



**PLANNING COMMISSION REGULAR SESSION MINUTES ~ APPROVED  
THURSDAY, JUNE 21, 2012 AT 6:00PM**

City Hall ~ 82877 Spruce St., Westlake, OR 97493

The proceedings of the Dunes City Planning Commission were recorded on tape and are on file at Dunes City Hall. Upon approval by the Planning Commission, these minutes will be available online at [www.dunescity.com](http://www.dunescity.com).

**1. CALL TO ORDER**

The Planning Commission meeting was called to order by Chairman Lee Riechel at 6:02 pm.

**2. ROLL CALL**

Roll Call was taken by Administrative Assistant Brandie Bell.

**Present:** Chairman Lee Riechel, Vice-Chairman George Burke, Commissioner Darlene Beckman, Commissioner Paul Gargis, Commissioner Norman Martin and Commissioner Ken Henderson.

**Others Present:** City Recorder Fred Hilden, Administrative Assistant Brandie Bell and Contract Planner Melissa Anderson.

**3. PLEDGE OF ALLEGIANCE**

All who were present stood for the Pledge of Allegiance.

**4. APPROVAL OF THE AGENDA**

**Vice-Chairman Burke made a motion to approve the Agenda. Commissioner Gargis seconded the motion. The motion passed by unanimous vote.**

**5. APPROVAL OF THE CONSENT AGENDA**

A. Planning Commission Special Session Meeting Minutes from May 29, 2012.

**Commissioner Henderson made a motion to approve the Planning Commission Meeting Minutes as amended. Vice-Chairman Burke seconded the motion. The motion passed by unanimous vote.**

**6. ANNOUNCEMENTS / CORRESPONDENCE**

Chairman Lee Riechel announced Administrative Assistant Brandie Bell's resignation and presented her with a card. He further stated he was sad to see her go and wished her well on her endeavors.

**7. CITIZEN INPUT – None**

**8. PUBLIC HEARING – Gordon Robertson Partition**

Chairman Riechel stated this evening we have a public hearing on a request for a three-lot partition located at 83430 Clear Lake Road, in Dunes City by Gordon and Lori Robertson.

These proceedings will be recorded.

This hearing will be held in accordance with the land use procedures required by the City and the State of Oregon.

Prior to the hearing tonight, staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria we must use in making a decision. All testimony and evidence must be directed toward these criteria or other criteria which you believe applies to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the City and parties involved an opportunity to respond to the issue, would preclude an appeal based on that issue.

Any party interested in a land use matter may challenge the qualification of any Commissioner to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Commissioner bias, prejudgment, conflict of interest, or other facts from which the party has concluded that the Commissioner will not make a decision in an impartial manner.

*[Such challenges shall be made prior to the commencement of the public hearing. The Chairperson shall give the challenged member an opportunity to respond. A motion to accept or deny the challenge will be accepted and voted. Such challenges shall be incorporated into the record of the hearing.]*

Does any Commissioner wish to declare a conflict of interest or bias or ex parte contact?

Chairman Riechel declared an ex-parte contact with Gordon Robertson, commenting that Mr. Robertson had contacted him regarding the partition and Chairman Riechel had directed him to the appropriate development code. Chairman Riechel indicated that he did not believe this would create any bias on his part.

Does any member of the public wish to challenge a Commissioner's impartiality? There was no response from the audience.

Contract Planner Melissa Anderson presented a brief overview of the staff report.

Chairman Riechel opened the public hearing at 6:16 pm.

Melissa Anderson continued with the presentation of the Staff Report and Findings of Fact, complete copies of which are included in these minutes as part of the record. During her presentation and review of the street and driveway access requirements she asked Adminis-

trative Assistant Brandie Bell to read a motion by the Road Commission, from their May 21, 2012 meeting. Brandie Bell read the following: “(Road) Commissioner Tucker made a motion to accept the 60’ width to include the easement and to defer the installation of the infrastructure until the first building permit is pulled. (Road) Commissioner Palmer seconded the motion. The motion passed by unanimous vote.” Melissa Anderson went on to explain the implications of deferring the installation of the infrastructure. She completed her presentation by explaining the Planning Commission’s options regarding approval modification or denial of the Preliminary Partition Plat.

Chairman Riechel explained that the normal order of proceedings is for the applicant to present a summary of as much information as necessary; the second item is for proponents of the application to speak; thirdly the opponents of the application to speak; and finally the applicant to have an opportunity for rebuttal, if they wish.

Mr. Robertson came forward and commented that Melissa Anderson had done a very good job of presenting his proposal, but he did want to add some points. He explained that the initial partition is for three lots and future partitions will divide two of those three lots into three lots each for a total of seven lots. Their intention is to minimize development and not clear-cut the property. That’s why we will be developing a total of seven lots as opposed to 11 or 12 that would be allowed according to Dunes City code. Mr. Robertson went on to explain that the requirements for water, sewer, fire district and Clear Lake Road access approval have all been met.

Mr. Robertson commented that Condition of Approval item number three should be deleted because it pertains to a future partition, not this one. Mr. Robertson also explained that Condition of Approval items nine and ten should be deleted because they include requirements beyond anything he could find in Dunes City’s code.

Chairman Riechel called for testimony from proponents of the application. Comments from the audience were made stating they may not be for or against the application but wanted an opportunity to be heard tonight. Chairman Riechel explained we would allow them to speak at the end of the public hearing.

David Bellmore, 83598 Salal: Mr. Bellmore explained that he is for the preliminary plat as it is designed and he is familiar with Gordon Robertson who has an excellent reputation. He has seen his work and approves of it. He is confident that this project will be well done. Mr. Bellmore indicated his only concern is that the property does have fairly steep slopes and regarding Mr. Robertson’s request to remove the Conditions of Approval numbers nine and ten, Mr. Bellmore would like to see them left in.

Chairman Riechel called for testimony from opponents of the application.

Jamie Fetzko, 83464 Woodland Lane, Dunes City, OR: Ms. Fetzko read a written statement into the record and is included as part of these minutes.

Susie Navetta, PO Box 2388, Florence, OR: Ms. Navetta read a written statement into the record and is included as part of these minutes.

Jo Owen, PO Box 3047, Florence, OR: Mrs. Owen explained that she is on the Board for South Shore Homeowner's Association. She went on to explain that lot one near the southwest corner of this development is owned by the South Shore Homeowner's Association and the association never received notification of this public hearing. South Shore's main concern is the water runoff as it will go into Woahink Lake. When the property south of the subject property was developed there was runoff into the lake that caused people to be without water for two days. As long as the Robertsons do everything right we will be happy.

City recorder Fred Hilden apologized to the Planning Commission and the South Shore Homeowner's Association for Staff not properly noticing tax lot 200.

Bruce Arnold, PO Box 3047, Florence, OR: Mr. Arnold explained that he is president of the South Shore Homeowner's Association and that he is irritated for not being properly notified. Mr. Arnold went on to explain that their primary concern is drainage from the development into a creek that runs into Woahink Lake. They would like to see conditions of approval nine and ten remain. They would also like to see a drainage culvert or pond that would collect sediment from this property before it becomes runoff.

Chairman Riechel gave Mr. Robertson an opportunity for rebuttal of testimony. Mr. Robertson offered that there will be no development on anything greater than 15% slopes and that areas A, B and C on Ms. Fetzko's TOPO map will also not see any development. Areas B and C are part of parcel one with the existing house that is going to be sold with no development and area A will be beyond the development involved in any future partition.

Chairman Riechel began to close the public hearing at 6:56 pm, however he was interrupted by a citizen who asked the representatives from the South Shore Homeowner's Association if they needed additional time to evaluate this application since they had not been properly noticed. Mrs. Owen explained that they are not against the development and they just want it done correctly. They just want to make sure the rules are followed. Discussion took place regarding the noticing process.

Contract planner Melissa Anderson asked if the Planning Commission would like to leave the record open for seven days to review the verbal and written testimony received tonight and return in seven days to make a decision. Chairman Riechel expressed his concern about leaving the record open when most of the concerns expressed tonight focus on runoff from the property in question. He went on to explain that the question before the planning commission as whether or not this partition meets the requirements of the code. Vice Chairman George Burke explained that most of the concerns he has heard are regarding future development and that is not to be considered in making a decision on this partition.

Chairman Riechel closed the public hearing at 7:03 pm.

Chairman Riechel explained that it would now be time for deliberations by the Planning Commission and expressed his agreement with Vice Chairman George Burke that the Planning Commission's job is to make sure that this partition meets the requirements of our code. He went on to point out that a future development plan is only a requirement to help ensure that the current partition will support future development, and it does that.

Commissioner Norman Martin commented that many of the observations tonight were unclear and ambiguous. The appeals court of Oregon has informed us that we have to come up with clear and unambiguous ordinances. Commissioner Martin went on to provide additional background on this matter.

Chairman Riechel directed everyone's attention to the Findings of Fact, which address the specific areas of code that pertain to this application. Please confine your discussion or questions to these or the staff report.

Commissioner Ken Henderson expressed his appreciation to everyone for their input tonight, especially the question of whether or not South Coast Water District has the capability to service six more locations. Melissa Anderson and Brandi Bell both provided additional background on this item and explained that a letter had been received from South Coast Water District committing to support this development.

Commissioner Henderson went on to express his concern about septic approvals from Lane County on the future development lots and Melissa Anderson pointed out that that is not a requirement of this partition, only parcel two and three are required to have septic feasibility performed before final plat approval.

Vice Chairman George Burke commented that City Engineer needing to verify that the slope is greater than 10% prior to land disturbance and if so the 50 foot long shared driveway will need to be engineered.

Chairman Riechel questioned Melissa Anderson about whether condition of approval number three needed to be included. Ms. Anderson's response was "it does not" since it will be a requirement of a future partition.

**Chairman Riechel made a motion to delete condition of approval number three. The motion was seconded by Commissioner Paul Gargis.** Vice Chairman George Burke questioned whether this could remain. Melissa Anderson commented that it would make sense to put this under "other requirements." Everyone agreed. **The motion passed by unanimous vote.**

Chairman Riechel questioned Melissa Anderson about whether condition of approval number six regarding a tree preservation plan is legal since we have no specific criteria in our code. Ms. Anderson explained that there are requirements for providing this but no criteria for how it should be done. Vice Chairman Burke explained that it's in the code so we need to leave it as a condition of approval and accept whatever the developer provides us. Chairman Riechel agreed.

Vice Chairman George Burke commented that the Planning Commission needed to address the applicant's request to remove conditions of approval number nine and ten. He continued stating that he felt both nine and ten were requirements of our code and that in his opinion they needed to stay in as conditions of approval. He went on to ask whether the Road Commission recommendation regarding the shared driveway had been addressed. Substantial discussion took place with staff regarding whether or not the Road Commission recommendation had been adequately addressed.

**Vice Chairman George Burke made a motion to deny the Road Commission recommendation to defer the infrastructure regarding the first 50 foot of the shared driveway.** Chairman Riechel requested that the Road Commission recommendation be read one more time. City Recorder Fred Hilden read the motion made at the May 21, 2012 Road Commission meeting, (Road) Commissioner Tucker made a motion to accept the 60' width to include the easement and to defer the installation of the infrastructure until the first building permit is pulled. (Road) Commissioner Palmer seconded the motion. There was a good deal of discussion (about two pages worth in the meeting minutes) regarding whether or not this was code or not code and it ended up with the motion being passed by unanimous vote after their deliberation. **Commissioner Darlene Beckman seconded the motion.** Vice Chairman Burke explained that our code requires the infrastructure to be complete at the final plat application, so we can't defer it to a future building permit that we know nothing about. After additional discussion Vice Chairman Burke called for the question. **The motion passed by unanimous vote.**

Melissa Anderson read the changes that she had prepared for condition of approval number two, splitting it into two parts as follows: 1. Prior to land disturbance, the Dunes City Engineer shall inspect and verify the slope of the 50-foot long shared driveway area; if the slope is greater than 10% slope, the shared driveway shall be designed by an engineer; and 2. At the time of Final Partition Plat application, the 50-foot long shared driveway from Clear Lake Road shall be improved with no less than a 12-foot asphalt or concrete running surface with 2.5 feet of rocked shoulders and approved by the Dunes City Engineer.

**Vice Chairman Burke made a motion to accept these conditions of approval as a replacement for number two. Commissioner Henderson seconded the motion. The motion passed by unanimous vote.**

**Vice Chairman Burke made a motion to accept the Staff Report for the Robertson preliminary partition plat as modified. Commissioner Henderson seconded the motion. Motion passed by unanimous vote.**

**Vice Chairman Burke made a motion to accept the Findings of Fact for the Robertson preliminary partition plat. Commissioner Henderson seconded the motion.** Melissa Anderson commented that she could update the Findings of Fact to be consistent with the modified Staff Report. These are not substantive changes but important for consistency. **Vice Chairman Burke indicated he would amend his motion. Commissioner Henderson withdrew his second. Vice Chairman Burke made a motion to accept the Findings of**

**Fact as they are to be amended. Commissioner Henderson seconded the motion. Motion passed by unanimous vote.**

Chairman Riechel explained the options before the Planning Commission again regarding a decision on this preliminary partition plat application.

**Commissioner Darlene Beckman made a motion to approve the Robertson preliminary partition plat with the conditions of approval as amended. Vice Chairman George Burke seconded the motion. The motion passed by unanimous vote.**

Chairman Riechel called for a 10 minute recess at 7:57 pm. He reconvened the meeting at 8:09 pm.

**9. UNFINISHED / OLD BUSINESS - NONE**

**10. NEW BUSINESS**

**A. 83558 Kiechle Arm Road Shoreland / Vegetation Removal Permit**

Chairman Riechel turned the meeting over to Vice Chairman George Burke, stating that he was on the site visit for this permit application and he would participate from the audience. Vice Chairman Burke explained this application is to remove limbs over and in the water as a result of winter storm damage. He went on to explain that photos were attached that portrayed the uprooted trees. Vice Chairman Burke explained that there was not a quorum of the Conservation Committee that would allow a staff report to be prepared and asked Mr. Riechel for a verbal report.

Mr. Riechel explained there are three alder trees that are pretty much all the way down and they are all part of a large root ball that is right at the edge of the lake (Siltcoos). He went on to explain that the storm brought these trees down and this part of the lake is extremely shallow. The limbs from the downed trees are restricting boat access by the property owner. Commissioner Ken Henderson asked for clarification about which property this was and Planning Secretary Brandie Bell explained it was lot 2000. Vice Chairman Burke asked for clarification as to whether the applicant wanted to remove just the limbs or the root ball also. Mr. Riechel explained it was his understanding they only wished to remove the limbs that were over and in the water.

**Commissioner Ken Henderson made a motion to approve the Shoreland Vegetation Removal Permit Application for 83558 Kiechle Arm Road as submitted. Commissioner Paul Gargis seconded the motion. The motion passed by unanimous vote.**

Vice Chairman George Burke turned the meeting back over to Chairman Lee Riechel.

**B. (No #) Cloud Nine Road (19-12-23-10-00809) Shoreland / Vegetation Removal Permit**

Chairman Lee Riechel explained that this application is completely inadequate as it does not provide information on specifically which tree is being requested to be removed.

**Vice Chairman George Burke made a motion to table the Shoreland Vegetation Removal Permit Application for (No #) Cloud Nine Road (19-12-23-10-00809) until more information and pictures are provided. Commissioner Paul Gargis seconded the motion. The motion passed by unanimous vote.**

Chairman Riechel explained that the Planning Commission was presented tonight with an additional Shoreland vegetation removal permit application for a property on 5405 Huckleberry Lane but the Conservation Committee has not yet performed a site visit. He requested a motion to table this application as well.

**Vice Chairman George Burke made a motion to table the Shoreland Vegetation Removal Permit Application for 5405 Huckleberry Lane. Commissioner Paul Gargis seconded the motion. The motion passed by unanimous vote.**

#### **11. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA – NONE**

Chairman Lee Riechel commented that the only other item he wanted to discuss tonight was the Planning Commission's next work session meeting date and time to review the final changes to Chapter 155. Planning Secretary Brandie Bell explained that she has a final draft hardcopy with a few notes about remaining action items. Significant discussion took place regarding City Recorder Fred Hilden stepping back into the Planning Secretary's responsibilities. It was agreed that the remaining items from Chapter 155 and the tabled Shoreland Vegetation Removal Permit Applications would be reviewed during the next regularly scheduled Planning Commission meeting on June 28, 2012 at 5 pm.

#### **12. ADJOURNMENT**

**Chairman Lee Riechel asked for a motion to adjourn. Vice Chairman George Burke made a motion to adjourn the meeting. Commissioner Ken Henderson seconded the motion. The motion passed by unanimous vote.**

Chairman Lee Riechel adjourned the meeting of the Planning Commission at 8:30 pm.

**APPROVED BY THE PLANNING COMMISSION ON THE 1<sup>st</sup> of NOVEMBER 2012.**

[Signed copy available at City Hall]  
Lee Riechel, Planning Commission Chairman

ATTEST:

[Signed copy available at City Hall]  
Fred Hilden, City Recorder