



PLANNING COMMISSION MINUTES ~ APPROVED

THURSDAY, JULY 22, 2021 AT 6:00 P.M.

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

Vice Chair Ken Pesnell called to order the July 22, 2021 Planning Commission meeting at 6:02 pm.

2. ROLL CALL

Roll Call was taken by Administrative Assistant Rapunzel Oberholtzer.

Present: Vice Chair Ken Pesnell, Commissioner Michael Mathews, Commissioner Wanda Phillips.

Absent and Excused: Chair Bonnie Allen, Commissioner Jamie Gorder.

Also Present: City Administrator/Recorder Jamie Mills, Planning Secretary Lani Noroña and Administrative Assistant Rapunzel Oberholtzer.

3. PLEDGE OF ALLEGIANCE

All who were present stood for the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

Commissioner Phillips made a motion to approve the Agenda.

The motion was seconded by Commissioner Mathews and passed by unanimous vote.

5. APPROVAL OF THE CONSENT AGENDA

A. Planning Commission Special Session Minutes of May 27, 2021.

Commissioner Phillips made a motion to approve the minutes from the May 27, 2021 Special Session and noted she was not present at that meeting.

Commissioner Mathews seconded the motion and it passed by unanimous vote.

6. ANNOUNCEMENTS / CORRESPONDENCE

There were none.

7. CITIZEN INPUT

There was none.

8. PUBLIC HEARING

None scheduled.

9. NEW BUSINESS

A. Staff Report: Update of Montgomery View Estates.

1. Administrative Assistant Oberholtzer reported that the Dunes City attorney recommends that to avoid the appearance of impropriety, the developer should not use the same engineering firm that Dunes City uses.
2. The prospective buyer and developer of the property have backed out from this project and the project is currently in limbo.

B. Training - Mock Public Hearing for Sample C.U.P. Application:

Administrative Assistant Oberholzer gave a brief explanation of the Public Hearing process and the legal requirements for the Public Hearing Script.

Vice Chair Pesnell read the Public Hearing Script:

"This evening we have a public hearing on a request for a Conditional Use Permit to keep a horse on a Dunes City lot with an existing residence.

"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 party has concluded that the Commissioner will not make a decision in an impartial manner."

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

1. Commissioner Phillips asked for conflict of interest and bias definitions, as those definitions apply to the Public Hearing process.

Vice Chair Pesnell referred to past training about these issues and explained that any potential for bias or conflict of interest should be disclosed.

Administrative Assistant Oberholtzer stated that definitions for conflict of interest, bias, and ex parte contact are defined in Dunes City code, Chapter 155 revisions, and can be found on the DLCD website.

2. Commissioner Phillips asked if looking at a property is allowed, or if that would constitute a conflict of interest.

Administrative Assistant Oberholtzer explained that under certain conditions there may be a site review. If Commissioner(s) decide they should look at a property, a site review would be scheduled as a P.C. Special Session, in advance of the Public Hearing.

Commissioners then discussed passing by a property, which should be disclosed, that it is not allowed to enter the property, not discussing the proposal with an applicant, property owner, or citizens, disclosing if the Applicant or property owner is a friend, or anything that might possibly be considered bias, conflict of interest, or ex-parte contact.

3. Vice Chair Pesnell asked for a definition of ex-parte contact.

Administrative Assistant Oberholtzer answered that a Commissioner discussing the proposal with the Applicant is one example of ex-parte contact, and offered to e-mail Commissioners the definitions of bias, conflict of interest and ex-parte contact.

Vice Chair Pesnell then continued to read the Public Hearing Script:

"Does any member of the public wish to challenge a Commissioner's impartiality?"

No challenge was made, as no members of the public were present.

Vice Chair Pesnell opened the mock Public Hearing at 6:17 p.m.

"I now open the Public Hearing for the Conditional Use Permit at 6:17 p.m."

"Could we please have the Staff Report?"

Planning Secretary Lani Noroña read a Summary of the Staff Report and asked Commissioners if there were any questions.

1. Commissioner Phillips asked if Staff always "sends something" to applicant's neighbors. Administrative Assistant Oberholzer explained Oregon's requirements for Public Notice.

2. Commissioner Mathews asked how Commissioners will know if Staff has correctly completed the review of applicable criteria.

Administrative Assistant Oberholtzer answered that Commissioners receive a copy of the Staff Report in advance of the Public Hearing and suggested Commissioners review the Staff Report, Comprehensive Plan and Dunes City code, as it applies to the proposal.

Commissioners read aloud the Staff Report, line by line.

Vice Chair Pesnell continued reading from the Public Hearing Script:

"Do any Commissioners have questions of the Staff?"

1. Commissioner Phillips asked about the Finding for Section 155.4.1.6, B., 2.d., regarding the impact of manure disposal and run-off into lakes and streams.

Vice Chair Pesnell noted that the Staff Report recommendations include: "Manure disposal according to established OSU guidelines". He added that Commissioners can recommend approval with additional Conditions of Approval.

2. Commissioners voiced some concerns and discussed the following:
 - a. The size of the lot, noting existing structures and septic system, and if the lot size is large enough to support keeping a horse.
 - b. The potential for manure to be impacted by heavy rainwater and cause run-off, as the lot has some slope towards Siltcoos Lake.
 - c. The potential for manure contaminating well water on the subject property or neighboring properties.

Vice Chair Pesnell continued to read from the Public Hearing Script:

"We will now take testimony from the applicant."

There was no testimony presented.

"Commissioners, do you have any specific questions of the applicant?"

1. Vice Chair Pesnell asked the applicant if she had researched how much area is needed for properly boarding a horse.
2. Commissioner Mathews asked how he will know if applicant is following OSU procedures for managing manure and "who's going to check into that?". Commissioners noted that the complaint process is used in this type of situation.

Commissioners discussed making a motion in the case where a decision is made to Amend the Staff Report, requirements of timelines and Public Notice requirements.

Vice Chair Pesnell continued to read from the Public Hearing Script:

"We will take testimony from all of those who wish to testify. If you have not already done so, please sign in with your name and mailing address."

"We will now take testimony from those in favor, if any."

There was no testimony presented.

"We will now take testimony from those opposed, if any."

There was no testimony presented.

"Commissioners, do you have any specific questions for a person who has testified?"

"The applicant may request that the record be held open. Does the applicant desire to hold the record open and, if so, for how long?"

Administrative Assistant Oberholtzer explained the process for when an Applicant requests to hold the record open.

Vice Chair Pesnell continued to read the Public Hearing Script:

"I now close this public hearing. It is 7:08 p.m."

Vice Chair Pesnell read the possible Commission actions, followed by general discussions by Commissioners and Staff, and mock recommendation scenarios.

No decisions were made, as this was a Mock Public Hearing for training purposes.

10. UNFINISHED / OLD BUSINESS

None Scheduled.

11. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA / FOR THE GOOD OF THE ORDER

There were none.

12. ADJOURNMENT

No motion was made nor seconded.

Vice Chair Pesnell adjourned the meeting at 7:33 p.m.

APPROVED BY THE PLANNING COMMISSION ON THE 26TH DAY OF AUGUST, 2021.

[Signed Copy available at City Hall]
Bonnie Allen, Chair

ATTEST:

[Signed Copy available at City Hall]
Jamie Mills, City Administrator/Recorder