOLLOWS:

Title 16, Application Review Procedures and Approval Criteria

Section 1. 16.12, Conditional Uses, is amended to provide as follows (bold language is new, strikethrough is removed):

16.12.090(K):

Vacation Rental Dwellings. Vacation rental dwellings (VRDs) are a conditional use in the CD-1, CD-2, CD-3, and C-3 zones, and are subject to the requirements of this chapter. Conditional use permits are a discretionary decision by the City subject to review by the Planning Commission. ~~VRD's are not an outright permitted use in the CD-zones.~~

Definitions: "Owner" for the purposes of this chapter, means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred their property to a trust where the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a VRD permit. If the owner is a business entity such as a partnership, corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such person can have an ownership right, title, or interest in no more than one dwelling unit that has a VRD permit.

All vacation rental dwellings shall comply with the following ~~provisions~~ **approval criteria.**

- a. **VRDs are only allowed in single-family detached dwellings. The single-family detached dwelling proposed for the VRD Any dwelling proposed as a VRD shall be at least three years old, calculated from the date of issuance of a certificate of occupancy from the City of Bandon;**
- b. ~~Less than 30% of the single-family detached dwellings within 250 feet of the subject property, and located in a zone where VRD's are allowed, are VRD's;~~ **Including the subject property, the saturation rate within a 250-foot radius of the subject property must be less than 30%. The saturation rate is calculated using the following ratio:**

Numerator: Subject property + permitted VRD units (each unit within a multi-family VRD is counted individually)

Denominator: Subject property + eligible properties (single-family detached dwellings)

- c. ~~In the CD-1 zone, single-family detached dwellings~~ **units** proposed for VRD status may be

located only in the VRD-overlay zone as indicated on the attached map. VRD's are allowed as a conditional use in all areas of the CD-2, CD- 3, and C-3 zones;

- d. ~~The VRD Conditional Use Permit is valid for a specific owner of a specific dwelling the named applicant of record and is not transferable to a new applicant. Upon change in named applicant due to sale, transfer, or other reason, the CUP shall become null and void. A new applicant shall apply for a new conditional use permit;~~ **The permit shall become null and void when the owner sells or transfers the real property. No owner shall be issued a new VRD permit who holds another VRD permit;**

~~Tsunami Preparedness — all VRD's shall post the Bandon Tsunami Evacuation Route map in a conspicuous location within the dwelling;~~ **MOVED**

~~No more objectionable traffic, on-street parking, noise, smoke, light, dust, litter or odor is emitted from the VRD than a normal neighborhood dwelling;~~ **MOVED**

- e. ~~VRD's without shared private beach access shall provide written permission from all persons with an interest in a private beach access to be used by the VRD or positive action to notify renters of the location and required use of public beach access points shall be taken;~~
- f. ~~VRD's using a joint access driveway shall provide evidence that all other owners of property utilizing the private access agree to the proposed vacation rental dwelling using the private access;~~
- g. **The applicant shall provide evidence that the VRD's will be maintained at or above the level of surrounding dwellings in the neighborhood, including landscaping, signage and exterior maintenance;**
- h. **The applicant shall provide evidence that the property can accommodate VRD's shall have one off-street parking space for each bedroom in the VRD, but in no case have less than with a minimum of two off-street parking spaces. A bedroom is defined as an enclosed sleeping area with a built-in closet. Approved off-street parking areas shall be available to accommodate full occupancy of the VRD without the use of on-street parking. The Planning Commission may limit the allowable parking area and the number of parked cars allowed on-site;**

~~Evidence shall be provided ensuring that there is regular garbage removal from the premises;~~ **MOVED**

~~There shall be an owner or designated local management person immediately available to handle complaints and problems on a 24-hour basis. The name and contact information of the designated local management person shall be kept on file in the Police Department and Planning Department. The owner or management person shall be available by phone and physically able to respond to the VRD within a reasonable time period;~~ **MOVED**

~~Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done in accordance with the City of Bandon requirements;~~ **MOVED**

~~If the VRD activity ceases for a period of one year, or fails to be rented for more than 10 nights within a calendar year, as determined by the transient occupancy tax receipts and rental documentation, the VRD permit becomes null and void with no further proceedings;~~ **MOVED**

- ~~i. Occupancy of any VRD shall not exceed 3 people per bedroom up to a maximum of 10 people. The Planning Commission shall determine the maximum occupancy of the VRD based upon bedrooms, parking, overall home floor plan and site plan, and other factors determined by the Commission based upon neighborhood characteristics outlined in item 6 above and others deemed significant. The occupancy determined by the Planning Commission may be less than the maximum allowed;~~
- j. Property owners shall be required to comply with the requirements of all other permitting agencies.**

~~VRD's require a conditional use permit (CUP). All criteria for a CUP must be addressed and included as part of the application materials. The applicant shall also address the surrounding neighborhood and provide information how the proposed VRD is appropriate given the specific characteristics of the neighborhood.~~

~~The applicant shall provide an annual report to the Bandon Planning Department showing compliance with all conditions and ordinance requirements. Failure to provide such report shall result in revocation of the Conditional Use Permit.~~

~~Smoke detectors shall be provided in all potential and actual sleeping areas, whether or not such detectors are required by the building code.~~ **MOVED**

2. General Regulations:

- ~~a. There shall be an owner or designated local management person immediately available to handle complaints and problems on a 24-hour basis. Contact information of the designated local management person shall be updated annually and kept on file in the Police Department and Planning Department. The owner or management person shall be available by phone and physically able to respond to the VRD within a reasonable time period;~~
- ~~b. Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done in accordance with the City of Bandon requirements;~~
- ~~c. If the VRD activity ceases for a period of one year, or fails to be rented for more than 10 nights within a calendar year, as determined by the transient occupancy tax receipts and~~

rental documentation, the VRD permit becomes null and void ~~with no further~~ proceedings;

- d. **Carbon Monoxide and** smoke detectors shall be provided in all potential and actual sleeping areas, whether or not such detectors are required by the building code.*
- e. No more objectionable traffic, on-street parking, noise, smoke, light, dust, litter or odor may be emitted from the VRD than a normal neighborhood dwelling;*
- f. ~~Evidence shall be provided ensuring that there is regular garbage removal from the premises;~~ Weekly solid waste collection service shall be provided during all months that the dwelling is available as a rental pursuant to this chapter. The property must provide a 96-gallon receptacle for solid waste. Receptacles must be removed from City right-of-way within 24-hours after pick-up.*
- g. Tsunami Preparedness – all VRD’s shall post the Bandon Tsunami Evacuation Route map in a conspicuous location within the dwelling;*
- h. **At the direction of the City Manager, other informational materials may be required to be posted in a conspicuous location within the dwelling. The City shall provide such materials at no cost to the property owner.***
- i. **A rental permit shall be posted within the dwelling adjacent to the front door. The permit shall state the name, address, and telephone number of the contact person required by this chapter. The permit shall also identify the address of the VRD, the maximum number of occupants permitted to stay overnight, the day(s) established for solid waste collection, and non-emergency Bandon Police number.***

3. Compliance

- a. Vacation Rental Dwellings that are out of compliance with the requirements of 16.12.090(K)(2) as of the effective date of the ordinance codified in this section shall, within 120 days after said date, be brought into compliance.**
- b. Violation of the requirements specified herein shall constitute grounds for revocation of the permit. Additionally, the city may institute appropriate actions or proceedings to prevent, restrain, correct, abate, or remove and unlawful location of a vacation rental dwelling in violation of this chapter. The owner(s) of a building where a violation has been committed shall be guilty of a violation of this title and shall be subject upon conviction to a fine of \$750, per BMC 1.04. Each day under which the violation continues shall be considered a separate offense.**

Section 2. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference error contained herein or in other provisions of the Bandon Municipal Code, to the provisions added, amended, or repealed herein.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded back to the City Council for further action by the Oregon Land Use Board of Appeals, those sections, subsections, sentences, clauses, phrases or portions that do not require action on remand shall be deemed separate, distinct, and independent provisions and such remand shall not affect their validity or effect.

Section 4. This Ordinance shall take effect pursuant to Section 37 of the Bandon Charter, the thirtieth day after its enactment.

PASSED to a second reading this _____ day of _____ 2023 on a roll call vote, _____.

ADOPTED by the City Council this _____ day of _____ 2023 on a roll call vote, _____.

Mary Schamehorn, Mayor

Attest:

June Hinojosa, City Recorder

**STAFF REPORT
OF THE PLANNING DEPARTMENT
FOR THE CITY OF BANDON, OREGON**



FILE NUMBER: 22-120, Vacation Rental Dwelling Ordinance Update

REQUEST: Amend regulations regarding the operation of Vacation Rental Dwellings as found in Bandon Municipal Code 16.12.

LEAD CITY STAFF: Dana Nichols, Planning Manager

PUBLIC HEARING DATE: Planning Commission, January 26th & February 23rd, 2023
City Council, March 6th, 2023

NOTICING INFORMATION: PAPA Notice Submitted to DLCD on December 15th, 2022
Measure 56 Notice mailed to affected parties on December 9th, 2022
Notice published in The World on January 3rd, 2023
First Evidentiary Hearing on January 26th, 2023

APPLICABLE CRITERIA: BMC (Bandon Municipal Code) Chapter 16.32, Zone Changes and Amendments

Purpose of Staff Report:

Staff reports provide the reviewing body and community members with information regarding current land use requests and the staff’s analysis of the application. The staff report provides preliminary information and recommendations. The reviewing body will consider the staff report as well as public testimony and other materials submitted to the City in writing, when making decisions on the application.

I. Background

The Planning Commission has met in multiple work sessions and public hearings to discuss changes to Chapter 16.12 of the Bandon Municipal Code regulating Vacation Rental Dwellings as Conditional Uses. The initial purpose of this code amendment was to correct an “unintended consequence” of the 2018 code update that limited the saturation rate calculation to only include Vacation Rental Dwellings (VRDs) operating in single-family detached dwellings. In addition, the Commission recommended amending code language around trash collection, property maintenance, and “general regulations” that will apply to all Vacation Rentals, not just the newly approved.

For the saturation rate, the Commission, with much input from the community, settled on a definition that more clearly describes exactly how the rate is calculated. In the numerator of the ratio is the subject property (requesting to become a VRD) and each of the already permitted VRD units. In the denominator of the ratio is subject property and all eligible properties (single-family detached dwellings). If this number is less than 30%, then the property is deemed eligible to apply. The Planning Commission looked at modifying the 30% threshold but could not agree on a new number. They have recommended a range between 20% and 30%.

The Commission also discussed in detail the need for some sort of inspection regarding the safety of the building for commercial occupancy. Since the City does not have a building department in-house, it was initially challenging to figure out how to require a safety inspection of the property. Even if a property maintenance report were provided, city staff are not qualified building officials to determine what would need to be fixed and how it should be fixed. City Staff met with the Coos County Building Department, which now has a process in which a building permit is required before operation. To this end, the Planning Commission recommended a condition of approval that the property owners obtain all necessary permits from Coos County before they can begin operating.

Finally, we learned that most of our existing code provisions can only be applied to new VRDs, however there are some changes needed to ensure that those who are already operating in our community are operating safely. These new “general regulations” will go into effect upon adoption of the Ordinance and will be required for all operating Vacation Rentals. These are small asks, such as regular garbage service, posting of information materials pertinent to a specific issue (tsunamis, dunes, beach safety), and posting a rental permit inside of the dwelling with important information and contact numbers.

In addition to the approval criteria, the Commission has recommended a definition of “owner” as well as clarifying language for violation procedures. The new proposed code language is included below. A version that shows what has been removed, moved, modified, and added can be found in the attached Draft Ordinance.

II Proposed Ordinance Language

Add the following definitions to Chapter 16.12:

“Owner” for the purposes of this chapter, means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred their property to a trust where the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a VRD permit. If the owner is a business entity such as a partnership, corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such person can have an ownership right, title, or interest in no more than one dwelling unit that has a VRD permit.

Chapter 16.12 Conditional Uses

16.12.090(K) Vacation Rental Dwellings. Vacation rental dwellings (VRDs) are a conditional use in the CD-1, CD-2, CD-3 zones and C-3 zones, and are subject to the requirements of this chapter. Conditional use permits are a discretionary decision by the City subject to review by the Planning Commission.

1. All vacation rental dwellings shall comply with the following approval criteria:
 - a. VRDs are only allowed in single-family detached dwellings. Any dwelling proposed as a VRD shall be at least three years old, calculated from the date of issuance of a certificate of occupancy from the City of Bandon;
 - b. Including the subject property, the saturation rate within a 250-foot radius of the subject property must be less than 30%. The saturation rate is calculated using the following ratio:

Numerator: Subject property + permitted VRD units (each unit within a multi-family VRD is counted individually)

Denominator: Subject property + eligible properties (single-family detached dwellings)

- c. In the CD-1 zone, dwelling units proposed for VRD status may be located only in the VRD-overlay zone as indicated on the attached map. VRD's are allowed as a conditional use in all areas of the CD-2, CD- 3, and C-3 zones;
- d. The VRD Conditional Use Permit is valid for a specific owner of a specific dwelling and is not transferable. The permit shall become null and void when the owner sells or transfers the real property. No owner shall be issued a new VRD permit who holds another VRD permit;
- e. The applicant shall provide evidence that the VRD will be maintained at or above the level of surrounding dwellings in the neighborhood, including landscaping, signage and exterior maintenance;
- f. VRD's with shared private beach access shall provide written permission from all persons with an interest in a shared private beach access to be used by the VRD or positive action to notify renters of the location and required use of public beach access points shall be taken;
- g. VRD's using a joint access driveway shall provide evidence that all other owners of property utilizing the private access agree to the proposed vacation rental dwelling using the private access;
- h. Occupancy of any VRD shall not exceed 3 people per bedroom up to a maximum of 10 people. The occupancy determined by the Planning Commission may be less than the maximum allowed.
- i. Applicant shall provide evidence that property can accommodate one off-street parking space for each bedroom in the VRD, with a minimum of two off-street parking spaces. A bedroom is defined as an enclosed sleeping area with a built-in closet. Approved off-street parking areas shall be available to accommodate full occupancy of the VRD

without the use of on-street parking. The Planning Commission may limit the allowable parking area and the number of parked cars allowed on-site;

- j. Property owners shall be required to comply with the requirements of all other permitting agencies.

2. General Regulations

- a. There shall be an owner or designated local management person immediately available to handle complaints and problems on a 24-hour basis. Contact information of the designated local management person shall be updated annually and kept on file in the Planning Department. The owner or management person shall be available by phone and physically able to respond to the VRD within a reasonable time period;
- b. Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done in accordance with the City of Bandon requirements;
- c. If the VRD activity ceases for a period of one year, or fails to be rented for more than 10 nights within a calendar year, as determined by the transient occupancy tax receipts and rental documentation, the VRD permit becomes null and void;
- d. Carbon Monoxide and smoke detectors shall be provided in all potential and actual sleeping areas, whether or not such detectors are required by the building code.
- e. No more objectionable traffic, on-street parking, noise, smoke, light, dust, litter or odor may be emitted from the VRD than a normal neighborhood dwelling;
- f. Weekly solid waste collection service shall be provided during all months that the dwelling is available as a rental pursuant to this chapter. The property must provide a 96-gallon receptacle for solid waste. Receptacles must be removed from City right-of-way within 24-hours after pick-up.
- g. Tsunami Preparedness – all VRD’s shall post the Bandon Tsunami Evacuation Route map in a conspicuous location within the dwelling;
- h. At the direction of the City Manager, other informational materials may be required to be posted in a conspicuous location within the dwelling. The City shall provide such materials at no cost to the property owner.
- i. A rental permit shall be posted within the dwelling adjacent to the front door. The permit shall state the name, address, and telephone number of the contact person required by this chapter. The permit shall also identify the address of the VRD, the maximum number of occupants permitted to stay overnight, the day(s) established for solid waste collection, and non-emergency Bandon Police number.

3. Compliance

- a. Vacation Rental Dwellings that are out of compliance with the requirements of 16.12.090(K)(2) as of the effective date of the ordinance codified in this section shall, within 120 days after said date, be brought into compliance.

- b. Violation of the requirements specified herein shall constitute grounds for revocation of the permit. Additionally, the city may institute appropriate actions or proceedings to prevent, restrain, correct, abate, or remove and unlawful location of a vacation rental dwelling in violation of this chapter. The owner(s) of a building where a violation has been committed shall be guilty of a violation of this title and shall be subject upon conviction to a fine of \$750, per BMC 1.04. Each day under which the violation continues shall be considered a separate offense.

III. Procedural – Required Burden of Proof

The proposed ordinance will amend Title 17. A legislative amendment is subject to Chapter 16.32.020 of the Bandon Municipal Code, which is as follows:

The Planning Commission (and ultimately the City Council) shall, *“review the proposed amendments to the text of the zoning ordinance to determine consistency with the comprehensive plan and that the amendment will not adversely affect the city’s or the developer’s ability to satisfy land use, transportation and utility service needs or capacities. The proposed amendment shall also be reviewed to determine the suitability of the uses proposed in terms of slope, geologic stability, flood hazard, wetlands, and other relevant hazard or resource considerations.”*

The Comprehensive Plan encourages and allows tourist-commercial uses throughout the Controlled Development and Commercial zones. In the CD-1 and CD-2 zones, commercial uses are intended to account for approximately 10% of future development, which includes Vacation Rentals.

Staff finds that the proposed amendment is consistent with the City Comprehensive Plan and that the amendment will not adversely affect city development.

IV. Recommendations

Staff recommends approval of the Ordinance as proposed. A potential motion can be found in the cover sheet.



MEASURE 56 LAND USE PUBLIC HEARING NOTICE

THIS IS TO NOTIFY YOU THAT THE CITY OF BANDON HAS PROPOSED A LAND USE THAT MAY AFFECT THE PERMISSIBLE LAND USES OF YOUR PROPERTY AND OTHER PROPERTIES.

CITY OF BANDON
555 HWY 101
P.O. BOX 67
BANDON, OR 97411
(541) 347-7922
www.cityofbandon.org

The City of Bandon has determined that adoption of a proposed ordinance may affect the permissible uses of your property and other properties in the affected zone(s) and may change the value of your property. The Bandon Planning Commission will conduct a Public Hearing on this proposal on January 26th, 2023. The Bandon City Council is scheduled to conduct a Public Hearing on this proposal on March 6th, 2023.

Location: Both meetings will begin at 7:00 PM with public hearings conducted in-person at the City Hall Council Chamber and through Zoom.

Link to Zoom meeting:

<https://us02web.zoom.us/j/2157059460>

Meeting ID: 215 705 9460

Written comments are encouraged and may be submitted to the planning department by mail, by emailing: planning@cityofbandon.org, or in-person at City Hall. Availability to attend meetings in person will be posted on the meeting agendas.

Background & Proposal:

The City of Bandon is considering an ordinance amendment to Bandon Municipal Code Chapter 16.12, Conditional Uses, the regulation of Vacation Rental Dwellings (VRDs) in the CD-1, CD-2, CD-3, and C-3 zones. The proposed ordinance is available for inspection at the City of Bandon Planning Department at no cost, or hard copies can be made available for purchase at the actual cost of copying. A copy of the Staff Report will be available for inspection at the City of Bandon Planning Department at no cost at least one week prior to the public hearing.

The proposed ordinance includes language clarifying the way the City calculates the saturation rate, mandates what "adequate trash service" involves, fixes parking language, and

refines the definition of "owner." Further, the ordinance will require that all VRD owners come into compliance with basic safety regulations, such as having fire and carbon monoxide alarms, posting tsunami evacuation maps, and listing important contact and safety information inside the home. The ordinance will also include a compliance section that defines the process and fine for a violation of this code.

You have received this notice because you are the listed property owner or agent of a property that may be impacted by the proposed ordinance. Properties affected include those in the Controlled Development 1, 2, and 3 zones, as well as Marine Commercial.

Hearing Procedure: This legislative hearing is pursuant to the requirements described in Bandon Municipal Code 16.04. The application, all documents and evidence relied upon by the applicant (City of Bandon), and the applicable criteria, are available for inspection at no cost through the City of Bandon website. Copies of these materials will be provided at the actual cost of printing upon request.

About this notice: *In 1998, Oregon's voters passed a law known as Ballot Measure 56, which requires legal notices, like this one, to be mailed to landowners when a change in land-use laws might limit the use of their property. Generic legal language is mandatory for all mailings under Measure 56 law. The above sentence, "The City of Bandon has determined that proposed land use changes may change the value of your property." is mandatory language that the City must include, however; the City of Bandon does not know how these amendments might affect the value of your property, if at all.*

For more information see the City's website or contact the Bandon Planning Department by email: planning@cityofbandon.org or phone (541) 347-7922.

Mailed: December 9th, 2022

Public Comment

February 14, 2023

Good Morning Commissioners,

My name is Bill Frey and I live here in Bandon at 1235 Wavecrest Lane SW.

I am writing you in regards to your upcoming February 23, 2023 Planning Commission meeting, specifically about the proposed revisions to the Bandon Municipal Code Chapter 16.12, relating to the saturation rate calculation pertaining to Vacation Rental Dwellings (VRDs).

At the September 19, 2022 Joint Planning Commission and City Council work session, I believe that all Commissioners and Councilors in attendance were in agreement that the methodology currently used in calculating VRD saturation rates needed to be revised, so that all existing VRDs (including those in multi-unit dwellings), and the subject property requesting VRD status, be included in the calculation.

Since this September 19 session, there have been multiple discussions and proposals regarding additional Code revisions relating to VRDs. From my perspective of the discussions, some of these proposals may not be ready for final approval at this time.

In order to move forward on the Code revisions that appear to be favored by both the Commission and Council, I urge the Planning Commission to approve at your upcoming meeting those revisions relating to the saturation rate calculation, so they may be further addressed and, hopefully, approved by the City Council at their March 6, 2023 meeting.

Any other pending Code revisions that are agreed-upon at your February meeting can also be forwarded to the City Council, with any remaining revisions that may need additional review or consideration deferred for later action. As has been stated by the City Staff, the Codes should be reviewed from time-to-time, so this should not be the last time this Code is reviewed and revised. In my opinion, it is best to approve the issues in which seemingly all are in agreement, and continue to review those where there is still some debate.

Thank you for your time and effort spent on this matter. I look forward to your approval this month of these important changes to VRD saturation rate calculations.

Best regards,

Bill Frey



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LLC

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Langlois, OR 97450
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E: info@southcoastconsultingllc.com
W: www.southcoastconsultingllc.com

Land Use Consulting - Permitting Assistance - Project Management - Feasibility & Project Analysis

City of Bandon
Attn: Planning Commission
Planning@cityofbandon.org

Re: 22-120 Vacation Rental (VRD) Ordinance Amendment – Public Comment

Bandon Planning Commissioners,

Please accept this letter as public comment for the pending ordinance amendment concerning Vacation Rental Dwellings. I am compelled to share my concerns with you, as a land use professional and former city planner for the City of Bandon.

I urge you to explore whether the policies you are helping to create can be effectively *enforced*, and consider what unintended consequences these policies will have on the community. VRDs are a small but important part of Bandon's economy. They provide residents with a myriad of employment opportunities that may otherwise not exist. They are a significant source of revenue for the local government. Although their impact on neighborhoods may be high at times, their impact on the community is low in comparison to other types of tourist accommodations (hotels/motels).

Based on historic planning department reports, VRD applications are a negligible part of staff's workload. Historical police department and code compliance reports also indicate that VRDs have a minimal impact to their case loads, despite 'property crime' being listed as the highest factor in Bandon's community crime rating. Since occupied houses are less likely to be victimized, a different approach to regulating VRDs could benefit not only the community's crime rating, but could also be a potential long-term cost savings in community policing. These departmental reports indicate that the City is neither flooded with new VRD applications, nor struggling to manage a barrage of complaints about existing VRDs.

Recent Census data lists a large number of vacant homes inside Bandon's city limits at values substantially higher than Bandon's affordable or workforce housing targets. These vacant properties will not influence the community's housing needs, and they contribute almost nothing to the local economy in their vacant states, but they are untapped Transient Occupancy Tax (TOT) revenue potential if they were able to become VRDs. Rather than continuing to regulate VRDs to death, biting the proverbial hand that feeds the City, consider:

- (1) Creating an alternate Administrative (Type II) approval process that is dependent on neighborhood participation and consent, rather than overcomplicated saturation

calculations.

- (2) Utilizing the existing Quasi-Judicial (Type III) approval process only for properties that cannot obtain Type II approval, and add requirements for neighborhood participation and consent.
- (3) Adopting a penalty for violating the VRD ordinance that encourages long term compliance, separate or in alignment with what already exists in BMC 1.16.
- (4) Clearly defining application requirements in your VRD ordinance and use the elements of the application to enforce the ordinance. (Ex: a required safety features checklist, an agreement to post licenses, etc.)
- (5) Eliminate the administrative issue of determining a property's VRD eligibility and/or status by allowing the VRD Conditional Use Permit to once again 'run with the land', with a required annual reinstatement fee. Or create a permit expiration that is based on a recorded sale of the property, which is public record, rather than redefining what is an 'owner'.
- (6) Not limiting the number of VRDs an individual or entity can own or operate in Bandon, unless this regulation will apply to other types of permitted tourist accommodations and commercial uses in the CD-1, CD-2, CD-3, and C-3 zones.

VRDs are costly, long-term investments for a large majority of property owners and the TOT's they generate benefit the community as a whole. Property owners go to great lengths to satisfy not only Bandon's land use regulations, but also the local health department, State Fire Marshal, and other agencies tasked with minimizing liability and protecting interests.

Rather than taking the overly regulatory approach, consuming more of the City's limited resources and compounding administration and enforcement issues; why not focus on what is known about the 99% of compliant VRDs and amend the ordinance to better suit the community as a whole, based on available data, the documented economic needs of the community, and the public interest before you.

Respectfully,



Megan Lawrence
Owner
South Coast Consulting LLC

Dana Nichols

From: Jill P <mizjp123@yahoo.com> on behalf of Jill P
Sent: Tuesday, January 24, 2023 10:31 AM
To: planning@cityofbandon.org
Subject: Short term rental public input

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

I received a mailed notification about a possible change in the short term rental policy.

I would like to share a few comments and concerns.

1) The impact of visitor density on the dunes

2) Trash disposal issues - guests/dogs

3) Trash disposal issues- blown over cans.

I appreciate your time to consider these concerns.

I believe that The saturation level of short term rentals in the Jetty area is far denser than the city intended due to the peninsular structure of the jetty housing and the housing density of the area.

There are many vacant lots and many of the existing houses border undeveloped areas. This area is heavily impacted by the ratio of short term rental properties.

The dune areas are of particular concern- people are taking short cuts to view or access the beach and beating paths on the dunes. There is signage but the foot traffic is still occurring regularly. The dune area near our home has become a worn pathway to the beach. Like everyone on this jetty, these homes sit in a lowland and the dunes are our only protection against flooding.

There's been an uptick in this activity since Covid restrictions have eased. It includes people coming directly from short term rental homes. I'd like to mention that It doesn't take many rule breakers to have a negative impact. Since the turnover of guests is rapid, there are a lot of visitors in the small jetty area. The more worn out the path gets, the more likely it is to be utilized by others.

We are concerned about the degradation of the fragile dune habitat with the foot traffic erosion.

2) The only public trash cans in the jetty area are in the parking lot.

Is it possible to get another one at the top and the base of the Madison paved footpath?

It's not uncommon to encounter litter or a bag or two of doggy doodles that have been bagged up and then abandoned.

3) It's worth mentioning that sometimes the short term rental trash cans are put out on the street but blow over in strong winds and scatter the garbage before the cans are picked up. There's no resident to check them for these unexpected incidents.

We appreciate that you have taken the time to hear our concerns.

Thanks,
Jill Pettigrew
760/468-1144

410 Madison SW



1-25-23

City of Bandon
Attn: Planning Department
555 Hwy 101
Bandon OR. 97411

Planning Commission and Staff,

I am submitting this letter as public comment specific to the proposed ordinance amendment to Vacation Rental Dwellings (VRD).

As a former planning commissioner and design / construction professional working on planning and construction developments throughout Oregon for the past 12 years, I am concerned with the direction taken by the planning department to revise parts of the VRD ordinance. Currently there exists an extensive list of criteria that must be met in order for a single family residence to be considered for a VRD permit. While I understand the need to clarify existing requirements to aid in the administration and enforcement of the VRD Ordinance, I believe other proposed revisions to the ordinance to be unnecessary:

1. *Amend code to allow PC to set a maximum of cars allowed in parking areas.*

If a VRD is a commercial use (per Bandon Municipal Code) why are the City's existing commercial parking standards not used? Potential street/public parking is not considered in any other residential or commercial parking requirement, in any zone in Bandon, which is an equitable for the taxpayers of the community who fund the construction and maintenance of public streets, and who have the right to use them. The existing VRD ordinance (and codified parking standards) puts the impact of a property's use on the subject property, rather than the surrounding neighborhood or public rights-of-way. It fails to protect the existing neighborhood by only requiring VRDs to have a 'minimum' amount of off-street parking, but does not specify an on-site parking maximum, which creates the potential for over-flow parking problems, clogging up neighborhood streets and creating safety issues. VRD owners agree when they apply for a CUP and when they receive conditional approval, to conform with the characteristics of the surrounding neighborhood, and to not create adverse impacts. If a VRD is violating these conditions of approval, does that mean the ordinance is ineffective? Or could it be that the City's administration and enforcement of the VRD ordinance is inadequate?

2. *Better define who an "owner" is.*

An owner, whether an individual, partnership, LLC, etc. is, irrelevant to the ordinance. What is the detrimental effect to the community if all of the VRD's are "hypothetically" owned by one entity? As long as they are complying with their conditions of approval and integrating into their surrounding neighborhoods, why does it matter who the owner is? I have always considered the basis of the VRD ordinance to protect the residential characteristics of the neighborhood. For a local government to attempt to limit who can and cannot purchase real estate within its city limits, is a gross violation of power. If the commission wishes to prevent a "perpetual" vacation rental, then enforce the existing administrative process for regulating VRDs after they are approved, and hold owners accountable for complying with the rules.



3. Rewrite "saturation rate" calculation for clarity and consistency. Lower

VRD's are only allowed in specific zones in Bandon. Those zones have been identified as the best locations for mixed commercial/residential uses, and for establishing and maintaining groupings of VRD's. These zones mostly contain real estate that could never meet the requirements of needed / workforce housing in Bandon, as the cost of such property is not feasible to the median income of Coos County. The Proposed reduction of the saturation rate will only increase the both the value and the rental rates of the existing VRD's. If the existing VRD saturation rate is too difficult to determine and enforce, then eliminate it. Instead, consider placing more emphasis a potential VRD proving how it will conform with the existing surroundings.

As noted prior, having been a former planning commissioner for the City of Bandon, I understand that the title of commissioner comes with a serious responsibility to work in the best interest of the community. Planning staff and the planning commission hold a great deal of authority over Bandon's existing and future development. While VRD's have been a contentious issue since inception, the underlying fact is that successful implementation and enforcement of the ordinance should be the primary goal, which guarantees preservation of the community's characteristics and values.

Thank you for your time and service to the community.

Sincerely,

David Reed
541-551-0057

Dana Nichols

From: 541carla@gmail.com
Sent: Thursday, January 19, 2023 6:28 PM
To: planning@cityofbandon.org
Subject: Proposed amendment to Chapter 16.12

Flag Status: Flagged

We received notice of the proposed amendment regarding VRD's and would like to submit comments to that. I appreciate the clarification of some sections of the proposed changes. However it is unclear which parts refer to new VRD applications, and which to all VRD's, including existing ones. For example, Does Section 1 apply only to new applications for approval? Does section 2, General Regulations, apply to new and existing VRD's? Also, the new definition of "owner" appears to apply to new applicants only, and not VRD's already licensed, but that is not clear.

Many of the regulations are intended to keep VRD's as good neighbors and allow guests to safely enjoy Bandon in many of the same ways that our residents do. We appreciate that and hope to offer a safe, fun setting for families and friends to visit Bandon. The rules are now also geared to limit VRD density.

However, there has been a disturbing trend to also limit personal property rights.

- Section 1.d forbids the selling the ability to keep the permit along with the property, thereby decreasing potential sales and the value of the property. A restaurant owner can sell their business, but a property owner who manages a successful vacation rental business cannot sell that business. It would be reasonable to allow for a transition approval process, to ensure that the new owner understands the rules and agrees to abide by them.
- The new definition of Owner forbids a single person from owning more than one VRD. Can a person only own one hotel? One restaurant? One store? One of any other type of business? I would be interested to understand the rationale of this proposed definition and why this prejudice is presented as necessary.

The city of Bandon recently changed the transient occupancy tax from 6% to 9.5%, to get more tax revenue from our visitors. However the city seems to want to reduce the number of family visitors by limiting the number of homes people can rent to enjoy a vacation in Bandon. Vacation rental homes are one of the fastest growing lodging segments. They will just go to another town; is that the Plan?

Carla Smith
541carla@gmail.com
541-520-5821

Dana Nichols

From: Colleen Welch <cncbears@gmail.com> on behalf of Colleen Welch
Sent: Friday, November 18, 2022 10:01 PM
To: Dana Nichols
Cc: Denise Frazier; Kathy Frey; Bill Frey
Subject: VRD Calculations
Attachments: 1250TishATangSaturationMapNumbered.jpg

Follow Up Flag: Follow up
Flag Status: Completed

Hi Dana,

Thanks again for all your hard work on getting the code updated. It is very much appreciated. As we talked about after the meeting, here's some examples of the various density calculations. Attached is the density map for 1250 Tish A Tang that was given to us earlier this year.

The density calculation as interpreted in May was $(3/14) = 23.1\%$.

Including the subject property in the numerator and denominator it becomes $(4/15) = 26.7\%$

Counting the multi family VRDs in the calculation (as 1 license/dwelling) without the subject property $(5/15) = 33.3\%$

Counting the multi family VRDs in the calculation (as 1 license/dwelling) with the subject property $(6/16) = 37.5\%$

Counting the mutli family VRDS in the calculation with the number of units (property 2 is a duplex, property 1 is a triplex) without the subject property $(8/18) = 44.4\%$

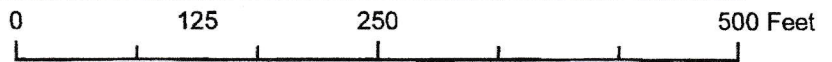
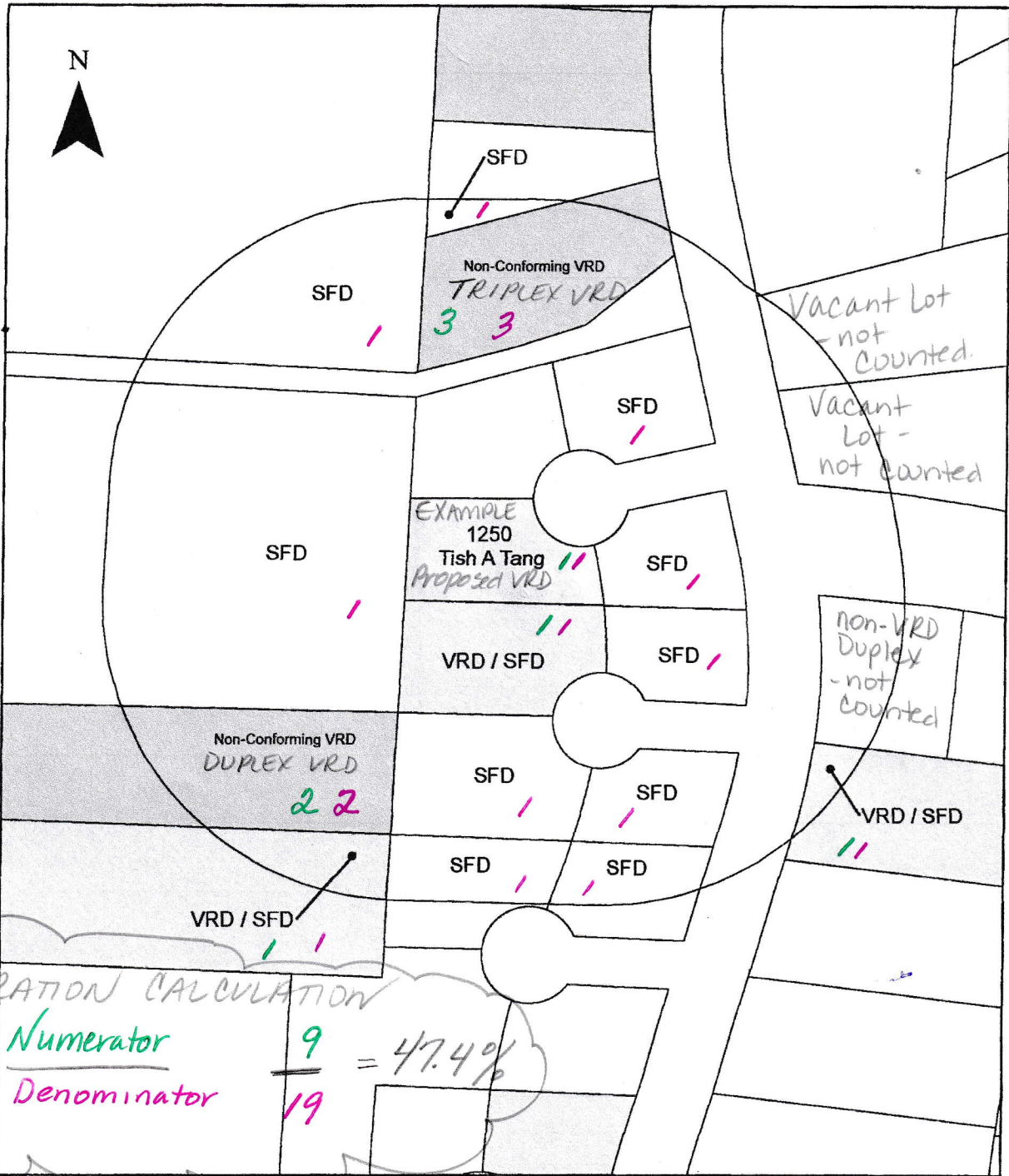
Counting the mutli family VRDS in the calculation with the number of units (property 2 is a duplex, property 1 is a triplex) with the subject property $(9/19) = 47.4\%$

Please let me know if you have any questions, or if I can help in any way.

Thanks,
Colleen

EXAMPLE ONLY

Saturation Study: 1250 Tish A Tang = Proposed VRD



Legend

- 1250 Tish A Tang
- 250' Buffer
- VRDs
- Nonconforming VRDs

~~Saturation Calculation~~

13 SFDs
3 VRDs

3 VRDs / 14 SFDs = 23.1% Saturation Rate

Section 16.12.090.K Saturation Calculation

This is hard to articulate without the use of detailed language and examples because the non-conforming/grandfathered VRDs need to be counted in both numerator and denominator, but non-VRD duplexes or multi-unit dwellings, such as The Colony, should not be counted in either. Additionally, if only two units of a triplex are being used as a VRD (non-conforming), the calculation would be 2/3.

As much as we want to use as little language as possible, there are so many parts to this situation, it needs to be stated clearly. If we get away from the use of the term 'non-conforming' or 'grandfathered' VRD, which, in reality, is what they are, we may run the risk of another unintended consequence or mis-interpretation.

PROPOSED CHANGE – 12/19/22:

Less than ~~[20/25/30]~~30% of the ~~single-family detached~~ dwellings units within 250 feet of the subject property, and located in a zone where VRD's are allowed, ~~are~~may be permitted, designated or used as a VRD's, including the subject property and any non-conforming or grandfathered VRDs. For the purposes of this calculation, the numerator shall be made up of the following: All VRDs, including all permitted, designated, nonconforming or grandfathered VRDs, within the 250 feet radius, plus the subject property. The denominator shall be made up of the following: All single-family dwellings within the 250 feet radius, including the subject property, and any nonconforming or grandfathered VRDs. Further, for the purposes of this calculation, for those nonconforming or grandfathered VRDs that contain multiple units, each unit used as a VRD shall be included as a VRD in the numerator, with each overall unit included in the denominator.

Minutes

Regular Meeting of the Planning Commission at Bandon City Hall and via Zoom Meetings January 26, 2023

COMMISSION:

- Sally Jurkowski, Vice Chair
- Ed Landucci, Commissioner
- Gordon Norman, Commissioner
- Tom Orsi, Commissioner
- Catherine Scobby, Commissioner
- Gerald “Bear” Slothower, Chair
- Donald Starbuck Commissioner

STAFF:

- Dan Chandler, City Manager
- Shala Kudlac, City Attorney
- June Hinojosa, City Recorder
- Dana Nichols, Planning Manager
- Kristan Liechti, Planner

1.0 CALL TO ORDER

Slothower called the meeting to order at 7:02 p.m.

2.0 ROLL CALL

Roll Call was taken as indicated above. All members were present in the Council Chambers.

3.0 CONSENT AGENDA

3.1 Regular Meeting Minutes – December 15, 2022

Hearing no objection, Slothower approved the December 15, 2022, Regular Meeting Minutes.

4.0 PUBLIC COMMENT (None)

5.0 PUBLIC HEARINGS

5.1 Type IV, Amendment to Bandon Municipal Code Chapter 16.12, regulating Vacation Rental Dwellings in the CD-1, CD-2, CD-3, and C-3 Zones – 22-120

Slothower opened the Public Hearing at 7:04 p.m. and read aloud the procedures for public comments.

Nichols provided the Staff Report. She began by offering a brief review of what prompted the proposed changes to the City’s Vacation Rental Dwelling (VRD) regulations. The last update to the VRD ordinance came in 2018, and Nichols said the intent was to refine the existing VRD code and provide clarity and structure. These changes had been made at that time:

- For an “existing single-family detached dwelling” to be eligible to become a VRD, it had to be at least three years old.
- “Single-family detached dwellings” were to be the only dwellings eligible for VRD status. Duplexes and attached condos or townhomes were excluded.
- An overlay was created in the CD-1 zone that limited VRDs to the area adjacent to and accessed by Beach Loop Drive. Some residential areas that had been eligible for VRDs were not permitted to have new VRDs.
- VRD permits were limited to specific applicants or owners and could not be transferred upon sale to a new owner.
- Maximum occupancy would ultimately be determined by the Planning Commission, based on specific site and neighborhood characteristics.

Nichols acknowledged that there was an unintended consequence to the 2018 VRD code update. The VRD saturation rate calculation did not count the vacation rentals that were operating in something other than a single-family detached dwelling.

After numerous Work Session discussions, Staff produced proposed ordinance language that was designed to remedy some of the persistent issues surrounding VRD applications. The following changes were recommended:

- Clarifying the saturation rate calculation by including the subject property and all existing VRD units.
- The Planning Commission would be able to limit the allowable parking area for a VRD and the number of parked vehicles allowed on-site.
- To try to eliminate some of the trash issues, VRDs would be required to have a 96-gallon trash can, which would have to be removed from the City's right-of-way within 24 hours of garbage being picked up.
- VRD owners would have to request a change of use from the Coos County Building Department, which would trigger an inspection that would help allay some safety concerns.
- A rental permit would have to be posted inside each VRD, near the door, with emergency contact information.
- General life/safety requirements, such as smoke and carbon monoxide detectors and tsunami information, would be required in existing VRDs as well as new ones.
- A new definition of "owner" would only allow one VRD per owner.

Nichols discussed the VRD saturation rate in detail. The existing code allowed a dwelling to be permitted as a VRD if less than 30 percent of the single-family detached dwellings (SFDs) within 250 feet of the subject property, and located in a zone where VRDs were allowed, were already VRDs. The proposed language would include the subject property in the calculation and would lower the allowable saturation to less than 20 percent. The new ratio would be calculated using the subject property plus all permitted VRD units within a 250-foot radius as the numerator, with the denominator being the sum of the subject property and all eligible properties (SFDs) within 250 feet. If a multi-family dwelling within that radius contained more than one vacation rental, each unit operating as a VRD would be counted in the numerator, but the denominator would only reflect SFDs.

Nichols showed maps that illustrated how three hypothetical VRD applications would have been allowed under existing density criteria but rejected under the proposed standards. In the first example, near the northern end of Beach Loop Drive, a multi-unit dwelling that did not count in the existing calculation was the only VRD in the neighborhood, so the ratio was zero percent. With the subject property and each unit of the duplex included in the proposed calculation, the ratio came to 27 percent. Under the proposed change, the application would be rejected. In a second example, near the intersection of Beach Loop Drive and Seabird Drive, the inclusion of every vacation rental unit in two multi-family dwellings caused the ratio to jump from 23 percent to 57 percent. In a third location, where the subject property was near Strawberry Drive and Beach Loop Drive, incorporating the units in a duplex and counting the subject property increased the saturation rate from 19 percent to 33 percent, disqualifying the hypothetical application.

Nichols reminded the Commissioners that their previous discussion had focused on limiting the number of VRDs by lowering the saturation rate, possibly to 20 percent. She suggested that they might consider leaving the rate at 30 percent because the proposed calculation would accomplish their goal.

Nichols noted that the Coos County Building Department staff had requested a meeting with all cities in the county to discuss the various ways they regulated VRDs. Since that meeting was not going to take place until January 31, Staff recommended continuing its Public Hearing until its next Regular Meeting, February 23, 2023, to allow for input from the January 31 meeting.

Concluding her report, Nichols mentioned that there had been some concern about people trampling the dunes on the Jetty. Since some of that could be attributed to visitors staying at VRDs on the Jetty, she thought an information sheet advising people how to get to the beach without trampling the dunes could be included in the materials to be posted in VRDs on the Jetty. Nichols suggested the ordinance would not have to specify which documents had to be posted, merely that the VRDs would be required to post whatever the City Manager requested.

Responding to a question from Norman, Nichols clarified that the new saturation calculation did not include unpermitted VRDs, but it did include each permitted vacation rental unit in a multiple-unit dwelling. They were not previously being counted because they were considered nonconforming. That change alone typically would result in a higher saturation ratio. Nichols stressed that anyone operating a VRD illegally would be told to stop.

Slothower invited public comment.

Colleen Welch, 1275 Tish A Tang Lane SW, Bandon, OR 97411

Welch thanked the Commissioners for their hard work in the process of updating the City's VRD ordinance. She appreciated the distinction being made between "units" and "dwellings," but she urged Staff to spell out the meaning of units more clearly to avert future misinterpretation of the saturation calculation. Welch suggested defining a duplex as two units, a triplex as three, etc.

Kathy Frey, 1235 Wavcrest Lane SW, Bandon, OR 97411

Frey also thanked the Commission for taking up the VRD saturation issue. Along the lines of Welch's suggestion, she offered an example of language that could be incorporated in the section pertaining to the saturation calculation: "Each unit used as a VRD shall be included in the numerator."

Tom Stadelman, 447 Ohio Avenue SE, Bandon, OR 97411

Stadelman noted that the City did not allow the construction of a new vacation home. He favored allowing someone to build a vacation home with the possibility they might move to Bandon at a later time. Stadelman thought that would give someone "an opportunity to build now, put more money into the City coffers" through permit fees and other charges. He pointed out that there were many homes in Bandon that sat vacant throughout the year, especially along Beach Loop Drive. Stadelman contended that vacation homes brought people to the community and to spend money at local businesses. "We don't want a bunch of empty homes, necessarily," he said.

Asked by Norman if he disagreed with changing the saturation rate and would prefer see more homes being vacation rentals, rather than staying empty, Stadelman replied that having a higher saturation rate would be better for the community because it would bring more people to Bandon to support restaurants, grocery stores, clothing stores, and shops in Old Town.

Landucci observed, "A lot of those homes on Beach Loop that are vacant are vacant on purpose, because...people come up, they buy a home...and rent it out. There's such a demand right now for rentals." He added, "Anybody can have a vacation rental as long as it conforms with existing law."

Stadelman responded that rentals on Beach Loop Drive were expensive and would not be appropriate for the workforce housing Bandon needed. "We need to think about, 'How do we make our town more attractive, to have more visitors here, spending money?'" he emphasized.

Given the number of motels in Bandon, Norman asked if Stadelman thought vacation rentals really added that much business.

Stadelman answered that every hotel was full in the summer. “To have added ability to house people is a good thing” during the summer, he stated.

Pamela Jensen, 1350 Beach Loop Drive SW, Bandon, OR 97411

Jensen told the Commissioners she lived near Queen Ann Court and was “inundated” by vacation rentals and part-time homes. Between the two, she said, “We are not a neighborhood. And my concern is, when you allow so many vacation rentals, you lose the sense of a neighborhood. And you don’t have people who come and set down roots and volunteer and participate in the community.” She added, “We need to balance what’s good for the people of the community and the tourists that are coming.”

Jensen asked if hotels and motels were considered vacation rentals. Nichols replied that they were not. Next, she asked if a vacation rental managed by a hotel was considered a vacation rental, and Nichols answered that it would depend on how its vacation rental permit was obtained. In some instances, a VRD was managed by a motel or hotel; in one case, a single-family residential dwelling became a unit of a motel. Nichols pointed out that motel units were not counted in the VRD saturation ratio; only residential properties were.

Jensen thought the City was not addressing AirBnBs, but Nichols told her that Staff did track the vacation rental listings on AirBnB and VRBO, among other websites, and most of the VRDs in Bandon were listed on those sites.

Brad Owens, 875 10th Street SW, Bandon, OR 97411

Owens noted that he was employed by a vacation rental company in Bandon. “I live in a residential zone,” he commented, “and I have people on both sides of me that have dogs that bark.” Owens went on to describe loud music and other annoyances in his neighborhood. He pointed out, “These people aren’t going to have their income taken away from them because of that, and we don’t think that they hate Bandon because of that. But it does seem to be that when a vacation rental does similar things, that we...feel like they hate Bandon for that.” He added, “I would argue that it would be better to have an obnoxious neighbor for a weekend than permanently, which you can get in any zone. And as a former planner,” Owens noted, “the Comprehensive Plan mentions that the whole CD zone is intended to be controlled development...in fact it’s the only place in the Comprehensive Plan that mentions vacation rentals.” He believed the CD zone was designed to be “not just what some people are calling a neighborhood, but to be both residential and businesses together.” Owens suggested people moving into Bandon were often unaware that they were moving into a mixed-use zone when they really wanted to live in a residential neighborhood.

Denise Frazier, 1259 Wavecrest Lane SW, Bandon, OR 97411

Frazier thanked the Commission and Staff for working hard to try to make the VRD ordinance more fair. She stated that when she had her house built, she knew she was in a CD zone and that vacation rentals were allowed. Frazier said she did look at the existing VRD ordinance and it had a 30 percent saturation rate, yet she found herself in an area with 50-plus percent VRD saturation. “I think those of us living in the vacation rental zones...were aware that they exist,” she remarked, “We just expected the code to deliver what it stated, and that’s been our frustration, as we’re oversaturated.”

Slothower asked for comments from Staff and Commissioners.

Nichols said she was “elated with the amount of public comment.” She noted that the Planning Department received multiple phone calls a day about vacation rentals. Nichols was pleased to have a “fair and balanced” discussion about VRDs. She observed that the updated ordinance was an attempt to achieve balance in the community, keeping in mind that Bandon, as a tourist destination, needed to accommodate visitors in vacation rentals, motels, and hotels.

Nichols also addressed the question of where the 30 percent saturation rate came from. Looking through Bandon's Comprehensive Plan, she found an aspirational policy that said the CD-1 and CD-2 zones would be about 90 percent residential and 10 percent commercial at some point. Nichols felt this showed that those zones were intended to form a tourist/commercial area that was heavily balanced in the favor of residential uses. She figured the City was trying to achieve that balance when the 30 percent VRD density was established.

Norman asked if it was accurate to say there was a neighborhood that had a 57 percent saturation rate.

Nichols replied, "Yes" and explained, "That occurred based on the way that we were approving things with the existing ordinance that...discounted the multi-family VRDs." She added, "Between 2018 and now, there was that little unintended consequence that allowed a couple more vacation rentals that oversaturated an area." She pointed out that the property next to the one in the 57 percent saturation example might not have the same rate, because each property created a distinct 250-foot radius for determining its calculation. Nichols hoped the proposed ordinance would limit the ability of other areas to become similarly oversaturated, by taking into account the impact of each VRD unit.

Nichols advised the Commission that it could discuss the proposed ordinance at this meeting, then continue the hearing until its February meeting. At that time, Staff would put more information into the record and there could be time for more public comment and for the Commissioners to deliberate.

Orsi wanted to reconsider the 20 percent ratio, and Slothower agreed. "We've solved the problems of undercounting the VRDs. We've solved the problem of not counting the one that's requesting," Orsi stated. "We should be able to come up with a better percentage," he said.

Norman wondered if that percentage would be 25 or 30.

Looking at some of the changes in the proposal and the first example Nichols provided, where the new calculation increased the saturation rate dramatically, Orsi favored a 30 percent rate.

Scobby commented that she agreed with changing the calculation to include multi-family dwellings, but she was not comfortable with lowering the rate to 20 percent because it felt "punitive" to her in the way it would "really limit people's ability to utilize their property."

Scobby thought the existing ordinance did what it was intended to do—providing a balance between residential and commercial uses and vacation rentals. "Even though I live on Beach Loop and I'm raising my kids there, I'm uncomfortable with a lot of transient occupancy," she said, "but I knew that going into it and I chose to live there, and I'm not really comfortable curtailing people's property rights."

"I would love to see a balance between property rights and residential feel for the neighborhood," Jurkowski stated. She added that she was comfortable with what was being proposed and pleased that the Commission was dealing with the effect of multiple-unit dwellings on the saturation rate, which she no longer felt needed to be lowered.

Slothower interjected that he had come to the meeting favoring a 25 percent saturation rate but was now thinking it should remain 30 percent. He suggested a 20 percent rate would be unfair because it would effectively create a moratorium on VRDs.

Landucci mentioned a recent conversation with his sister, who was trying to convince him to convince some of his properties in San Francisco to convert to vacation rentals. "It's an incredible business opportunity if it's done legally," he observed. "It's complex, but if it's done legally and licensed," as the City's policy provided, "it's pretty hard to throw that kind of potential income out the window."

Landucci concurred with Scobby that the Commission ought not be cavalier about certain property rights. He pointed out that the Commission took up the VRD issue two years earlier, during the pandemic, with little public input. “We were very emotional about it,” Landucci commented. “We thought our community was being transformed, our neighborhoods were being transformed, but these are only in the Controlled Development zone, which we have control over. They’re not in residential zones.”

Landucci stressed the need to compromise, as Bandon had changed into more of a tourist town, with the major attraction of Bandon Dunes nearby. “We’re busy as heck downtown now,” he remarked, “in the middle of winter time.” Landucci added, “We love the town. We all love it, we all care about it, and there’s nothing wrong with making money...if we can do this legally, correctly, and not exploit the town and ruin the wonderful natural resource we have here.”

Norman noted that the 30 percent rate was not “etched in stone.” He said “It just happens to be in the current code, and it may or may not be workable.” Norman also objected to a 20% rate being equated with a moratorium. He noted that the Commission had heard a variety of viewpoints from the public, and he felt that vacation rentals “get a bad rap” due to some vacationers who did not feel responsible for taking care of the property and were not concerned about making a nuisance to the neighborhood where they stayed.“

I think we’re trying to control this,” Norman stated, “so that we don’t end up being a vacation mecca where all of the real estate owned in town is owned by some sort of conglomerate out of Connecticut...who doesn’t really give a rip...in terms of what goes on in Bandon, Oregon.” He continued, “And I think we’re also not talking about today, and we’re not talking about yesterday. We’re talking about tomorrow, and what do we know about what’s happened here recently that informs us about what will happen tomorrow.” Norman asserted that rising interest rates had led to a slowdown in construction. He advised that looking back to when interest rates were two-and-a-half to three percent might help to address the future. Norman said he favored “constrained enterprise, not free enterprise,” and he stated, “I do believe that we need to...have controls on people’s behavior.”

Landucci recalled closing all kinds of real estate deals when the interest rate was 19 percent back in the 1980s. “It didn’t stop development,” he insisted.

Starbuck said he had not supported the lower saturation rate but had been concerned about the inclusion of the nonconforming dwellings. He felt that problem had been addressed in the proposal.

Starbuck commented that he spent a lot of time walking along Beach Loop Drive and around Bandon in general. “I’ve seen what happened with the lower interest rate,” he noted. “There’s a lot of vacant properties within the town that have suddenly been built on...not just Beach Loop Drive. And I think that was a good thing, and that’s still going on.” Starbuck added that there were three houses being build in the Donut Hole near his home. “I think the change in interest rate was a good thing for the City in that it got a lot of people to reconsider their properties and do something about them, and take advantage of it,” he commented.

Starbuck mentioned one time when he observed a violation at a vacation rental. Three of six vehicles at a particular VRD were parked on the street and across the sidewalk. He called Nichols, who called the property manager, and the situation was rectified immediately. “They are policing themselves,” Starbuck felt. He pointed out that there were full-time residents in Bandon who had “cars parked all over the place.”

Starbuck concluded by saying he wished to keep the saturation rate at 30 percent and to include the nonconforming VRDs in the calculation.

Scobby shared that she had read an article that said towns that really restricted vacation rentals depressed their property values. She noted that a handful of houses on Beach Loop Drive had been for sale for quite a while. Scobby wondered if those houses would have sold more easily if they had been allowed to be vacation rentals.

In response to the reference a couple of Commissioners had made about property rights, Slothower emphasized that a vacation rental was not a “right” in the CD zones. Although not opposed to vacation rentals, he believed “you’re not taking away somebody’s property right by not giving them a vacation rental. It’s not a right, and it never was.”

Landucci chimed in, “It’s a business.”

Scobby contended, “But you do have a right to make money off of your home. You have a right to rent it for more than 30 days.” She added, “Cities do have a right to limit them [VRDs]. What I feel is inequitable about our current ordinance is that if your neighbor has a permit, it limits your ability to have a permit.”

Slothower responded, “You know that going into it.”

“It’s still a residential use,” Scobby contended. “Nobody’s doing anything in a vacation rental they’re not doing in a regular home.” She pointed out that Bandon’s ordinance did not allow a VRD to make “any more noise, any more smells, any more traffic than a regular neighbor.” She remarked that there had been testimony earlier that regular neighbors could be obnoxious.

Norman asked if there would be discussion of other aspects of the ordinance besides the saturation rate. He was confused about the definition of “owner” in the proposal. His reading of the definition was that each owner of a multiple-owner VRD could also purchase a VRD separately.

Nichols clarified that an individual who was part of a group that formed the ownership entity of a VRD, such as an LLC, could not separately be the owner of another VRD in Bandon.

Landucci thought that aspect of the ordinance might be hard to enforce.

Nichols noted that the proposed language had been borrowed from the City of Cannon Beach, Oregon.

Jurkowski moved to continue the Public Hearing to February 23, 2023 at 7:00 p.m. and Landucci seconded the motion. It passed by unanimous voice vote:

AYES: Jurkowski, Landucci, Norman, Orsi, Scobby, Slothower, Starbuck
NAYS: None
ABSENT: None

5.2 Type IV, Amendment to Bandon Municipal Code Title 17, modifying how height of a structure is measured on properties affected by the floodplain, removing parking minimums for outright permitted uses in the C-1 Old Town Commercial Zone, and allowing for certain structures in required setbacks.

Slothower opened the Public Hearing at 8:04 p.m. and read aloud the procedures for public comments.

Nichols offered the Staff Report. She referred to this code amendment as the “omnibus bill” because three unrelated items were incorporated into one ordinance, requiring just one hearing. The first proposed code change would amend Chapter 17.40 of the Bandon Municipal Code (BMC), regarding the Old Town Commercial Zone, to state, “In the C-1 Zone, off-street parking shall not be required for any outright permitted use.” The Planning Commission would still have authority to set any parking requirements for conditional uses such as hotels, motels, or other larger, more impactful developments.