



PLANNING COMMISSION SPECIAL SESSION MINUTES ~ APPROVED
TUESDAY, NOVEMBER 13, 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 November 13, 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, Vice Chairman Barry Sommer, Commissioner Ken Pesnell, and Commissioner Ric Ziegler. Also present was City Administrator/Recorder Jamie Mills

Absent and Excused: Commissioner Shauna Robbers

Also Present: CUP Applicant David Dumas and neighbor Brett McKnight

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Vice Chairman Sommer 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 Meeting Minutes of October 25, 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 Agenda:

- A. The December Planning Commission meeting will be held on Tuesday, December 18, rather than the regularly scheduled Thursday, December 27.

7. CITIZEN INPUT

There was none.

8. PUBLIC HEARING

- A. Conditional Use Permit Application – submitted by David Dumas for a property line Adjustment

Chairman Allen announced, “This evening we have a public hearing on an application for a Conditional Use Permit to make a property line adjustment, as applied for by Mr. David Dumas. 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 apply 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 challenging party has concluded that the Commissioner will not make a decision in an impartial manner.”

Chairman Allen asked if any member of the public wished to challenge the impartiality of any Commissioner. No one did.

Chairman Allen asked if any Commissioner wished to declare a conflict of interest, bias, or ex-parte contact. Chairman Allen stated that more than a year ago she encountered April Dumas, a neighbor and wife of Mr. Dumas, by chance and casually talked about a matter of parking their boat on property that might actually be the McKnight’s property. She asked Commissioners if any were bothered by that discussion. No one replied.

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

Administrative Assistant Rapunzel provided a summary introduction noting that there was a scrivener error in the title on the first page of the report, which would be corrected. She went on to note that the property line issue had been a matter of discussion between the neighboring property owners for several months and they had met often to try to resolve the issue. She went on to say that in January City Staff met with Mr. Dumas and Mr. McKnight in a pre-application conference to review a proposed boundary line adjustment site map, the process of applying for a Conditional Use Permit to make the adjustment and the reasons, according to City Code, for doing so. She noted that during that meeting parties agreed that the proposed boundary line adjustment was not illustrated correctly on the site map and it was agreed that a new map would be prepared and submitted to the City with a Conditional Use Permit application. Mr. Dumas submitted the revised site map, the CUP application and the required fee in October, at which time City Staff deemed the application complete, scheduled the public hearings for the application at the Planning Commission and City Council and began the steps for a Type III process.

Chairman Allen asked Mr. Dumas and Mr. McKnight if the revised site plan had been agreed upon by both parties. They said that it was.

Rapunzel explained the criteria applicable to the CUP application: Dunes City's Code of Ordinances Section 155.4.3.210 (Transfer of Property) requires that property line adjustments for lots less than one acre in size must be approved by the City through the Conditional Use Permit process, and Section 155.4.4 (Conditional Use Permits). She also noted that if the CUP was approved, the Dumas property would be increased by about 250 square feet and the McKnight property would be reduced by about 250 square feet.

Rapunzel went on to note that the staff report listed each of the criteria listed in Sections 155.4.3.210 and 155.4.4 with Staff's findings on each. She reported that, in Staff's opinion, the relevant criteria were either met or were not applicable to this CUP application. She pointed out that in the pre-application conference report, Staff had noted that future construction of an accessory building or cover structure to cover any vehicles parked near the property line might not meet setback requirements of Dunes City Code and, if not, would require a variance. In the pre-application report, Staff also noted that any such structure must also meet vision clearance requirements.

Based on the findings in the staff report, Rapunzel noted that Staff recommends approval of the CUP application and, further, while Staff has no recommendations for conditions of approval, based on the pre-application conference report, there are four conditions listed in the staff report that the Planning Commission could consider.

Following presentation of the staff report and findings of fact, Commissioners had no questions for Staff. Chairman Allen asked Mr. Dumas if he wished to provide any testimony. He did not. Commissioners did not have any questions for him.

Chairman Allen asked if there was anyone present who wished to testify in favor of the application. Mr. McKnight introduced himself and noted that the site plan provided with the application showed that Leavitt Road intersected Cold Spring Lane, but that Leavitt

Road was incorrect, the road is Woodland Lane. City Administrator/Recorder Mills explained that the original subdivision survey map listed the road as Leavitt, but the City has since accepted the renaming as Woodland Lane. He went on to say that the new boundary line shown on the site plan was acceptable to him. Commissioners had no questions for Mr. McKnight.

Chairman Allen asked if Mr. Dumas wished to hold the record open. He did not and Chairman Allen closed the public hearing at 6:19 pm

9. NEW BUSINESS

A. Deliberation and Decision: CUP Application

Chairman Allen explained that the Planning Commission could:

- Recommend approval of the Conditional Use Permit without Conditions of Approval,
- Recommend approval of the Conditional Use Permit with the Conditions of Approval provided in the Staff Report/Findings of Fact,
- Recommend approval of the Conditional Use Permit with Conditions of Approval determined by the Planning Commission, or
- 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.

Following discussion, Chairman Allen suggested attaching the four conditions provided in the Staff Report to approval of the CUP application to make it clear that setback and vision clearance requirements must be addressed by the applicant and Mr. McKnight in the future and to ensure that recording of the new boundary line is done through the County with follow up notification to the City. She read aloud the proposed conditions:

1. Construction of any accessory building or cover structure to cover any vehicles parked on the parking pad must meet setback requirements pursuant to Section 155.2.1.122 (Specific Requirements) or require approval of a variance pursuant to Section 155.5.1 (Variances) to modify any setback standard.
2. Any accessory building or cover structure must be placed in a manner that complies with Vision Clearance requirements set forth in Section 155.3.1.2(M) (Vehicular Access and Circulation/Vision Clearance) and Section 155.6 (Appendix/Vision Clearance).
3. Within ninety (90) days of the signature of the Mayor on the final, approved property line adjustment survey with legal description, applicant must submit the final property line adjustment survey to Lane County for signatures of County Officials as required by ORS Chapter 92.
4. Within fifteen (15) days of final recording with the County, the applicant shall submit to the City a paper copy of the recorded final property line adjustment.

This must occur prior to the issuance of any building permits on the reconfigured lots.

Commissioners did not object and there were no amendments to the Staff Report/Findings of Fact as presented. Mr. Dumas and Mr. McKnight did not object to the conditions.

Commissioner Pesnell made a motion to recommend approval of the Conditional Use Permit with the conditions of approval provided in the Staff Report/Findings of Fact. Vice Chairman Sommer seconded the motion. In a roll call vote, the motion passed with three votes in favor (Sommer, Pesnell and Ziegler) and none opposed.

10. UNFINISHED/OLD BUSINESS

A. Continue Review of Chapter 155.3 (Flood Damage Prevention)

Rapunzel referred Commissioners to copies of handouts distributed prior to the start of the meeting and explained that they provided answers to some of the questions that Commissioners raised during the October meeting. The first handout was from the ASCE in which “ASCE” was defined as “American Society of Civil Engineers.” The second handout was from FEMA “Flood or Flooding” and contained a definition of flood or flooding. The third handout provided explanations of the various flood zones that could be depicted on a community’s Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map.

There was some discussion about whether or not the Planning Commission could recommend inserting any language into the code that was provided. Commissioners agreed to recommend adding to 153.05 (Definitions) “ASCE – American Society of Civil Engineers.” and add the entire FEMA definition/description of Flood or Flooding as, “A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) The overflow of inland or tidal waters; 2) The unusual and rapid accumulation or runoff of surface waters from any source; 3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.”

Commissioners continued their review of 153 beginning at 153.24 (Small Accessory Structures) on page 10.

There was some discussion of 153.24(C) and (D) on page 11 and whether or not they conflicted—(C) referring to parking or storing of vehicles (which may contain oil or gasoline) and (D) referring to storage of oil, gasoline or other potential pollutants.

There was some discussion of 153.25 (Below Grade Crawlspace), paragraph G on page 12, “The enclosed area should be drained within a reasonable time after a flood event.” Commissioners were concerned about how much time would constitute a “reasonable

time” and whether or not the phrase was enforceable. City Administrator/Recorder Mills explained that FEMA would make the determination about what would be reasonable and she agreed to note the Commissioners’ objection to the phrase.

There was some discussion about 153.29(K) which refers to the “Tsunami Inundation Zone” and essential facilities. City Administrator/Recorder Mills agreed to ask FEMA representative for clarification of the language and whether or not the paragraph should be in a Section of its own.

Commissioners agreed to end this review of Chapter 153 after 153.29(K).

11. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA

Rapunzel informed Commissioners that the City received an application to the CAC reviewing Chapter 155.4 and the new member could be appointed during the December 18 Planning Commission meeting. City Administrator/Recorder Mills announced that City residents did not pass the ad valorem tax and the City Council would begin discussing options during the November 14 Council meeting.

12. ADJOURNMENT

Commissioner Pesnell made a motion to adjourn. Vice Chairman Sommer seconded the motion. There was no vote taken.

Chairman Allen adjourned the meeting at 7:17 pm.

APPROVED BY THE PLANNING COMMISSION ON THE 24th DAY OF JANUARY 2019

[Signed copy available at City Hall]

Bonnie Allen, Chairman

ATTEST:

[Signed copy available at City Hall]

Jamie Mills, City Administrator/Recorder