



PLANNING COMMISSION SPECIAL SESSION MINUTES ~ APPROVED

TUESDAY, MAY 29, 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 May 29, 2018, Planning Commission Special Session to order at 6:00 pm.

2. ROLL CALL

Roll Call was taken by Administrative Assistant Rapunzel Oberholtzer.

Present: Chairman Bonnie Allen, Commissioners Ken Pesnell and Ric Ziegler. Also present was City Administrator/Recorder Jamie Mills. Commissioner Shauna Robbers arrived at 6:15 pm.

Absent: Vice Chairman Barry Sommer.

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 Commissioner Pesnell. The motion passed by unanimous vote.

5. APPROVAL OF THE CONSENT AGENDA

A. Planning Commission Special Session Meeting Minutes of April 23, 2018

Commissioner Pesnell 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 aloud from the list of announcements on the Agenda:

A. One June 13 the City Council is scheduled to hold a Public Hearing on a Conditional Use Permit application submitted by Sophia Kerner.

- B. On June 28 the Planning Commission 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.

7. CITIZEN INPUT

There was none.

8. PUBLIC HEARING

- A. Conditional Use Permit Application – Submitted by Sophia Kerner to raise honey bees in the R-1 district

Chairman Bonnie Allen read from a script prepared to introduce the public hearing on the Conditional Use Permit application.

“This evening we have a public hearing on a request for a Conditional Use Permit to raise honey bees in Dunes City’s residential district, as applied for by Sophia (Beth) Kerner.

“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 III Quasi-Judicial 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 whether any Commissioner wished to declare a conflict of interest, bias, or ex-parte contact. None did.

Chairman Allen asked whether any member of the public wished to challenge a Commissioner’s impartiality. No one did.

Chairman Allen opened the public hearing for the Conditional Use Permit at 6:07 pm and asked for the Staff Report.

City Administrator/Recorder Mills and Administrative Assistant Rapunzel read the Staff Report/Findings of Fact prepared for the Planning Commission, and noted that attachments to the Report included a copy of the CUP application, several related Exhibits (a plot map, an aerial photo of the site, site drawings, a letter from the applicant, and a letter from a neighbor opposed to the application) which are all considered to be part of the Staff Report and Findings.

THE COMPLETE STAFF REPORT/FINDINGS OF FACT IS ATTACHED AS EXHIBIT A.

After reading from page three regarding the Oregon Department of Agriculture's requirement to register five or more colonies belonging to one beekeeper, Administrative Assistant Rapunzel noted that the ODA's Insect Prevention and Management (IPPM) program is committed to protecting and promoting pollinator communities vital to the state's agricultural and natural landscapes, is involved with research on native bees and native bee pollinators of Oregon specialty crops, and has created a guide for identifying common bee pollinators of Oregon.

City Staff went on to review the criteria of Dunes City Code that were applicable to the CUP application and the Staff Findings relevant to each criterion. Staff determined that the criteria of Section 155.4.1.6 (Type III Procedure) paragraphs A and B were satisfied. Staff determined that the criterion of item E in Section 155.2.1.111 (Conditional Uses) was the only applicable criterion and was satisfied. Reviewing Section 155.4.4.3 (Conditional Use Permits/Application Submission Requirements), Staff determined that criteria were either met, satisfied or not applicable to the application.

Referencing the letter from a neighbor opposing approval of the CUP, Staff noted that the letter not only opposed the approval, but also complained that bee boxes and colonies had been installed prior to the issuance of a CUP. Staff reported that the Code Enforcement Officer responded to the complaint by asking the CUP applicant to remove the hives from her property, which the applicant did.

Staff reported that the Findings in Section III (Review of Applicable Criteria) support a Planning Commission recommendation for approval of the Conditional Use Permit to the City Council, subject to seven conditions of approval described in the Staff Report.

Chairman Allen asked whether any Commissioners had questions of Staff. None did.

Chairman Allen announced that the Commission would take testimony from anyone who wished to testify, and asked everyone who wished to testify to sign the Request for Recognition form.

Chairman Allen recognized Ms. Kerner, the applicant for the CUP. Ms. Kerner thanked everyone present for coming out in support of her application and went on to say that she has always loved bees and thinks that keeping them will benefit the community.

Chairman Allen asked Commissioners if they had any questions for the applicant. None did.

Chairman Allen announced that the Commission would take testimony from those in favor of the application and recognized Mr. Walter Wirths, a Dunes City resident and neighbor of Ms. Kerner. Mr. Wirths said that he had had bees for most of his life and thought that they were the essence of our well-being. He explained that he had never been stung by a bee, they are not usually aggressive, and he could not see any reason not to allow keeping them.

Chairman Allen recognized Mr. John Stead, a Dunes City resident, who explained that he has raised bees since he was a child. He went on to say that bees are wonderful creatures that we cannot do without. He went on to say that he supported the idea of keeping them. He noted that if honey is harvested there needed to be a super on top of the bee box, which would make the box taller than described in the Staff Report, and he asked if Ms. Kerner would have to obtain another permit for that. Chairman Allen noted that it was unlikely that Ms. Kerner would need any special permit to enlarge the box. Mr. Wirth commented that it was not necessary to make the box taller, another box could be added.

Chairman Allen recognized Mr. Jerry Schneider, an Osprey Way resident and neighbor of Ms. Kerner. Mr. Schneider read from a prepared statement.

“From Save Oregon Bees: beyondtoxics.org. Healthy and diverse pollinator populations are an integral piece in the larger picture of worldwide health and nutrition. Bees and other pollinating insects are crucial to the food produced by more than 2.5 billion small farmers worldwide. Research shows that if pollination is managed well on small diverse farms, crop yields increase by a statistically significant median of 24 percent. Foods richest in nutrients, such as kale, blueberries, apples, and almonds depend on insect pollination. If a crop has been well pollinated, then larger and more nutritious leaves, fruits and seeds will develop. Plants naturally tend to put more of their growing energy into well-pollinated flowers and fruits thus increasing their quality, taste and nutritional value. The result is more nutrition per ounce of food, an important aspect of sustainable food production.”

Referring to the OSU Extension Services website’s article about nuisance-free honey beekeeping, Mr. Schneider read, *“The legal definition of a nuisance goes beyond the everyday meaning of being bothersome. Legally speaking, an activity becomes a nuisance when a person’s use of or activity on a property infringes on the rights of another person’s property (private nuisance) or on the rights of the general public (public nuisance). This infringement might be anything that:*

- *“Is considered harmful to public health, safety, or convenience;*
- *“Impedes the ability of people to enjoy public or private property; or*
- *“Lowers the physical condition or value of surrounding property.”*

Mr. Schneider noted that the Commission appeared to have considered the first two points (above). He went on to refer to a telephone conversation he had had with Ms. Christina Voogd of Berkshire Hathaway about property values during which she said that it was her opinion, and the opinion of other knowledgeable real estate agents that, given the open area and larger than average lots, keeping bees will not adversely affect property value, the sale of or purchase of a home.

A COMPLETE COPY OF MR. SCHNEIDER'S STATEMENT IS ATTACHED AS EXHIBIT B.

Chairman Allen recognized Mr. Keith Lincoln, a neighbor of Ms. Kerner, who said that he was in favor of keeping honey bees, especially in light of the worldwide decline in populations of bees, and he would welcome beekeeping in the neighborhood.

Chairman Allen recognized Mr. Max Kuhn, a member of Oregon State Beekeepers Association, who explained that as a long-time beekeeper he could answer any questions that the Commissioners had about beekeeping. He went on to reference Ms. Kerner's ability to keep bees and her training so far by saying that she had had some training and planned to continue beekeeping training. He noted, that in his opinion, Ms. Kerner was perfectly capable of raising bees.

Chairman Allen noted that no one had signed in to speak in opposition of Ms. Kerner's application. She asked if Ms. Kerner wished to keep the record open or whether the Commissioner's should proceed to deliberation. Ms. Kerner did not wish to keep the record open.

Chairman Allen closed the public hearing at 6:50 pm.

9. NEW BUSINESS

A. Deliberation and Decision: CUP Application

Chairman Allen explained that the Planning Commission could:

1. Recommend approval of the Conditional Use Permit with the Conditions of Approval specified in the Staff Report and Findings of Fact;
2. Recommend approval of the Conditional Use Permit with modified Conditions of Approval and/or Findings of Fact; or
3. Recommend denial of the Conditional Use Permit based on Findings of Fact or other information identified by the Commission but not included in the Staff Report/Findings of Fact.

Commissioner Ziegler noted that Ms. Lynn Smelker had written a letter in opposition of approving Ms. Kerner's application. He explained that he had some questions for her and

asked how they could be addressed if she was not present. City Administrator/Recorder Mills explained that Staff might be able to answer his questions, and that Staff would provide a copy of the minutes of the meeting to Ms. Smelker so that she would be aware of the discussion and could, if she wanted to do so, respond prior to the City Council's public hearing on the application.

Commissioner Ziegler asked if Ms. Smelker was a full-time Dunes City resident. City Administrator/Recorder Mills said that she was not.

Commissioner Ziegler asked if there was any documented evidence showing that Ms. Smelker, or anyone on her property, had a serious or life-threatening bee allergy. City Administrator/Recorder Mills replied that, to her knowledge, there was none.

Commissioner Ziegler asked if there was any alternate location on the applicant's property that would be acceptable to Ms. Smelker. Again, City Administrator/Recorder Mills replied that she did not know the answer.

Commissioner Pesnell pointed out that under Section 155.4.4.3 (Application Submission Requirements), item G, the Findings say, "There are no existing or proposed restrictions or covenants imposed by Dunes City on this property. There are CC&Rs for Osprey Estates." He asked if the Osprey Estates CC&Rs addressed the issue in any way. City Administrator/Recorder Mills explained that Dunes City's legal counsel has advised the City not to become involved with CC&Rs in any way, they are a contract between private landowners and Dunes City has no authority over private contracts.

Commissioner Ziegler made a motion to accept the Staff Report and Findings of Fact as presented. Commissioner Pesnell seconded the motion. In a roll call vote, Commissioners Robbers, Pesnell and Ziegler all voted in favor of the motion. There were none opposed. One Commissioner was absent from the meeting.

Commissioner Pesnell made a motion for the Planning Commission to recommend that the City Council approve the Conditional Use Permit application. The motion was seconded by Commissioner Robbers. In a roll call vote, Commissioners Robbers, Pesnell and Ziegler all voted in favor of the motion. There were none opposed. One Commissioner was absent from the meeting.

Chairman Allen thanked everyone who was present for their participation.

10. UNFINISHED/OLD BUSINESS

A. Continue Review of Chapter 155.4.9

Chairman Allen suggested tabling discussion. There were no objections.

11. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA

There were none.

12. ADJOURNMENT

Commissioner Ziegler made a motion to adjourn. Commissioner Robbers seconded the motion. No vote was taken.

Chairman Allen adjourned the meeting at 7:01 pm.

APPROVED BY THE PLANNING COMMISSION ON THE 28th DAY OF JUNE 2018.

[Signed copy available at City Hall]

Bonnie Allen, Chairman

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator/Recorder