



PLANNING COMMISSION REGULAR SESSION MINUTES ~ APPROVED
THURSDAY, JUNE 28, 2018 AT 6:00 PM
City Hall ~ 82877 Spruce St., Westlake, OR 97493

The proceedings of the Dunes City Planning Commission were recorded and are on file at Dunes City Hall. Upon approval by the Planning Commission, these minutes will be available online at www.dunescity.com.

1. CALL TO ORDER

Chairman Bonnie Allen called the June 28, 2018, Planning Commission meeting to order at 6:00 pm.

2. ROLL CALL

Roll Call was taken by Administrative Assistant Rapunzel Oberholtzer.

Present: Chairman Bonnie Allen, Vice Chairman Barry Sommer, and Commissioners Shauna Robbers, Ken Pesnell and Ric Ziegler.

Also present were Permit Tech Denise Lafferty and several Dunes City residents.

Absent and Excused: City Administrator/Recorder Jamie Mills.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Commissioner Ziegler made a motion approve the Agenda. The motion was seconded by Vice Chairman Barry Sommer. The motion passed by unanimous vote.

5. APPROVAL OF THE CONSENT AGENDA

A. Planning Commission Meeting Minutes of May 29, 2018

Vice Chairman Sommer made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Ziegler. The motion passed by unanimous vote.

6. ANNOUNCEMENTS /CORRESPONDENCE

Chairman Allen read from the list of announcements on the Agenda:

- A. On June 13 the City Council approved, with Conditions suggested by the Planning Commission and one other, the Conditional Use Permit for Beth Kerner to raise honey bees.
- B. On July 11 the City Council will hold a Public Hearing on Ordinance No. 247. This Ordinance amends land use code to require that all marijuana-related businesses in Dunes City obtain a Conditional Use Permit.

Administrative Assistant Rapunzel announced that the Commissioners would need to re-schedule the July 26 regular session due to a conflict with another event at City Hall on the 26th. The Commissioners agreed to discuss a new meeting date later in the meeting.

7. CITIZEN INPUT

There was none.

8. PUBLIC HEARING

- A. Ordinance No. 247 – Changes Chapter 155 to require a Conditional Use Permit for all recreational marijuana operations in Dunes City

Chairman Allen read from a prepared script, “This evening we have a public hearing on Ordinance Number 247, an ordinance amending Dunes City’s zoning and development code in Title XV and the allowed uses in the residential and community commercial districts.”

“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. This is a Type IV Legislative Procedure.

“Staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria the Planning Commission must use in making its 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 to the Oregon Land Use Appeals Board 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’s 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.”

Chairman Allen asked if any Commissioner wished to declare a conflict of interest, bias or ex-parte contact. None did.

Chairman Allen asked if any member of the public wished to challenge a Commissioner's impartiality. No one did, and Chairman Allen opened the public hearing for Ordinance No. 247 at 6:07 pm.

Chairman Allen asked for the Staff Report. Rapunzel explained that the Staff Report was emailed to Commissioners about two weeks ago and has also been available on the City's website. Rapunzel read, in part, from the Introduction Section of the Staff Report, "Ordinance No. 247 amends Title XV of the Dunes City Code by adding new language to Chapter 155 regarding recreational marijuana producers and processors. The term 'Recreational Marijuana Producers' will be added to the uses in the R-1 district that require a Conditional Use Permit and the term 'Recreational Marijuana Processors' will be added to the uses in the Community Commercial district that require a Conditional Use Permit. A new Section will list standards, in addition to all other Conditional Use Permit requirements, with which recreational marijuana producers must comply in the R-1 district, and another new Section will list standards, in addition to all other Conditional Use Permit requirements, with which recreational marijuana processors must comply in the Community Commercial district."

Rapunzel went on to provide background about why and how Ordinance No. 247 was developed, noting that in early 2017 the City's approval of three OLCC Land Use Compatibility Statements submitted by potential recreational producers created an outcry from Dunes City residents about why and how the LUCSs were approved. She also explained that in the fall of 2017, in response to citizens' objections to allowing marijuana producers in Dunes City, the City Council adopted Ordinance No. 245, which prohibited further establishment and operation of marijuana processing sites licensed under ORS 475B.435, medical marijuana dispensaries, marijuana producers licensed under ORS 475B.450, marijuana processors, marijuana wholesalers, marijuana retailers, and any combination of those entities. She went on to note that at the same time the Council adopted Ordinance No. 245 it also adopted Resolution Series 2017, No. 17, which referred to the electors of Dunes City the question, "Shall Dunes City prohibit medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers in Dunes City?" That ballot question will be voted upon in the November 6, 2018, general election.

Rapunzel explained that after the Council adopted Ordinance No. 245 and Resolution Series 2017, No. 17, the Planning Commission and a Citizens Advisory Committee (CAC) recommended that Staff prepare an ordinance to amend Dunes City's land use code to require that marijuana-related businesses obtain a Conditional Use Permit from the City. The draft ordinance was reviewed on March 29, 2018, by the CAC and the CAC voted unanimously to recommend that the language be referred to the Planning Commission, which subsequently accepted the language in the draft ordinance and requested that Staff begin preparations for public hearings on the Ordinance.

Rapunzel went on to explain that if the ballot question fails and Dunes City's voters do not pass a ban on marijuana businesses in Dunes City, Ordinance No. 247 will provide Dunes City with mechanisms to set conditions of use on any marijuana businesses that

want to operate in the City, will provide a process for the City to notify neighboring residents about proposed marijuana operations, and will provide an opportunity for the Planning Commission and the City Council to hold public hearings on a marijuana business' application for a Conditional Use Permit.

Chairman Allen asked if any Commissioners had questions for Staff. None did, and she announced, "We will be taking testimony from all of those who wish to testify. If you have not already done so, please sign in and include your name and mailing address."

Chairman Allen announced that the Commission would allow a maximum of five minutes for each person to comment, a departure from the adopted Rules of Procedure for Dunes City because the Commission believes the Ordinance is of such importance it warrants extra time for public comments.

Chairman Allen recognized Mr. Paul Roberts, a Dunes City resident. Mr. Roberts did not have any comments on the proposed Ordinance, but had some questions. Mr. Roberts explained that he and his wife are new to Dunes City and when they moved here they were "bombarded" with neighbors' concerns about marijuana in Dunes City. Mr. Roberts asked what regulations were in place for the existing growers. Chairman Allen explained that the existing growers are regulated by OLCC, and by certain conditions placed upon their OLCC LUCS by the City. There was some discussion about the Conditional Use Permit processes in general, and specifically, with regard to existing marijuana operations. Commissioner Pesnell explained that the Planning Commission had considered regulating marijuana production in the City for several months, and listened to citizen input over several more months prior to development of Ordinance No. 245.

There was some discussion about why water usage at production sites was so heavily regulated. Commissioners explained that the City's Water Permit from the State only allows for domestic use, and does not allow use for agriculture.

Chairman Allen asked if any Commissioners had questions for Staff about the Staff Report or questions for anyone who testified. None did and she closed the public hearing at 6:29 pm.

9. NEW BUSINESS

A. Deliberation and Decision: Ordinance No. 247

Chairman Allen reviewed the options available to the Planning Commission:

1. Recommend adoption of the Ordinance and the Staff Report/Findings of Fact as presented,
2. Recommend adoption of the Ordinance and the Staff Report/Findings of Fact with modifications, or
3. Recommend that the Council not adopt the Ordinance based on findings of fact or other information identified by the Commission but not included in the Staff Report/Findings of Fact.

Vice Chairman Sommer made a motion to recommend adoption of the Ordinance and Findings of Fact as presented. Commissioner Pesnell seconded the motion. In a roll call vote Vice Chairman Sommer and Commissioners Robbers, Pesnell and Ziegler all voted in favor of the motion. There were no abstentions and all Commissioners were present.

10. UNFINISHED/OLD BUSINESS

A. Continue Review of Chapter 155.4.9

Staff reminded Commissioners that they were in the process of reviewing paragraph (B)(2) on page 79 (155.4.9.2). Discussion about the term “hazardous materials” continued and Staff was asked to find a State definition so as to clarify what the term encompassed. There was some discussion about limiting the amount of potentially hazardous material but no consensus was reached.

After reading (B)(3) on page 79 of 90 re storage of inventory or products, it was agreed that no changes to existing language was needed.

After reading (C)(1) on page 79 and (2-3) on page 80 re number of employees allowed within a dwelling used as a home occupation, Staff was asked to find out if there is State Code that regulates the number of employees allowed in a home occupation.

There were no recommended changes to (D) on page 80.

After reading (E)(1) on page 80 re the number of allowed commercially licensed vehicles and (E)(2) re hours of commercial deliveries, it was agreed that no changes were needed. Later in discussion it was agreed to reinstate the stricken text of (E)(3), “There shall be no more than one client or customer’s vehicle at any one time and no more than eight per day at the home occupation site.” and add, “...and client vehicles must only be parked on the home occupation’s property.” after the inserted text. It was also agreed to reinstate the stricken text of (E)(1), “It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.”

After reading (F) on page 80 re restrictions on business hours, it was generally agreed no changes were needed.

After reading (G)(1) on page 80 re prohibited home occupation uses, it was agreed to add a third prohibited use, “Any activity that has hazardous materials or generates hazardous waste is prohibited.”

After reading (H) on page 80, it was agreed to change “Planning Official” to “Code Enforcement Officer” and to change “periodically” to “when the City has received a complaint.”

Commissioners agreed to begin review of Section 155.4.9.3 (Recreational Vehicle [RV] Parks) in the July meeting.

11. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA

With the cancellation of the regularly scheduled meeting on Thursday, July 26, announced earlier in the meeting, Commissioners agreed to meet in Special Session on Wednesday, July 25, beginning at 5:00 pm.

12. ADJOURNMENT

Commissioner Ziegler made a motion to adjourn. Vice Chairman Sommer seconded the motion. The motion passed by unanimous vote.

Chairman Allen adjourned the meeting at 7:25 pm.

APPROVED BY THE PLANNING COMMISSION ON THE 25th DAY OF JULY 2018

[Signed copy available at City Hall]

Bonnie Allen, Chairman

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator/Recorder