

**DUNES CITY PLANNING COMMISSION**

**REGULAR MEETING**

**FEBRUARY 16, 2000 --- 7:00 P.M.**

- I. CALL TO ORDER
  
- II. APPROVAL OF MINUTES  
December 15, 1999 Regular Meeting
  
- III. ANNOUNCEMENTS AND CORRESPONDENCE
  
- IV. PUBLIC HEARINGS  
Variance Application - Thomas C. Nicholson, Applicant  
Map 19-12-14-4 • Tax Lot 501
  
- V. OLD BUSINESS  
Draft Tree Ordinance - Discussion
  
- VI. NEW BUSINESS
  
- VII. ADJOURNMENT

**DUNES CITY PLANNING COMMISSION  
REGULAR MEETING  
FEBRUARY 16, 2000 --- 7:00 P.M.**

**I. ROLL CALL**

Chair, Don Puderbaugh called the meeting to order at 7:00 p.m.

**Present:** Bryce Spankroy; Steve Hardeman; Chair, Don Puderbaugh; Lee Riechel; Dan Karnes; City Recorder, Mary Spankroy; and Planning Secretary, Janet Hayes. There were 15 people in the audience at the beginning of the meeting.

**II. APPROVAL OF MINUTES**

**Action**

A motion was made by Lee Riechel and seconded by Don Puderbaugh to approve the minutes of the December 15, 1999, regular meeting of the Planning Commission. The voting was unanimous and the motion carried.

**III. ANNOUNCEMENTS AND CORRESPONDENCE**

- A. Don Puderbaugh was nominated and elected as Planning Commission Chair at the joint workshop of the City Council and Planning Commission on January 13, 2000. Lee Riechel was nominated and elected as Planning Commission Vice Chair. A copy of the minutes pertaining to that election are attached as Exhibit A.
- B. Two land use applications have been received and will be heard at the regular meeting scheduled for March 15, 2000.  
**March 15, 2000**
- C. ~~March 16, 2000~~, at 2:00 p.m. a meeting is scheduled to discuss the water level of Siltcoos Lake and the Siltcoos Outlet. The meeting will be held at city hall and the public is invited.

**IV. PUBLIC HEARINGS**

**A. Variance Application - Thomas C. Nicholson**

Chair, Don Puderbaugh announced that the public hearing for Thomas C. Nicholson was for a Variance to add on to a nonconforming structure within the 50 ft. shoreland setback. The property is identified as tax lot 501 on map 19-12-14-4, the address is 5420 Leavitt Loop.

The public hearing rules and procedures were explained and the “raise it or waive it” rule was read. The Variance criteria were projected on the wall. Chair, Puderbaugh stated for the record that there had been a public meeting at the site. He said that he and commissioners; Spankroy, Riechel, and Hardeman had visited the site. Commissioner Dan Karnes was not present. Chair Puderbaugh polled the commissioners for discovery of any additional facts that were found during the site visit.

No additional findings, ex-parte or conflicts of interest were declared.

Chair Puderbaugh asked the applicant to address the criteria in his presentation and to state how his application meets that criteria.

Chair, Don Puderbaugh opened the public hearing at 7:12 p.m..

Tom Nicholson gave a brief history of the house stating that the construction date was in the 1960's. He said the footings were constructed of non-pressure treated lumber and described the deteriorating condition of the present foundation. The contractor on this proposed project is Ken Carter. Mr. Nicholson explained that the repair of the nonconforming structure is allowed within the Dunes City ordinance. His application is for an “addition” to the house. While the foundation of the home is being repaired he wants to add a bedroom and bath downstairs and the upstairs sleeping area would be abandoned. He stated that due to a good faith/lack of information the staff report notes the current structure as being one bedroom. There is in fact a 1987 building permit, for the addition of two bedrooms, that was issued and finalized by Mortier Engineering that is not in the Dunes City file or his personal file. He has a copy of the electrical and a “final” document from former City Recorder, Betty Stocking. The building permit attached to the staff report “83-27” never transpired. An increase in footprint or cubic content of the nonconforming structure requires a Variance. He said his proposal does not increase the current footprint. The only exception would be the possibility of an outside stairway to gain access below the house. He felt the impact by the addition would be minimal to the vegetation and would be about 20 ft. above the ground. He identified the primary “hardship” the variance speaks to is the topography of the land. There is no place else to build. He said the septic system installed in 1981-1982 meets current standards and was approved for three bedrooms. Mr. Nicholson said he could either address each criteria individually or stipulate that he agreed with staff’s analysis with a correction to the current number of bedrooms.

**Proponents:**

Thomas Hunt, 5440 Leavitt Lp.

Mr. Hunt read for the record his letter noting no opposition to the application for a variance (Exhibit B).

Ken Carter , Carter Bros. Construction 87616 Parkside Dr.

Mr. Carter said due to the lateral support requirements, a screening of those supports would probably be necessary. The screening of that support would have an appearance similar to the finished addition that is being proposed.

**Opponents:**

None

A lengthy question and answer period followed. Concerns were voiced by the commission regarding engineering of the foundation and protection of the vegetation that is under and adjacent to the deck. Mr. Carter said they would engineer the project and there should not be any disruption to vegetation three feet outside the footing line. He also assured the commissioners that there would be no heavy equipment in the shoreland area it would all be manual labor.

Commissioner Karnes asked Ken Carter about the suitability of the area for development and stability of the area. Mr. Carter said the manual labor required for the project makes it difficult not unsuitable.

Chair, Puderbaugh closed the public hearing at 7:40 p.m.

Considerable discussion was devoted to the existing footprint and the inclusion of the deck in that footprint. After significant deliberation it was determined and confirmed by Ken Carter that the existing deck was built on the main support of the house. The commissioners concurred to include the deck in the house footprint and add the following finding to the staff report:

#12. The commission normally does not consider the inclusion of decks in the footprint of a residence and/or house. However, in the case of this particular house, the deck has been built on the main support beams of the house. It is the consensus of the commission that the deck is part of the footprint of this house.

**Motion**

Lee Riechel made a motion to accept the staff report as written with a correction to the number of bedrooms and the addition of finding #12. Bryce seconded the motion. The voting was unanimous and the motion carried.

The commissioners concurred on the following Conclusions of Law:

1. A literal interpretation and enforcement would result in both a practical difficulty, and unnecessary hardship, by not allowing the addition to a nonconforming structure the applicant would not be allowed to add an additional bedroom that would provide the applicant with the privacy not currently available with a “loft” sleeping area.
2. A 1983 Variance Order, Conclusion of Law, 1.b. states that the slope is too steep to build anywhere else on the lot except with the 25 ft. front yard setback.
3. Without the Variance the applicant would not be able to add a bedroom and bathroom to the residence that would afford them more privacy than the loft currently used as a bedroom.
4. The granting of the variance would not interfere with adjacent property owners water lines, septic drainfields or lake views.

**Motion**

Dan Karnes made a motion to recommend to the City Council that it approve the request of Thomas C. Nicholson for a Variance to add on to a nonconforming structure within the 50 ft. shoreland setback because having considered the evidence presented by those for the proposal as well as the evidence against the proposal, I find by the weight of the evidence ‘for’ that the proposal should be approved. Lee Riechel seconded the motion. The voting was unanimous and the motion carried.

Planning Commissioner Puderbaugh called for a five minute recess.  
The meeting reconvened at 8:15 p.m.

**V. OLD BUSINESS**

**Draft Tree Ordinance**

Chair Puderbaugh reported that it was the decision of the council to have the commission stop its work on a tree ordinance. If a tree ordinance was adopted by Dunes City the Forest Practices Act would no longer apply in the city. A brief discussion followed regarding possible tools to inform and educate Dunes City residents about trees in a positive manner.

The commissioners discussed getting notification from the state when there is tree harvesting going on within the Dunes City.

**Motion**

A motion was made by Dan Karnes to recommend to the City Council to pursue the

**DUNES CITY COUNCIL / PLANNING COMMISSION  
JOINT WORKSHOP  
JANUARY 13, 2000 --- 5:30 P.M.**

**CALL TO ORDER AND ROLL CALL**

The workshop was called to order at 5:30 p.m. by Mayor Rob Ward.

**PLANNING COMMISSIONERS PRESENT:**

Don Puderbaugh, Lee Riechel, Bryce Spankroy, Dan Karnes  
Absent/Excused: Steve Hardeman

**CITY COUNCIL MEMBERS PRESENT:**

Mayor Rob Ward, Robert Petersdorf, Richard Anderson, David Jackson, and Ed Becker  
Michelle Birdseye arrived at 5:45 p.m.  
David Jackson arrived at 5:55 p.m.

**ALSO PRESENT:**

City Recorder, M. Spankroy; Planning Secretary, J. Hayes; Assistant Secretary, D. Breece; Director of Roads, Keith Watson and 18 citizens in attendance.

**A. UNSCHEDULED BUSINESS**

Planning Commission Chair, Lee Riechel stated that before the discussion began on the tree ordinance draft the commissioners needed to complete their election of officers for the year 2000. Lee Riechel nominated Commissioner Don Puderbaugh for the position of Planning Commission Chair. The motion was seconded by Dan Karnes. The voting was unanimous and the motion carried.

Absent / Excused: Steve Hardeman

Commissioner Dan Karnes nominated Commissioner Lee Riechel for the position of Planning Commission Vice Chair. Don Puderbaugh seconded the motion. The voting was unanimous and the motion carried.

Absent/Excused: Steve Hardeman

**B. NEW BUSINESS**

The Planning Commission has been working for over two years on a tree ordinance draft. Don Puderbaugh presented an overview of the ordinance draft on behalf of the Planning Commission (See Exhibit A).

Mayor Ward spoke briefly on the Forest Practices Act. Rick Rogers will be presenting Mayor Ward's questions to Salem. What type of relationship may or may not exist with the State of Oregon through the Department of Forestry and the Corps of Engineers and Division of State Lands is unclear.

Thomas J. Hunt  
5440 Leavitt Loop  
Florence, OR 97439

Feb. 16, 2000

Dunes City Planning Commission  
PO Box 97  
Westlake, OR 97493

Dear Planning Commission:

Concerning the Variance request by Tom Nickolson, I wish to go on record as having no objections to his request, and I believe his request meets the four criteria as stated in the ordinance.

In 1980, I applied for, and was granted, a very similar request when I built an addition to our home at 5440 Leavitt Loop. The addition was able to include a daylight basement and deck within the 50 foot setback. Mr. Nickolson is just asking for something which many of us in the neighborhood already have.

In regards to criteria 1, I believe a strict or literal interpretation of the setback ordinance would impart a difficulty and hardship. Mr. Nicholson should be able to add a downstairs bedroom while redoing his foundation. This would make his house more in keeping with the size of many of the houses in the neighborhood.

There are many exceptional circumstances that apply to this property, mostly involving the steep slope and the original placement of the house, which dates from the early sixty's, possibly before Dunes City was even formed

In regards to criteria 3, as I stated, others in the area legally have daylight basements, some even within the 50 foot setback.

And regarding criteria 4, I do not believe adding a downstairs bedroom would be any more detrimental than either leaving the current tool shed, or adding a new standard foundation with post and pier construction. Indeed, I think it would be an improvement.

Finally, I believe the facts of this application should fit within the criteria of the ordinance, and lead to a conclusion of law to approve

Sincerely,

*Thomas J. Hunt DMD*

Thomas J. Hunt D.M.D.

# DUNES CITY

P.O. Box 97

Westlake, Oregon 97493

Ph. 997-3338

June 18, 1980

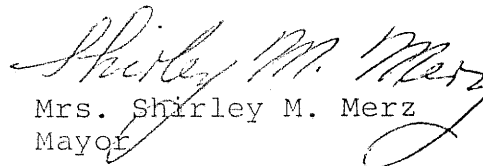
Mr. Thomas J. Hunt  
5440 Leavitt Loop  
P. O. Box 614  
Florence, Oregon 97439

Dear Mr. Hunt:                      Re: Request for Variance

At its regular Council meeting of June 12, 1980, the Council approved your request for Variance with two conditions, as follows:

- (1) Encroachment of deck is not to exceed that of the existing deck, which is 36 feet from the lake shore.
- (2) That copies of septic permit be submitted to the office for files.

Sincerely yours,

  
Mrs. Shirley M. Merz  
Mayor

gc



development of an educational booklet to promote the conservation of trees and livability of Dunes City. Steve Hardeman seconded the motion. The voting was unanimous and the motion carried.

**Motion**

A motion was made by Lee Riechel to recommend to the City Council that it subscribe to the State Forestry Department to receive notification of tree harvesting permits applied for within Dunes City and adjacent to Dunes City. Bryce Spankroy seconded the motion. The voting was unanimous and the motion carried.

Dan Karnes said he felt it should go on record for the good people of Dunes City to know that the commission had pursued the drafting of the tree ordinance not only because a good tree ordinance is a good idea but also because they were directed to do so.

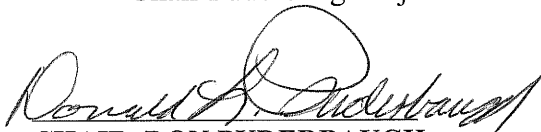
**VI. UNSCHEDULED BUSINESS**

Telecommunications Facility Potential Site • Gem Engineering Company - Marv Steadman

Mr. Steadman introduced himself as a representative of Gem Engineering Company out of Tigard, Oregon. He said American Tower is the client his company is working for. He is searching for possible sites to construct telecommunication towers on the coast. A brief discussion followed regarding elevation requirements, location, and possible rental fees. The commissioners suggested a few of the limited possibilities in the Dunes City area.

**VII. ADJOURNMENT**

Chair Puderbaugh adjourned the meeting at 8:45 p.m.

  
CHAIR, DON PUDERBAUGH

  
PLANNING SECRETARY, J. HAYES

  
BRYCE SPANKROY

  
STEVE HARDEMAN

  
LEE RIECHEL

  
DAN KARNES

**DUNES CITY PLANNING COMMISSION MEETING**

**FEBRUARY 16, 2000**

PLEASE PRINT YOUR NAME AND ADDRESS BELOW IF YOU WISH TO SPEAK  
REGARDING THE PUBLIC HEARING APPLICATION FOR A VARIANCE

APPLICANT(S), *THOMAS C. NICHOLSON*

**PROPONENTS**

*Kyle Cook*  
*Thomas C. Nicholson*  
*Jim Cook*

**OPPONENTS**

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