



STAFF REPORT

City of Bandon Planning Department

Bandon, Oregon 97411

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FILE NUMBER: 21-039
APPLICATION TYPE: **APPEAL - Conditional Use Permit – Vacation Rental Dwelling**
REQUEST: Appeal of a denial from the Bandon Planning Commission for a Conditional Use Permit operate a Vacation Rental Dwelling in the Controlled Development 2 (CD-2) Zone at the location listed below.

STAFF LEAD: Dana Nichols, Planning Manager

APPELLANT: Christopher Sinkinson
3040 SE Yamhill Street
Portland, OR 97214

**PROPERTY OWNER:
AND APPLICANT** Christopher Sinkinson
3040 SE Yamhill Street
Portland, OR 97214

LOCATION: 1057 4th Street SW
28S-15W-25BD / TL 5400, 5700, ~~5802~~

ZONE: CD-2 (Controlled Development 2)

HEARING DATE: September 13th, 2021

HISTORY:

The Bandon Planning Department received an application for a Conditional Use Permit on May 11, 2021. The application was deemed complete on May 11, 2021 and noticed in accordance with the requirements of Section 17.120.060 (now 16.04) of the Bandon Municipal Code. The Planning Commission held a public hearing on June 17th, 2021, and Findings of Fact were adopted at their July 22, 2021, meeting. The applicant appealed the decision on July 29th, 2021, and the City Council determined at their August 2nd, 2021 meeting that the scope of the appeal would be limited to the saturation rate and parking issues only. The appeal public hearing was noticed in accordance with the requirements of Section 17.120.060 (now 16.04) of the Bandon Municipal Code

AUTHORITY:

The City Council of the City of Bandon has the authority to act as decision makers on appeals pursuant to Chapter 16.04.070 of the Bandon Municipal Code.

APPEAL PROCEDURE:

This is the City's final action on this matter. Any further appeals must be made to the Land Use Board of Appeals (LUBA) within 21 days of the Notice of Decision, pursuant to ORS 197.830.

- I. **REQUEST:** Approval of a Conditional Use Permit to designate an existing single-family dwelling as a Vacation Rental Dwelling (VRD) on property zoned CD-2 (Controlled Development 2) in the City of Bandon.

PLANNING COMMISSION DECISION: The Planning Commission found that the application did not meet the criteria listed in Bandon Municipal Code 17.20 - Controlled Development 2 Zone and 17.92 – Conditional Uses (now 16.12). In particular, the Planning Commission denied the application because it did not meet the saturation rate allowance in 17.92.090(K)(3). This will be discussed in greater detail below.

APPEAL: The applicant, Topher Sinkinson, appealed this decision on the grounds that the saturation rate map provided by Staff was incorrect, and that parking can be accommodated on-site.

COUNCIL SCOPE DECISION: The City Council must determine the scope of review for appeals. It was determined that the review would be limited to the admission of additional written evidence pertaining only to the saturation rate and parking issues, as described in the criteria below:

- *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.*
- *VRD's shall have one off-street parking space for each bedroom in the VRD, but in no case have less than 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.*

II. ANALYSIS

A. Saturation Rate

Saturation rates are used to determine conformance with the criteria listed above. Staff researches the number of single-family detached dwellings are located within a 250-foot radius of a proposed VRD and compares that to the number operating as a Vacation Rental Dwelling (VRD). If the number is 30% or greater, the property is not eligible to apply. If that number is under 30%, the applicant may be eligible, but must still meet all other requirements of the code to operate a VRD.

Prior to applying to for a Conditional Use Permit, a prospective applicant can request from staff a map showing active VRDS, single-family detached dwellings (as indicated in tax assessment records), and a preliminary saturation rate. Members of the public can also perform the calculation themselves by using the same publicly available data. When staff performs this task, they are generally given an address and prepare the map based on that address as show on the Coos County Tax Assessor's Map. In this case, the applicant has three tax lots, but Staff only performed the calculation based on the tax lot that contained the home (where it is addressed on the County's map). This is shown in the image below. The resulting saturation rate was 16%.

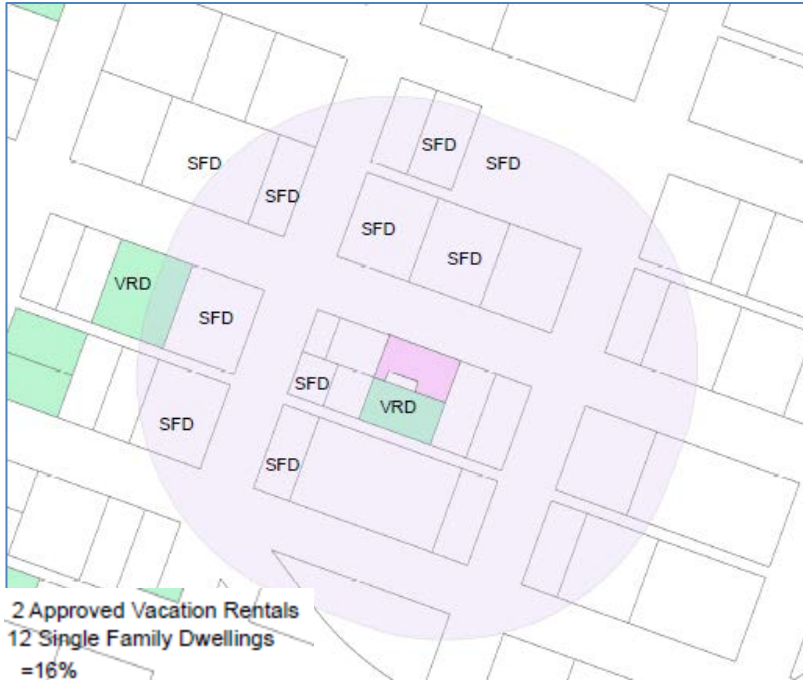


Figure 1 Saturation Rate Map using single tax lot (3/17/21)

When the applicant submitted their full application in May, they listed three tax lots, which changed the boundary of the *subject property* used to calculate the saturation rate. The adjacent lots do not contain structures but were proposed as part of the application for wildflower production. Staff then created a saturation map based on the three tax lots, which increased the rate 31.25%, as show below.



Figure 2 Saturation Rate Map using three tax lots (06/07/21)

Though the applicant owns the three contiguous tax lots, the lot furthest west is not necessary for the operation of the vacation rental, contains no structures, and is not required to be part of their application. In their appeal, the applicant has provided a third saturation rate map that shows a two-lot configuration that provides for a 21.43% rate.

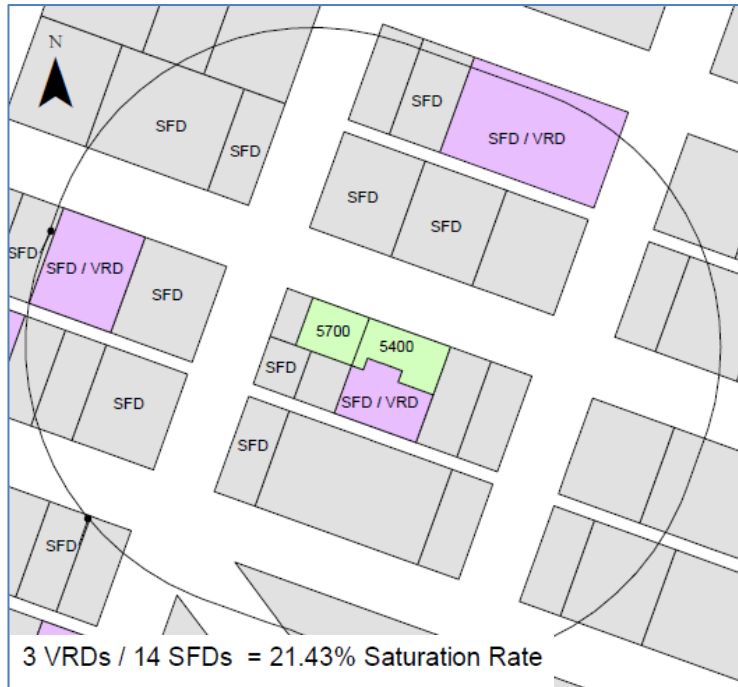


Figure 3 Saturation Rate Map for two lots (07/28/21)

Staff finds that inclusion of the tax lot that contains the structure (5400) and the contiguous lot to the west (5700) required for off-street parking meets the requirement that, *“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.”* A condition of approval has been recommended to require a deed restriction requiring City permission to sell, divide, or separate the two lots in the future.

B. Parking

The applicant stated in their original application that *“The cottage has a bedroom on the ground floor and a loft bedroom, sleeping 4 total / max.”* In the initial Staff Report, the designation of the lofted sleeping area as a bedroom was questioned. Ultimately, in their appeal, the applicant has requested occupancy for 2 people, which can be limited to the downstairs bedroom only.

The code criterion for parking states that, *“VRD’s shall have one off-street parking space for each bedroom in the VRD, but in no case have less than 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 applicant has stated that tax lot 5700 will be used to accommodate two off-street parking spaces. Staff has included a recommended condition of approval that the applicant submit a parking plan showing how two vehicles will be accommodated on the lot, and what surfacing the applicant proposes to use. The parking plan will require approval from the Planning Department and the Public

Works department prior to operation.

V. Recommendation

The City Council may approve, approve with conditions, or deny the application. With the above discussion in mind, Staff finds that the City Council may approve the application as presented with the conditions provided below. Alternatively, the City Council may wish to discuss additional conditions, or make amendments to staff's proposed conditions of approval, or take additional action not listed herein.

Proposed Conditions of Approval:

1. A parking plan delineating two standard, off-street parking spaces shall be submitted to the Planning and Public Works Departments for approval prior to the advertisement and operation of the VRD. The Plan will show surfacing materials and access from the City's right-of-way, meeting all City Standards.
2. A Real Property Covenant and Restriction (deed restriction) shall be filed with the Coos County Clerk's Office, combining tax lots 5400 and 5700 together for use as a VRD and required off-street parking.
3. The shop shall remain an inhabitable space. Use or conversion of the shop into a dwelling unit shall render the CUP null and void with no further proceedings.
4. The number of the 24-hour local contact shall be posted in a conspicuous place within the dwelling.
5. A notice shall be posted in a conspicuous place informing guests of the nearest public beach access.
6. The Bandon Tsunami Route map shall be posted in a conspicuous location within the dwelling.
7. The number of guests is restricted to 2.
8. Trash shall be enclosed at all times.
9. Exterior lighting shall be limited to the existing fixtures, which shall be modified to point directionally downward if not currently downward facing.
10. Transient Occupancy Tax shall be paid, and annual reporting shall be completed as required; if the Transient Occupancy Tax account is not current, no rental shall be allowed while the account is in arrears.
11. Use of the dwelling for transient occupancy prior to licensure by Coos Health and Wellness and registration with the City's Finance Department shall result in revocation of the Conditional Use permit.
12. Failure to conform to the conditions of approval shall result in revocation of the Conditional Use

permit.

13. All state, federal, and county permits associated with this approval shall be obtained and maintained for the life of the Vacation Rental Dwelling prior to registration of the with City Finance.
14. Prior to advertisement or operation as a Vacation Rental Dwelling, the applicant shall provide a copy of their Traveler's Accommodations License, issued by Coos Health and Wellness, to the City of Bandon.
15. Approval of the application is based on information provided by the applicant. All proposals of the applicant shall become conditions of approval unless otherwise modified by Staff or the Reviewing Body.
16. Agreements or statements of the applicant on the application materials or testimony shall become conditions of approval.