

**DUNES CITY PLANNING COMMISSION**

**REGULAR MEETING**

**July 21, 2005 --- 7:00 P.M.**

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES -
  - March
  - April
  - June
- III. ANNOUNCEMENTS AND CORRESPONDENCE
  - A. 2005/2007 Technical Assistance and Periodic Review Grants (Cathy will need help from the Commission to complete).
- IV. PUBLIC HEARINGS
  - A. Variance Application - VAR 2005-01 Reedal Variance  
Map 19-12-23-33-14, Tax Lot 900
  - B. Planned Unit Development Application - PUD 2005-01 Woahink Ridge Estates  
Map 19-12-11-4, Tax Lot 1400, 20.3 acres
  - C. Subdivision Application - SUB 2005-01 The Woods on Woahink  
Map 19-12-23-1, Tax Lot 299
- V. NEW BUSINESS
  - A. Request for Removal of Open Space Overlay on Booth Island - Marv and Darlene Beckman
- VI. OLD BUSINESS - None.
- VII. ADJOURNMENT

DUNES CITY ROAD COMMISSION  
REGULAR MEETING  
July 21, 2005, 6:30 PM

**WOAHINK RIDGE RECOMMENDATIONS**

Lee Riechel made a motion to approve the preliminary PUD plan for Woahink Ridge with eight conditions as follows:

1. The City shall receive a detailed road design prior to the approval of the final plan.
2. Three streetlights shall be installed as follows: <sup>one</sup> ~~Two~~ lights at each intersection of the Woahink Ridge loop and one light at the intersection of Greengate Road and Canary Road.
3. Streets shall meet the Dunes City Master Road Plan Standards.
4. Radius of the curve with in the loop does not meet code.
5. Siuslaw Valley Fire and Rescue approval needed prior to final approval of the plan.
6. The CC&Rs shall be changed to state that the private road will never be gated.
7. The CC&Rs shall be reviewed by the City Attorney and include that the PUD abide by the Dunes City Code and Master Road Plan.
8. During the construction of the street, the City shall receive an inspection progress report at each stage of the road project by the property owner's project engineer.

George McKenzie seconded the motion. There were 5 ayes, 0 nays. Motion carried.

F July 22, 2005  
Planning Commission  
mtg

**DUNES CITY PLANNING COMMISSION  
STAFF REPORT**

**THE WOODS ON WOAHIK PRELIMINARY SUBDIVISION PLAT (SUB-2005-01)**

**Application Received:** June 16, 2005; Deemed complete June 21, 2005  
**Referrals Provided to:** George Ehlers, Jerry Kendal, Lane Co. Land Mgmt.; Dunes City Road Commission; Central Lincoln PUD; Charter Cable; QWest Communications; Siuslaw Valley Fire and Rescue.  
**Notice Mailed:** June 22, 2005  
**Notice Published:** July 13, 2005  
**Report Date:** July 8, 2005  
**Hearing Date:** July 21, 2005

**I. BASIC DATA**

**APPLICANT:** Don Rase  
413 Via De La Paz  
Pacific Palisades, CA 90272

**AGENT:** Rob Ward  
Ward Northwest, Inc.  
P.O. Box 105  
Florence, OR 97439

**PROPERTY OWNER:** John Wood  
2080 Westwood Lane  
Eugene, OR 97401

**LOCATION:** 83938 Cloud Nine Road. Generally located in Dunes City on the western shore of Woahink Lake, north of Salal Street and west of the current termination of Cloud Nine Road.

**ASSESSORS MAP:** 19-12-23-10  
**TAX LOT:** 299

**AREA:** Approximately 15 acres

**PLAN DESIGNATION/ZONING:** Residential

**II. REQUEST**

The applicant has requested preliminary subdivision plat approval for a proposed eight lot residential subdivision in the Residential zoning district.

**III. BACKGROUND AND CONTEXT**

The City received a preliminary subdivision plat application from Rob Ward, agent, for an eight lot subdivision on a single parcel just north of Salal Street and west of Cloud Nine Rd.

roads will be determined at the time of development. In general, the proposed street plan strives to provide connections between the existing road networks across larger undeveloped parcels."

#### **Water System**

The applicant notes that no public water supply is available to the property. All lots will obtain water from Woahink Lake. Lot 8 will be granted an easement to Woahink Lake, which will be 10 feet wide centered on the lot line common to lots 6 & 7 as shown on the preliminary subdivision plat. Water permits will be obtained through the Dunes City water permitting process.

#### **Storm Water Drainage**

The subdivision encompasses areas with steep slopes. No drainage plan is represented in the application.

#### **Easements**

A private utility easement for water is proposed for Lot 8, along the common property line of Lots 6 & 7. A public utility easement for the public right-of-way along the proposed public road will be included in the 50-ft ROW but is not indicated in the tentative plan.

### **VI. STAFF RECOMMENDATION**

Based on the findings in the *Draft Findings of Fact and Decision*, staff finds that the applicant can meet the requirements of the Dunes City Code of Ordinances Chapter 155, Subdivisions, with conditions.

### **VII. POSSIBLE ACTIONS BY THE PLANNING COMMISSION**

The Planning Commission shall review the plan, the reports of the appropriate officials and agencies, and public commentary. The Commission may hold the record open for the submission of additional written material. The Chairperson shall specify the time that the record shall remain open and the nature of the written submissions that may be received while the record remains open.

After the close of the record in the public hearing, the Planning Commission shall make findings based on the applicable criteria. The Commission may:

- A. Approve the request.
- B. Approve the request subject to conditions as defined by the Commission to ensure compliance with the applicable standards.
- C. Defer a decision until more information is provided to answer any questions of the Commission.
- D. Deny the request.

The Commission's decision shall provide justification for the approval, approval with conditions, or the denial of the application.

**§ 155.046 REQUIREMENTS.**

**(A) Drafting**

- (1) *The tentative plan shall show all required and pertinent information drawn to fit standard size sheets...the scale shall be standard...*
- (2) *Tentative plans for major partitions and subdivisions shall be prepared by a surveyor who is a state registered engineer...*

**RESPONSE:** The application meets this requirement. A state registered surveyor prepared the plan which shows all required and pertinent information on standard size sheets in standard scale 1"=60'.

**(B) Information required**

- (B)(1) *Name and block numbering of proposed subdivisions.*
- (B)(2) *The date, north point, and scale of the drawing and a sufficient description...*
- (B)(3) *The names and addresses of the owner and engineer or surveyor.*

**RESPONSE:** The application meets these requirements. The name and block numbering of the proposed subdivisions, the date, north point, and scale, and names and addresses of the owner and surveyor are all included in the application materials.

- (B)(4) *The location of existing and proposed right-of-way lines for existing or projected streets as shown on approved plans of the city.*

**RESPONSE:** The applicant may meet this requirement. The proposed preliminary plan does not indicate the projected continuation of Cloud Nine Road to Salal Street as contained in the Dunes City Master Road Plan. The road should not be constructed with a cul-de-sac which precludes connection of Cloud Nine Road to Salal Street in the future.

**CONDITION:** The applicant shall be required to show the location of the projected right-of-way for the connection of Cloud Nine Road to Salal Street.

- (B)(5) *The locations, names, and widths of all existing and proposed streets, roads, and alleys. ...*

**RESPONSE:** The application meets this requirement. The location, name, and width of the proposed extension of Cloud Nine Road are shown on the preliminary subdivision plan.

- (B)(6) *Locations and widths of streets and roads held for private use...*

**RESPONSE:** There are no private roads proposed, therefore this requirement is not applicable.

- (B)(7) *The elevations of all points used to determine contours...*

**RESPONSE:** The application meets this requirement. The preliminary subdivision plan shows elevation of all points used to determine contours including true elevation above mean sea level.

- (B)(8) *The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips required.*

**RESPONSE:** The applicant can meet this requirement.

**CONDITION:** The applicant shall be required to obtain septic site certification prior to final plat approval.

*(B)(16) All public areas proposed to be dedicated by the applicant and the proposed uses, conditions, or limitations of such reservations.*

**RESPONSE:** The application meets this requirement. The tentative plat indicates a 50-foot right-of-way for the extension of Cloud Nine Road to be dedicated as a public right-of-way.

*(B)(17) All public improvements proposed to be made or installed, and the time within which such improvements are envisioned to be completed.*

**RESPONSE:** The application meets this requirement. The applicant states that the developer will construct the road, install power, phone and cable TV utilities within six months following the preliminary approval of the application, and that all improvements will be completed prior to recording the final subdivision plan.

**CONDITION:** Before final approval of the final plat, the applicant shall be required to construct public improvements as shown on the revised preliminary plan or submit financial assurance in a form acceptable to the city. §155.100 AGREEMENT FOR IMPROVEMENTS.

*(B)(18) A legal description and drawing of the boundaries of the entire area owned by the applicant of which the proposed subdivision... is a part...*

**RESPONSE:** The application meets this requirement. The application includes a copy of the preliminary title report with a description of the subject property, and the boundaries of the property are shown on the preliminary subdivision plat.

*(B)(19) The locations, size, and type of any perennial plantings in public ways.*

**RESPONSE:** There are no perennial plantings in public ways, therefore this requirement is not applicable.

*(B)(20) A draft of proposed restrictions and covenants affecting the plat.*

**RESPONSE:** The application meets this requirement. The applicant has included a copy of proposed CC&R's for this subdivision.

*(B)(21) Predominate natural features, such as water courses and their flows, marshes, rock outcroppings, and areas subject to inundation and slipping.*

**RESPONSE:** The application may meet this requirement. The preliminary subdivision plan shows the shoreline of Woahink Lake. No other relevant natural features have been identified on the property. The property includes steep slopes which could be subject to slipping.

**CONDITION:** Prior to final plat approval, the applicant shall be required to demonstrate the safety of the proposed development by submitting the report of an engineering geologist. See §155.087 UNSUITABLE AREAS (B), (C), AND (D) on pages 7-8 of this report.

*(B)(22) A map setting forth the boundaries of stands of evergreens, and how the development of the proposed subdivision will maximize preservation of those evergreens.*

road, to handle increased traffic on Cloud Nine Road, staff recommends requiring improvements to the existing portions of Cloud Nine Road, including paving and grading, as a condition of approval.

**CONDITION:** The applicant shall be required to show the 50-foot road alignment within the boundaries of the subject tax lot 299, with any necessary re-configurations of lots within the subdivision, and to construct the road within the subject tax lot. Alternately, prior to final plat approval, the applicant shall be required obtain an easement for the road right-of-way on tax lot 209. The applicant shall be required to provide improvements, including grading and paving, for the existing portion of Cloud Nine Road.

*(C) Reserve strips. The city may require the subdivider to create a reserve strip controlling the access to a street, the strip to be placed under the jurisdiction of the City Council and Planning Commission, when the city determines that a strip is necessary:*

*(1) To prevent access to abutting land at the end of a road in order to assure the proper extension of the road pattern and the orderly division of land lying beyond the road.*

**RESPONSE:** The application may meet this requirement.

**CONDITION:** The applicant shall be required to show the placement of a reserve strip at the extension of Cloud Nine Road at the time of final plat approval. See *(F) Future extension of streets*, below on this page.

*(E) Topography. The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this chapter.*

**RESPONSE:** The application meets this requirement. The proposed extension of Cloud Nine Road as shown on the preliminary subdivision plan takes into account existing contours.

*(F) Future extension of streets. Where the subdivision area is adjacent to land likely to be subdivided in the future, streets shall continue through to the boundary lines of the tract under the same ownership...*

**RESPONSE:** The applicant may meet this requirement. The preliminary subdivision plan shows the extension of Cloud Nine Road ending in a cul-de-sac, in contradiction to the Dunes City Master Road Plan, and in contradiction to the maximum length for cul-de-sacs of 500 feet as specified in §155.081 (G) on this page.

**CONDITION:** The applicant shall be required to show a possible road alignment facilitating a connection to Salal Street, and include the location of a reserve strip. See reference to §155.081 (C)(1) *Reserve strips*, above on this page.

*(G) Cul-de-sacs. There shall be no cul-de-sacs more than 500 feet long or serving more than 18 single family dwellings...*

**RESPONSE:** As an informational item, the application does not meet this requirement. The cul-de-sac shown on the preliminary subdivision plan is longer than 500 feet. However, because the applicant will be required to provide a fire-access turn-around and not a cul-de-sac, this requirement is not applicable.

*(H) Grades and curves. Unless otherwise approved by the city because topographical conditions will not reasonably permit, grades shall not exceed 7% on all streets. Centerline radii on curves shall not be less than...100 feet on all other streets.*

**CONDITION:** Prior to final plat approval, staff recommends that the final subdivision plan be required to indicate roadside engineering adequate to handle stormwater runoff from slopes along the roadway, particularly those greater than 50% along frontages of Lots 4, 5, and 8.

**§ 155.086 PARTIAL DEVELOPMENT.** *Where the subdivision area includes only part of the tract owned by the subdivider, the city may require a sketch of a tentative layout of streets in the remainder of the tract.*

**RESPONSE:** The applicant can meet this requirement. See **CONDITION** to § 155.081 **STREETS (F) Future Extension of Streets** on page 6 in this report.

**§ 155.087 UNSUITABLE AREAS.**

*(B) Where slopes exceed 16%, the city may require the report of an engineering geologist before land may be subdivided.*

*(C) Where slopes exceed 12%, the city will require a site review before land may be subdivided. Where slopes exceed 16%, proof of the safety of the proposed development must be shown before the land may be subdivided.*

*(D) No land subject to landslides shall be subdivided.*

**RESPONSE:** The applicant may meet these requirements. Much of the subject property consists of slopes that exceed 16%.

**CONDITION:** Prior to construction document approval and final plat approval, the applicant shall be required to submit a geotechnical report by an engineering geologist to ensure the land is not subject to slippage or inundation in its post-developed state, and to ensure the public health and safety.

**§ 155.089 ACCESS.**

*(A) Restrictions with regard to access points.*

*(B) Relation to adjoining road system.*

**RESPONSE:** The application meets these requirements. The preliminary plan shows each property with street access to a local road of the required width.

*(C) Access. (1) Lots or parcels shall have verifiable access by way of a street, either county, local access – public or an easement. Verifiable access shall meet the following criteria: (a) Each lot or parcel abuts on the roadway for a distance of at least 60 feet.*

**RESPONSE:** The applicant meets this requirement. As noted earlier in this report, on page 6, all lots meet the size and frontage requirements set out in **Section § 155.084 LOTS(A)(2) Frontage** which states: *Each lot shall have frontage of not less than 60 feet upon a street, except that a lot on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc.* As shown on the preliminary subdivision plan, Lot 4 may not have the 60-foot frontage on Cloud Nine Road required in **Section § 155.087 (C)(1)**, however it meets the specified frontage for a lot on the outer radius of a curved street.

**§ 155.090 SOLAR ACCESS.** *The development shall be designed so that solar access is available to south-facing building walls and rooftops on December 21 at noon, unless not feasible due to property size, configuration, orientation, existing vegetation, topography, or other physical constraints....*



**§ 155.105 STREETS AND ALLEYS.**

*The subdivider shall grade and pave all streets and alleys in the subdivision area to the width specified in 155.081 of this chapter and provide for drainage of all such streets and alleys, and construct curbs and gutters within the subdivision in accordance with specifications adopted by the City under 155.101.*

**RESPONSE:** The application may meet this requirement.

**CONDITION:** Prior to final plat approval, the applicant shall grade and pave the public street within the subdivision area to the required width of 22 feet, providing for drainage as specified.

**§ 155.108 UNDERGROUND INSTALLATION OF UTILITY AND SERVICE FACILITIES.**

*All utility lines, including but not limited to those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, connection boxes and meter cabinets which may be placed above ground... The subdivider shall make all necessary arrangements with the serving utility to provide the underground services.*

**RESPONSE:** The plans submitted do not indicate utilities will be placed underground, therefore the plans are conditioned as follows in order to comply with 155.108.

**CONDITION:** Prior to final plat approval, all utilities serving the subdivision shall be installed underground unless specified per 155.108.

**§ 155.110 STREET LIGHTS.**

*The developer may be required to install street lights in a pattern fitting the subdivision and according to the specification of Central Lincoln People's Utility District.*

**RESPONSE:** The applicant has not proposed installing street lights. The Planning Commission may recommend street lights be installed suitable to the development.

**§ 155.111 FIRE HYDRANTS.**

*The developer is to install suitable fire hydrants meeting city specification to serve fire flow requirements of the subdivision.*

**RESPONSE:** The applicant has not shown the location of fire hydrants to serve the development and no comments have been received by Siuslaw Fire and Rescue to date. The plans are conditioned as follows in order to comply with 155.111.

**CONDITION:** Prior to final plat approval the applicant shall obtain plan approval from Siuslaw Fire and Rescue and install fire hydrants meeting city specifications.

**§ 155.125 FEES**

*(B) If the final subdivision plat does not fully conform with the approved tentative plan, an additional fee of \$50 shall be paid before approval of the plat shall be completed.*

**RESPONSE:** As an informational item, the applicant will be required to meet this criterion at the time of final subdivision plat approval.

**F. The Dunes City Planning Commission determined that the application for the Woods on Woahink preliminary subdivision plan (SUB-2005-01) can meet the tentative plan review**

- Plat approval. Any required easements may need to be accompanied by deed restrictions. §155.087(C)
3. The applicant must provide verification of adequate water quality available from Woahink Lake. §155.046(B)(13)
  4. Any required street lights on Cloud Nine Road shall meet specifications of the Central Lincoln People's Utility District. §155.110
  5. All plans shall be stamped and signed by a licensed Professional Engineer.

**Prior to Building Permit approval, the applicant shall:**

1. Demonstrate compliance with the Uniform Fire Code by installing sprinkler systems to NFPA 13D standards in all of the single-family residences built in the Woods on Woahink subdivision.(UFC Section 1001.9)
2. Demonstrate compliance with Section §155.103 Sewage.
3. Demonstrate compliance with portions of Subdivision and Zoning codes §155 and §156 pertaining to setbacks, building height, and maximum lot coverage.
4. Demonstrate compliance with §156.137 pertaining to off-street parking requirements for residential development.
5. Demonstrate compliance with Sections §156.090, §156.091, §156.092 Lakes and Shorelands.
6. Demonstrate compliance with Section §156.105, §156.106 Excessive Slopes.
7. Demonstrate compliance with Section §156.124 pertaining to riparian areas.

All construction within the subdivision area shall comply with all applicable state and federal laws including standards set by the Americans with Disabilities Act and Clean Water Act.

The preliminary plat approval will be valid for one year from the date the findings of fact are signed unless an extension is otherwise requested and approved.

## II. SUMMARY AND CONCLUSIONS

Based on the findings stated above, the preliminary subdivision plat application meets the requirements of the Dunes City Development Code for approval with conditions. The proposed preliminary subdivision plat is consistent with all City ordinances, plans, and state and federal laws.

## III. DECISION

**IT IS HEREBY ORDERED that the Dunes City Planning Commission approves with conditions the Woods on Woahink preliminary subdivision plan (SUB-2005-01) based on the information in the staff report and the findings of fact stated in this document.**

This action shall become final ten (10) days from the date of signing of these Findings of Fact by a representative of the Dunes City Planning Commission. Failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

\_\_\_\_\_  
Lee Riechel, Chair  
Dunes City Planning Commission

\_\_\_\_\_  
Date

**DUNES CITY PLANNING COMMISSION  
REGULAR MEETING  
July 21, 2005**

**I. CALL TO ORDER**

Chair Lee Riechel called the meeting to order at 7:00 p.m.

**II. ROLL CALL**

**Present:** Chair Lee Riechel; Commissioners, Duane Thompson, Susie Navetta, Les Zemlicka; Recording Secretary, Christy Lewis; Hilary Dearborn and Gary Darnielle, LCOG Planner; and several citizens in the audience.

**III. APPROVAL OF MINUTES**

**ACTION:** Les Zemlicka made a motion to approve the March 17, 2005 minutes with a typographical correction. Duane Thompson seconded the motion. There were 4 ayes, 0 nays, 1 vacant. Motion carried.

**ACTION:** Susie Navetta made a motion to approve the May 19, 2005 minutes as presented. Les Zemlicka seconded the motion. There were 4 ayes, 0 nays, 1 vacant. Motion carried.

**ACTION:** Susie Navetta made a motion to approve the June 16, 2005 minutes as presented. Les Zemlicka seconded the motion. There were 4 ayes, 0 nays, 1 vacant. Motion carried.

**IV. ANNOUNCEMENTS AND CORRESPONDENCE**

A. Resignation of Commissioner Bud Maxwell. Riechel announced an opening on the Planning Commission.

B. 2005/2007 Technical Assistance and Periodic Review Grants

Riechel said the Planning Commission was not in need of a grant and suggested that Navetta present the application to the Water Quality Committee for the drafting of the septic ordinance.

## V. PUBLIC HEARING

### A. Variance Application - VAR 2005-01 Reedal Variance, Map 19-12-23-33-14, Tax Lot 900

Lee Riechel announced the public hearing and read the criteria from the Code of Ordinances. Riechel asked any of the Commissioners if there were any ex parte contact. There was none. Riechel said he had visited the site with the Conservation Committee and disclosed the nature of the conversation with Mrs. Helmuth. Riechel stated he could make an impartial decision. Riechel asked if any Commissioner was aware of any facts that were not provided in the staff report. There were none.

City Attorney Gary Darnielle told the Commission they were to disregard any violation that the City Council was considering.

Hilary Dearborn, Planner, summarized the staff report and the Findings of Fact that recommend denial of the variance (see Exhibit A&B).

Riechel opened the public hearing at 7:33 pm.

Applicant Richard Reedal stated that the replacement of the fence was appropriate as determined by the City Council. Reedal said the fence meets the footprint and replaces the fence with a like structure... "a fence is a fence." Reedal said that the purpose of the fence was for the protection of his aging parents and to eliminate damage to the yard from deer browse. Reedal said that the 3 ½' fence would not keep the deer out of the yard and would lessen the value of the property. Reedal said the City has allowed 6' fences in the past. Reedal said he would like to keep the record open for one week to respond to the complainant.

Darnielle said the record would be held open for one week, so no decision would be made that night. The date for the Continuance Meeting was made for August 16 at 7 p.m. for deliberations.

Proponents: None

Opponents:

#### **Holly Martin and Alice Helmuth**

Martin addressed the Findings of Facts, page 3, item 3. Martin said there was nothing unique to the property or the owner and it would not deprive Reedal. Martin said that Reedal makes an assumption that the existing 6' fences in the City are legal, plus they do not extend into the shoreland. Martin said that the Reedals had a fence; however, they moved the fence and replaced a 4' cedar split rail fence with a 6' metal chain link fence. Martin said the City Council has not

made a decision and no determination has been made regarding a replacement fence. Martin said that the reasons for the fence are not relevant to the criteria and that a Measure 37 threat is not productive.

**Karen Peck, 5400 Huckleberry Lane, Dunes City.**

Peck read from a letter with a list of objections. Peck felt that the City needs to follow the Comprehensive Plan and not doing so would cause distain among Dunes City's citizens. Peck said that the 50-foot shoreline setback is a minimum and a 6-foot tall chain link fence is not a replacement for a 3-foot split rail cedar fence. Peck recommended that the variance be rejected.

Riechel commented that the Code says not to replace non-conforming structure. The Planning Commissioners asked questions of Richard Reedal. Navetta said the photo shows the fence off the property line. Reedal responded that his parents were threatened with a lawsuit if the fence was placed on the Helmuth property. Reedal said the property line was surveyed when the property was first bought, but the markers were removed within the last 2 years. Navetta asked if the fence is in the riparian setback. Reedal responded that the fence has been in the riparian area since he was in college. Navetta asked if there was a gate. Reedal responded that there is a locked gate. Thompson asked if it would be feasible to move the garden or fence just the garden. Reedal responded there are roses around the fence and his mother likes roses.

**Richard Reedal – Rebuttal:**

Reedal said the surveyline speaks for itself. Reedal requested that the record remain open.

Riechel closed the Public Hearing.

Riechel said the Planning Commission would have deliberations on at the continuance meeting on August 16, 2005 at 7 PM.

**B. Planned Unit Development Application - PUD 2005-01 Woahink Ridge Estates Map 19-12-11-4, Tax Lot 1400, 20.3 acres.**

Riechel notified the audience of their legal rights. Riechel explained how testimony would be taken and the hearing procedure.

Riechel asked if the Commissioners had any actual or potential conflicts of interest. There were none. Riechel asked if any Commissioner had ex parte contact. Riechel said all the Commissioners visited the site with Ward who explained the project. Navetta, Thompson and Zemlicka agreed that they had also visited the project with Ward, but there was no discussion that took place at the

site. Riechel asked if there was any discovery of facts that are not included in the application or staff report. Riechel said that while walking, the exit point of the wetland was identified.

Hilary Dearborn presented the staff report, which was prepared by LCOG Planner Kay Bork (see Exhibit C). Dearborn referred the Commissioners to page 14, item F of the Findings of Fact (see Exhibit D) that determined that there was not sufficient information and listed items to be addressed. Dearborn said the public hearing would have to be continued at the Planning Commission Continuance Meeting on August 16, 2005 at 7 PM.

Riechel opened the Public Hearing at 8:28 PM.

**Rob Ward, 295 Nopal St., Florence, OR (Agent).**

Ward explained that Green Gate Road would be upgraded to City standards and dedicated to the City. There are no plans for a gate. Ward said that the radius of the road should be reviewed by the Siuslaw Valley Fire and Rescue, since it is in the section of road that is private. Ward also said that a PUD allows some modification. Ward said that Wilbur Ternyck, wetland consultant, flagged the wetland, which drains into a wooden culvert/ditch traversing Green Gate Road and draining into the lake 1000-feet away. Ward said that the runoff cannot exceed what now occurs. Ward said that if the concept is approved, the plans will go to engineering. Ward said that the trailer will be removed and the drainfield will be abandoned. Ward explained the 40% common area, saying that 37% is designated open space; with the 3% balance occurring in lot line building setbacks. Ward said the water source is an easement to Woahink Lake for waterlines that will have one pump to every three homes; therefore, 7 pumps will provide water to the PUD. Ward went on to explain that the Homeowner's Association will own the distribution boxes and the billing for the electricity to run the pumps will go to the Homeowner's Association. Navetta asked about the need for water from the lake for heat pumps. Ward said not all heat pumps need water; there would be no extra waterlines for heat pumps. Riechel inquired about the pre-approval of septic systems. Ward said that since individual house plans dictate the area for septic systems, the development will do random perk tests to determine septic system feasibility.

Riechel asked for proponents.

**Dennis Smith, 84479 Green Gate Road, Dunes City.**

Smith is an adjacent property owner. Smith said that he was not mailed a notice of the development. Smith said he is not opposed to the development, but has a couple of concerns. Smith said he would need an easement on the proposed right-of-way to access his driveway. Smith used the map projected on the wall to pinpoint where he would need access. Ward said that would be no problem, since

it is in a common area. Smith commented on the wetland saying that there is a small wetland on the property line and Smith suggested shifting the line 10 feet to buffer that wetland and allow people to walk along the edge of the wetland. Smith said three years ago, he was going to buy the piece and develop it, but ran into some problems with the wetland and backed away from the purchase. Smith cautioned the developers that if they use the wetland for storm water storage retention, (DEQ does not recognize wetlands as insignificant) DEQ would not look favorably to having untreated storm water being dumped into that wetland. Smith also said that if the developers move more than 50 cubic yards of material reshaping the wetland, Division of State Lands must be notified. Smith requested the record remain open for seven days due to the non-notification.

Riechel asked for opponents. There were none.

Riechel asked Ward about a panhandle lot. Ward said the lot does have 60-feet of street frontage. Riechel said the radius would be okay if the fire department approves the street. Ward said the wetland boundary will not be changed; therefore, it would not trigger Division of State Lands. Ward said that water is good for a wetland and the water could be treated with a bio-swale, which will be detailed by the project engineer, EGR. Riechel asked the acreage of the wetland. Ward said it is .81 acres.

Riechel called for a recess at 9:17 PM.

The Public Hearing resumed at 9:22 PM.

Riechel said the wetland is not a locally significant wetland. Thompson asked for clarification of using the City's water right on Woahink Lake. Ward said the permit from the City would be \$700 plus \$100 per house (per three houses). Ward said the City has adequate water on the water right to provide water to the development. Zemlicka clarified that all the people in the PUD would own the private road. Zemlicka commented that the CCRs would have to be renewed after ten years in order to maintain the roads. Ward said he is not aware of that renewal. Ward said property owners will be collecting a monthly fee for the electricity for the common pumps owned by the Homeowner's Association; therefore, it will keep the CCRs active. Navetta asked if the lots will be vacant or built. Ward said he did not know, but the all three owners of the property are homebuilders. Navetta wanted to know how you have a Homeowner's Association with out having homes. Ward said that whoever owns the lots will be members of the association. Navetta said she is concerned about the closeness of parts of the wetland to the road and the amount of the runoff from driveways and roofs. Ward said it is the engineers job to provide the proper engineering that will control the water. The water from the individual homes can be handled by digging dry wells where road and house gutters can divert water into those dry wells. Ward said the development cannot create water drainage that exceeds

historic levels. Navetta asked if Lot 13 has wetland on it. Ward said he was not aware of any wetlands on Lot 13.

**Ward Rebuttal:**

Ward reiterated the buffers, engineering of storm water drainage, water source. Ward said the property is relatively flat. Ward said they will double check Mr. Smith's driveway, but if needed they could clip a corner of the property to provide access.

Riechel questioned Darnielle about the 120 day process. Darnielle applies to the preliminary plan. The applicant has one year to have the final plat approved. Ward asked if the engineering plans would be reviewed by public hearing. Darnielle said the City Engineer would check the plan and sign off on them. Ward asked if the City has an engineer of record. Darnielle said yes the City does. Darnielle said that for a storm water plan, the City has to determine what is feasible. Ward said it would be the State standard, which is that runoff cannot exceed historic runoff. Darnielle said there would be review from other jurisdictions. Ward clarified which jurisdictions would typically review developments and how Lane County Sanitarian saying the property is capable of supporting septic systems.

Riechel closed the public hearing at 9:54 PM.

Riechel set the Continuance of the Planning Commission Meeting on August 16, 2005 at 7 PM.

Riechel said he wanted to go over the staff report.

Navetta asked that the monument on Canary Road be marked. Ward suggested that he overlay the map on an aerial photo. Navetta agreed.

Riechel went of the Findings of Fact, Item F:

Item 1: Ward will bring back a letter from the Fire Chief, if not it will become a condition.

Item 2: Will be a condition.

Item 3: Will be a condition.

Item 4: Will be a condition.

Item 5: A closed issue.

Item 6: Can be corrected.



The Planning Commission then went over the Road Recommendations (see Exhibit E)

1. Condition
2. Condition
3. Leave in as a condition.
4. Approval by Siuslaw Valley Fire and Rescue.
5. Taken care of by Planning Commission.
6. Condition
7. Darnielle gave direction – seven days before the preliminary approval.
8. Condition.

Riechel closed the Public Hearing at 10:10 PM.

**C. Subdivision Application - SUB 2005-01, The Woods on Woahink  
Map 19-12-23-1, Tax Lot 299**

Riechel notified the audience of their legal rights. Riechel explained how testimony would be taken and the hearing procedure.

Riechel asked if the Commissioners had any actual or potential conflicts of interest. There were none. Riechel asked if any Commissioner had ex parte contact. Riechel said all the Commissioners visited the site with Ward who explained the project. Navetta, Thompson and Zemlicka agreed that they had also visited the project with Ward, but there was no discussion that took place at the site. Riechel asked if there was any discovery of facts that are not included in the application or staff report. There was none.

Dearborn read the Staff Report and the Findings of Fact (see Exhibit F).

Riechel opened the Public Hearing at 10:30.

**Rob Ward, 295 Nopal St., Florence, OR (Agent).**

Ward said that Rase is doing a boundary line adjustment with adjacent property owner Grant so that Grant can gain access to a landlocked parcel. Ward said there will be a cul-de-sac for a turnaround. Ward said that in the future, the City would request that the right-of-way be extended to connect Cloud Nine Road to Salal Court (when the bottom parcel is developed. Ward does not know where the reserve strip should be placed. Darnielle said the City could find that the development does not preclude the extension of Cloud Nine. Ward said water will be provided by Woahink Lake. Ward explained the private easements to access water for the Grant property. Ward said there is no erosion on the existing road, which will be developed. Ward said he didn't see the need to remove any big trees.

Riechel asked for proponents.

**Jim Grant, 84000 Cloud Nine Road, Dunes City.**

Grant said that he likes what he sees and is in favor of the subdivision.

Riechel asked for opponents. There were none.

There was no rebuttal.

Navetta asked if Lot 4 is 60-feet wide at the front. Ward said yes.

Road Recommendations were reviewed (see Exhibit G).

Ward said he would like to speak to condition #6. The condition requires that the entire length of Cloud Nine Road be brought up to City standards. Ward said it is an unreasonable, unprecedented standard that the City has ever asked, especially when Rase would be doing it to the benefit to all the other people along Cloud Nine Road that would get a free ride. Ward said it is not right. Ward said the City has started a pattern where new development would require a non-remonstrance agreement to upgrade the street. Ward said there is two ways to do a LID where one would be that the people who front the street pays or the other would be that people in the region would all pay. Ward said Mr. Rase would agree to a non-remonstrance. Riechel said that Bob Petersdorf recalled a past instance where a subdivision was not approved because the property owner would not improve the road going into the subdivision. Darnielle said it would be the City's burden to show that the development is going to significantly impact Cloud Nine Road and the street is would not support such impact. Riechel explained the recent developments. Darnielle explained how to prepare an analysis of the insufficient portion of Cloud Nine Road to set up a LID. Darnielle said the City would need over 50% of non-remonstrance to get a LID passed. There was further discussion about System Development Charges.

**Planning Commission Deliberations:**

Navetta likes the subdivision. The rest of the Commission agreed.

Ward facilitated the listing of the conditions.

Changes:

1. As per Siuslaw Valley Fire and Rescue.
2. Confirm the boundary line adjustment with tax lot #209 on the final plat
3. For the final plat.
4. Demonstrate septic site feasibility.
5. Okay.
6. On final plat, site review required for all slopes greater than 12%.
7. Remove condition.

8. Remove condition.
9. Provide engineering about how the storm water will be handled.
10. Okay.
11. Already have direct access to water from each lot.
12. Okay.
13. Approval of the Fire Chief.

Road Commission Recommendations (see Exhibit G):

1. Okay.
2. Okay.
3. Okay.
4. Remove.
5. Already a condition.
6. Require a non-remonstrance agreement.

Riechel said LCOG will bring back the conditions at the August 16<sup>th</sup>.

Public Hearing was closed at 11:07 PM.

## VI. NEW BUSINESS

- A. Request for Removal of Open Space Overlay on Booth Island – Marv and Darlene Beckman.

**ACTION:** Lee Riechel made a motion to recommend to the City Council to develop an ordinance removing the open space overlay on Booth Island. Duane Thompson seconded the motion. There were 4 ayes, 0 nays, 1 vacant. Motion carried.

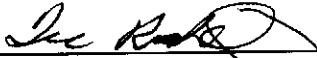
## VII. OLD BUSINESS – None.

## VIII. ITEMS NOT LISTED ON THE AGENDA

**ACTION:** Lee Riechel made a motion to appoint Susie Navetta as Vice Chairperson of the Planning Commission. Duane Thompson seconded the motion. There were 4 ayes, 0 nays, 1 vacant. Motion carried.

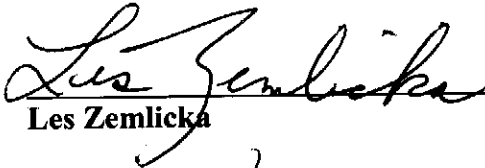
**IX. ADJOURNMENT**

Chair Riechel adjourned the meeting at approximately 11:15 p.m.



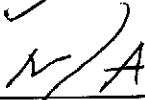
\_\_\_\_\_  
**Lee Riechel, Chairperson**

\_\_\_\_\_  
**Christina Lewis, Recording Sec'y**

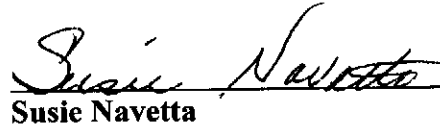


\_\_\_\_\_  
**Les Zemlicka**

\_\_\_\_\_  
**Vacant**



\_\_\_\_\_  
**Duane Thompson**



\_\_\_\_\_  
**Susie Navetta**

**DUNES CITY PLANNING COMMISSION  
DRAFT FINDINGS OF FACT AND DECISION**

**THE WOODS ON WOAHIK PRELIMINARY SUBDIVISION PLAT (SUB-2005-01)**

Hearing Date: July 21, 2005  
Decision Date: July 21, 2005  
Findings Adopted: July \_\_, 2005

**I. FINDINGS OF FACT**

**The Dunes City Planning Commission finds the following:**

- A. The applicant submitted an application for a preliminary subdivision plat of The Woods on Woahink (SUB-2005-01), and provided all information required by applicable sections of the Dunes City Code, Chapter 155, Subdivisions.
- B. The Planning Commission met on July 21, 2005 to review and discuss the application (Assessors Map 19-12-23-10, tax lot 299). The Commission reviewed all material relevant to the application, including the following pieces of evidence:
  - 1. Application for a preliminary subdivision plat for The Woods on Woahink (SUB-2005-01).
  - 2. Staff Report dated July 8, 2005.
  - 3. Written Submissions: George Ehlers, Lane County Land Management.
  - 4. Oral Testimony: See minutes of Planning Commission Public Hearing, July 21, 2005.
- C. The Planning Commission provided proper notice of the public hearing according to Chapter 156.032 of the Dunes City Zoning Code and ORS 197.763.
- D. The Planning Commission followed the required procedures and standards as set forth in Chapter 155 of the Dunes City Code.
- E. The application meets or can meet all of the relevant Dunes City Code requirements for subdivisions contained in Chapter 155.045-155.046; Designs and Development Standards contained in Chapter 155.080-155.111; Zoning requirements contained in Chapter 156.091-156.135; and other applicable sections of the Code. Each relevant Dunes City Code standard is listed in *italics*, followed by a response.

**CHAPTER 155 –SUBDIVISIONS**

**§ 155.045 SUBMISSION OF TENTATIVE PLAN.** *An application for tentative plan approval shall be made by the person proposing the subdivision or major partition or his or her authorized agent or representative in a form prescribed by the city. This form shall be submitted, together with a reproducible sepia and five copies of a subdivision or major partition tentative plan. The plan shall indicate the general program and objectives of the project, including any benefit of public need.*

**RESPONSE:** The application meets this requirement. The application was deemed complete on June 21, 2005.

**§ 155.046 REQUIREMENTS.**

**(A) Drafting**

- (1) *The tentative plan shall show all required and pertinent information drawn to fit standard size sheets...the scale shall be standard...*
- (2) *Tentative plans for major partitions and subdivisions shall be prepared by a surveyor who is a state registered engineer...*

**RESPONSE:** The application meets this requirement. A state registered surveyor prepared the plan which shows all required and pertinent information on standard size sheets in standard scale 1"=60'.

**(B) Information required**

- (B)(1) *Name and block numbering of proposed subdivisions.*
- (B)(2) *The date, north point, and scale of the drawing and a sufficient description...*
- (B)(3) *The names and addresses of the owner and engineer or surveyor.*

**RESPONSE:** The application meets these requirements. The name and block numbering of the proposed subdivisions, the date, north point, and scale, and names and addresses of the owner and surveyor are all included in the application materials.

- (B)(4) *The location of existing and proposed right-of-way lines for existing or projected streets as shown on approved plans of the city.*

**RESPONSE:** The applicant may meet this requirement. The proposed preliminary plan does not indicate the projected continuation of Cloud Nine Road to Salal Street as contained in the Dunes City Master Road Plan. The road should not be constructed with a cul-de-sac which precludes connection of Cloud Nine Road to Salal Street in the future.

**CONDITION:** The applicant shall be required to show the location of the projected right-of-way for the connection of Cloud Nine Road to Salal Street.

- (B)(5) *The locations, names, and widths of all existing and proposed streets, roads, and alleys. ...*

**RESPONSE:** The application meets this requirement. The location, name, and width of the proposed extension of Cloud Nine Road are shown on the preliminary subdivision plan.

- (B)(6) *Locations and widths of streets and roads held for private use...*

**RESPONSE:** There are no private roads proposed, therefore this requirement is not applicable.

- (B)(7) *The elevations of all points used to determine contours...*

**RESPONSE:** The application meets this requirement. The preliminary subdivision plan shows elevation of all points used to determine contours including true elevation above mean sea level.

- (B)(8) *The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips required.*

**RESPONSE:** The applicant can meet this requirement.

**CONDITION:** The applicant shall be required to show the location of utilities on the final subdivision plan.

*(B)(9) The approximate radii of all curves.*

*(B)(10) The general design of the proposed subdivision...including the approximate dimensions of all proposed lots and parcels.*

**RESPONSE:** The application meets these requirements. The preliminary subdivision plan shows approximate radii of all curves and the general design of the proposed subdivision.

*(B)(11) The approximate location of areas subject to inundation or storm water overflow...*

**RESPONSE:** The application does not meet this requirement. The application materials clearly indicate the shoreline of Woahink Lake, however the subject area has steep slopes greater than 16%. The application materials do not indicate current direction and location of storm water flow, nor proposed storm water plans for road construction.

*(B)(12) The existing and proposed uses of the property, including location of all existing structures that the applicant intends will remain in the subject area.*

**RESPONSE:** The preliminary subdivision plan shows the location of all existing structures and indicates those that will remain. The application meets these requirements.

*(B)(13) The domestic water system proposed to be installed, including the source, quality, and quantity of water if from other than a public water supply.*

**RESPONSE:** The applicant can meet this requirement. The applicant indicates that there is no public water supply available and all lots will obtain water from Woahink Lake. The applicant describes on page 2 of the supplemental information section of the application materials that Lot 8 will be granted an easement to Woahink Lake which will be located, "5 feet left and right of the lot line common to lots 6 & 7 as shown o[n] the preliminary subdivision plat." As an informational item, the applicant will be required to demonstrate compliance with §155.083 *Easements* and 155.102 *Water Supply* for final plat approval.

*(B)(14) An illuminations plan including the location and size of all street lights to be provided...*

**RESPONSE:** The applicant is not proposing to install any street lights. If the Planning Commission chooses to recommend street lights, the applicant shall be required to submit plans meeting the specifications of the Central Lincoln People's Utility District.

*(B)(15) A plan for sewage disposal, flood control, and easements or deeds for drainage land, including profiles of proposed drainage ways. The location of facilities must be shown on the tentative plan.*

**RESPONSE:** The applicant can meet this requirement. Each lot will have an onsite septic system installed prior to issuance of building permits. After septic site evaluation, the final plan shall indicate the location of each proposed septic system. As an informational item, the applicant will be required to demonstrate compliance with 155.103 *Sewage* at the time of application for the building permit.

**CONDITION:** The applicant shall be required to obtain septic site certification prior to final plat approval.

*(B)(16) All public areas proposed to be dedicated by the applicant and the proposed uses, conditions, or limitations of such reservations.*

**RESPONSE:** The application meets this requirement. The tentative plat indicates a 50-foot right-of-way for the extension of Cloud Nine Road to be dedicated as a public right-of-way.

*(B)(17) All public improvements proposed to be made or installed, and the time within which such improvements are envisioned to be completed.*

**RESPONSE:** The application meets this requirement. The applicant states that the developer will construct the road, install power, phone and cable TV utilities within six months following the preliminary approval of the application, and that all improvements will be completed prior to recording the final subdivision plan.

**CONDITION:** Before final approval of the final plat, the applicant shall be required to construct public improvements as shown on the revised preliminary plan or submit financial assurance in a form acceptable to the city. §155.100 AGREEMENT FOR IMPROVEMENTS.

*(B)(18) A legal description and drawing of the boundaries of the entire area owned by the applicant of which the proposed subdivision... is a part...*

**RESPONSE:** The application meets this requirement. The application includes a copy of the preliminary title report with a description of the subject property, and the boundaries of the property are shown on the preliminary subdivision plat.

*(B)(19) The locations, size, and type of any perennial plantings in public ways.*

**RESPONSE:** There are no perennial plantings in public ways, therefore this requirement is not applicable.

*(B)(20) A draft of proposed restrictions and covenants affecting the plat.*

**RESPONSE:** The application meets this requirement. The applicant has included a copy of proposed CC&R's for this subdivision.

*(B)(21) Predominate natural features, such as water courses and their flows, marshes, rock outcroppings, and areas subject to inundation and slipping.*

**RESPONSE:** The application may meet this requirement. The preliminary subdivision plan shows the shoreline of Woahink Lake. No other relevant natural features have been identified on the property. The property includes steep slopes which could be subject to slipping.

**CONDITION:** Prior to final plat approval, the applicant shall be required to demonstrate the safety of the proposed development by submitting the report of an engineering geologist. See §155.087 UNSUITABLE AREAS (B),(C), AND (D) on pages 7-8 of this report.

*(B)(22) A map setting forth the boundaries of stands of evergreens, and how the development of the proposed subdivision will maximize preservation of those evergreens.*



**RESPONSE:** The application may meet this requirement. The application includes a preliminary subdivision plan with aerial photo background showing the location of existing evergreens.

**CONDITION:** Prior to final plat approval, the applicant shall submit a map specifically delineating the stands of evergreens in relation to the proposed road, and a plan to maximize preservation of evergreens during road construction. The CC&Rs for the subdivision call for the preservation of trees except for those trees that must be removed to facilitate the construction of a dwelling or that pose a threat as a danger tree to a dwelling.

*(B)(23) A preliminary identification of those lots which will possess solar access and newly planted trees which will shade lots. (Cross reference 155.090 SOLAR ACCESS STANDARDS.)*

**RESPONSE:** The application meets this requirement. The application shows the existing trees covering all lots and the steep slopes of the existing topography. Staff recommends that the applicant meets the criterion as stated in § 155.090 SOLAR ACCESS. *The development shall be designed so that solar access is available to south-facing building walls and rooftops on December 21 at noon, unless not feasible due to property size, configuration, orientation, existing vegetation, topography, or other physical constraints....*

**§ 155.080 DESIGN AND DEVELOPMENT STANDARDS.** *All partitions and subdivisions shall conform to the design and development standards specified in the following sections, the Zoning Ordinance, and the Comprehensive Plan... Requirements not otherwise contained in this section may be prescribed when needed to ensure that established criteria and standards of professional subdivision design are maintained in the city.*

*(The applicant will be required to meet all relevant development standards at the time of applying for the building permit. However, some development standards are listed below in order to ensure review at an earlier stage in the development process. The standards listed here include standards that City staff have discussed in their official responses to the application.)*

**§ 155.081 STREETS.**

*(A) Dedication*

*(A)(1) Generally. The city may require adequate and proper streets... to be dedicated to the public...*

*(B) Width*

*(1) Generally. Widths of street rights-of-way shall not be less than those set forth in the table below...*

<b>Type of Street</b>	<b>Right-of-Way Width (ft.)</b>	<b>Paving Width (ft.)</b>
<i>Local streets in single-family density areas – street which in the judgment of the Planning Commission will never be more than 2400' in length, and which will have a relatively even division of traffic to two or more exits.</i>	50	22

**RESPONSE:** The application may meet this requirement. The preliminary subdivision plan shows the extension of Cloud Nine Road as a public local street with a 50-foot right-of-way, and the applicant states that the paved width will be 22 feet in compliance with the requirements including length and widths, however the current alignment of the road encroaches upon the neighboring tax lot 209. Because the applicant proposes a dead-end

road, to handle increased traffic on Cloud Nine Road, staff recommends requiring improvements to the existing portions of Cloud Nine Road, including paving and grading, as a condition of approval.

**CONDITION:** The applicant shall be required to show the 50-foot road alignment within the boundaries of the subject tax lot 299, with any necessary re-configurations of lots within the subdivision, and to construct the road within the subject tax lot. Alternately, prior to final plat approval, the applicant shall be required obtain an easement for the road right-of-way on tax lot 209. The applicant shall be required to provide improvements, including grading and paving, for the existing portion of Cloud Nine Road.

*(C) Reserve strips. The city may require the subdivider to create a reserve strip controlling the access to a street, the strip to be placed under the jurisdiction of the City Council and Planning Commission, when the city determines that a strip is necessary:*

*(1) To prevent access to abutting land at the end of a road in order to assure the proper extension of the road pattern and the orderly division if land lying beyond the road.*

**RESPONSE:** The application may meet this requirement.

**CONDITION:** The applicant shall be required to show the placement of a reserve strip at the extension of Cloud Nine Road at the time of final plat approval. See (F) *Future extension of streets*, below on this page.

*(E) Topography. The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this chapter.*

**RESPONSE:** The application meets this requirement. The proposed extension of Cloud Nine Road as shown on the preliminary subdivision plan takes into account existing contours.

*(F) Future extension of streets. Where the subdivision area is adjacent to land likely to be subdivided in the future, streets shall continue through to the boundary lines of the tract under the same ownership...*

**RESPONSE:** The applicant may meet this requirement. The preliminary subdivision plan shows the extension of Cloud Nine Road ending in a cul-de-sac, in contradiction to the Dunes City Master Road Plan, and in contradiction to the maximum length for cul-de-sacs of 500 feet as specified in §155.081 (G) on this page.

**CONDITION:** The applicant shall be required to show a possible road alignment facilitating a connection to Salal Street, and include the location of a reserve strip. See reference to §155.081 (C)(1) *Reserve strips*, above on this page.

*(G) Cul-de-sacs. There shall be no cul-de-sacs more than 500 feet long or serving more than 18 single family dwellings...*

**RESPONSE:** As an informational item, the application does not meet this requirement. The cul-de-sac shown on the preliminary subdivision plan is longer than 500 feet. However, because the applicant will be required to provide a fire-access turn-around and not a cul-de-sac, this requirement is not applicable.

*(H) Grades and curves. Unless otherwise approved by the city because topographical conditions will not reasonably permit, grades shall not exceed 7% on all streets. Centerline radii on curves shall not be less than...100 feet on all other streets.*

**RESPONSE:** The applicant may meet this requirement. The grade on the extension of Cloud Nine Road as shown on the preliminary plan appears to exceed 7%. As an informational item, staff recommends that due to steep topography the grade of approximately 8% is reasonable given the conditions. The radii of curves shown on the preliminary plan meet the required lengths of not less than 100 feet.

**§ 155.083 EASEMENTS.**

*(B) Easements for utilities. Dedication of easements for...other public utilities, may be required of the subdivider by the city... Easements for utility lines shall not be less than 14 feet in width...*

**RESPONSE:** The applicant may meet this requirement.

**CONDITION:** As a condition of final plat approval, the applicant shall be required to show the utility easements and the easement for the water line for Lot 8, at the required minimum size, on the final subdivision plat, and an easement for the road right-of-way as shown on the tentative plan.

**§ 155.084 LOTS.**

*(A) General dimensional requirements. The size, width, shape, and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall comply with lot requirements of the Zoning Ordinance....*

**§ 155.136 BUILDING AND LOT REQUIREMENTS**

*(A) Requirements for lot area, width, and coverage, yard setbacks, building height, vision clearance are as set forth in the following table:*

REQUIREMENT	R-1 DISTRICT
Minimum lot area	1 acre
Minimum average width	150 feet

**RESPONSE:** The application meets this requirement. The preliminary subdivision plan shows all lots at least 1 acre in size and at least 150 minimum average width.

**§ 155.084 LOTS.**

*(A) General dimensional requirements. (1) Depth. Each lot shall have an average depth between the lot front line and the lot rear line of not less than... 80 feet, and not more than two and one-half the average width between the lot side lines.*

*(A)(2) Frontage. Each lot shall have frontage of not less than 60 feet upon a street, except that a lot on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc. Lots with water frontage shall have a minimum of 50 feet frontage.*

**RESPONSE:** The application meets this requirement. The preliminary subdivision plan shows all lots in compliance with depth and frontage requirements.

**§ 155.085 DRAINAGE.** *Where land in the subdivision is or will be periodically subject to accumulations of surface water or is traversed by any water course, channel, stream, or creek, the city may require the subdivider to provide for adequate unrestricted drainage over drainage land by dedicating to the public easements therefore approved by the City Council as adequate for the drainage needs of the area...*

**RESPONSE:** The applicant may meet this requirement.

**CONDITION:** Prior to final plat approval, staff recommends that the final subdivision plan be required to indicate roadside engineering adequate to handle stormwater runoff from slopes along the roadway, particularly those greater than 50% along frontages of Lots 4, 5, and 8.

**§ 155.086 PARTIAL DEVELOPMENT.** *Where the subdivision area includes only part of the tract owned by the subdivider, the city may require a sketch of a tentative layout of streets in the remainder of the tract.*

**RESPONSE:** The applicant can meet this requirement. See **CONDITION** to § 155.081 **STREETS (F) Future Extension of Streets** on page 6 in this report.

**§ 155.087 UNSUITABLE AREAS.**

*(B) Where slopes exceed 16%, the city may require the report of an engineering geologist before land may be subdivided.*

*(C) Where slopes exceed 12%, the city will require a site review before land may be subdivided.*

*Where slopes exceed 16%, proof of the safety of the proposed development must be shown before the land may be subdivided.*

*(D) No land subject to landslides shall be subdivided.*

**RESPONSE:** The applicant may meet these requirements. Much of the subject property consists of slopes that exceed 16%.

**CONDITION:** Prior to construction document approval and final plat approval, the applicant shall be required to submit a geotechnical report by an engineering geologist to ensure the land is not subject to slippage or inundation in its post-developed state, and to ensure the public health and safety.

**§ 155.089 ACCESS.**

*(A) Restrictions with regard to access points.*

*(B) Relation to adjoining road system.*

**RESPONSE:** The application meets these requirements. The preliminary plan shows each property with street access to a local road of the required width.

*(C) Access. (1) Lots or parcels shall have verifiable access by way of a street, either county, local access – public or an easement. Verifiable access shall meet the following criteria: (a) Each lot or parcel abuts on the roadway for a distance of at least 60 feet.*

**RESPONSE:** The applicant meets this requirement. As noted earlier in this report, on page 6, all lots meet the size and frontage requirements set out in **Section § 155.084 LOTS(A)(2) Frontage** which states: *Each lot shall have frontage of not less than 60 feet upon a street, except that a lot on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc.* As shown on the preliminary subdivision plan, Lot 4 may not have the 60-foot frontage on Cloud Nine Road required in **Section § 155.087 (C)(1)**, however it meets the specified frontage for a lot on the outer radius of a curved street.

**§ 155.090 SOLAR ACCESS.** *The development shall be designed so that solar access is available to south-facing building walls and rooftops on December 21 at noon, unless not feasible due to property size, configuration, orientation, existing vegetation, topography, or other physical constraints....*

**RESPONSE:** The application meets this requirement. Due the existing trees covering all lots and the steep slopes, staff recommends that meeting this criterion is "not feasible".

**§ 155.100 AGREEMENT FOR IMPROVEMENTS.**

*(A) Before City Council approval of a subdivision plat or partition map, the city may require the land divider to either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City Recorder an agreement between him- or herself and the city.*

*(B) The City Council shall consider for approval the final plat or finished plat provided that at the time of submission of such plat or finished plat a petition for improvements as required herein has been properly executed by the subdivider who is effecting the subdivision and will be assessed for the improvements.*

**RESPONSE:** The application may meet this requirement. The application includes the following statement by the agent: "The developer will construct the road, install power, phone and cable tv utilities within six months following the preliminary approval of this application. All improvements will be completed prior to recording the final subdivision plat."

**CONDITION:** Prior to final plat approval, the applicant shall construct public improvements as shown on the revised preliminary plan or submit financial assurance in a form acceptable to the city.

**§ 155.102 WATER SUPPLY.**

*All lots within the subdivision area shall, where needed as determined by the City Council in accordance with the purpose of this chapter, be served by an approved water supply.*

**RESPONSE:** The applicant is proposing to obtain water for each shorefront lot from Woahink Lake directly, and for Lot 8 by an easement. The plans are conditioned as follows in order to comply with 155.102.

**CONDITION:** Prior to final plat approval, the applicant shall obtain legal access to Woahink Lake in order to serve the proposed development.

**§ 155.103 SEWAGE.**

*All lots within the subdivision, shall as determined by the City Council in accordance with this chapter, be served by a sewer system approved by the State Department of Environmental Quality.*

**RESPONSE:** The application may meet this requirement. The applicant indicates that each lot will be served by an on-site septic system.

**CONDITION:** The applicant shall be required to obtain septic site certification prior to final plat approval.

**§ 155.104 DRAINAGE.**

*Such grading shall be done and such drainage facilities shall be constructed by the subdivider as are adequate for the purpose of proper drainage of the subdivision area or areas affected thereby...*

**RESPONSE:** The application may meet this requirement.

**CONDITION:** Prior to final plat approval, the applicant shall construct all storm water drainage facilities serving the subdivision in accordance with the 155.104 of the subdivision ordinance.

**§ 155.105 STREETS AND ALLEYS.**

*The subdivider shall grade and pave all streets and alleys in the subdivision area to the width specified in 155.081 of this chapter and provide for drainage of all such streets and alleys, and construct curbs and gutters within the subdivision in accordance with specifications adopted by the City under 155.101.*

**RESPONSE:** The application may meet this requirement.

**CONDITION:** Prior to final plat approval, the applicant shall grade and pave the public street within the subdivision area to the required width of 22 feet, providing for drainage as specified.

**§ 155.108 UNDERGROUND INSTALLATION OF UTILITY AND SERVICE FACILITIES.**

*All utility lines, including but not limited to those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, connection boxes and meter cabinets which may be placed above ground... The subdivider shall make all necessary arrangements with the serving utility to provide the underground services.*

**RESPONSE:** The plans submitted do not indicate utilities will be placed underground, therefore the plans are conditioned as follows in order to comply with 155.108.

**CONDITION:** Prior to final plat approval, all utilities serving the subdivision shall be installed underground unless specified per 155.108.

**§ 155.110 STREET LIGHTS.**

*The developer may be required to install street lights in a pattern fitting the subdivision and according to the specification of Central Lincoln People's Utility District.*

**RESPONSE:** The applicant has not proposed installing street lights. The Planning Commission may recommend street lights be installed suitable to the development.

**§ 155.111 FIRE HYDRANTS.**

*The developer is to install suitable fire hydrants meeting city specification to serve fire flow requirements of the subdivision.*

**RESPONSE:** The applicant has not shown the location of fire hydrants to serve the development and no comments have been received by Siuslaw Fire and Rescue to date. The plans are conditioned as follows in order to comply with 155.111.

**CONDITION:** Prior to final plat approval the applicant shall obtain plan approval from Siuslaw Fire and Rescue and install fire hydrants meeting city specifications.

**§ 155.125 FEES**

*(B) If the final subdivision plat does not fully conform with the approved tentative plan, an additional fee of \$50 shall be paid before approval of the plat shall be completed.*

**RESPONSE:** As an informational item, the applicant will be required to meet this criterion at the time of final subdivision plat approval.

**F. The Dunes City Planning Commission determined that the application for the Woods on Woahink preliminary subdivision plan (SUB-2005-01) can meet the tentative plan review**

criteria listed in §155.046 and other applicable sections of the Dunes City Development Code, subject to the following conditions:

The applicant shall revise the preliminary subdivision plan and other information necessary to conform to requirements and conditions of the Planning Commission's action, including but not limited to:

**Prior to Final Plat approval, the applicant shall complete the following:**

1. Demonstrate that extension of Cloud Nine Road shall be constructed to allow a future connection and shall include a turn-around sufficient for fire apparatus access. §155.046 (B)(4) and (UFC Section 902)
2. Redesign road alignment to avoid encroachment on neighboring tax lot #209, or obtain easement for street right-of-way from the owner of that tax lot. ← *Boundary line is complete*
3. Indicate location and size of public utility easements along all street frontages and the easement for water supply lines to Lot 8 at the required minimum size, as well as all other existing easements, on the final subdivision plat. §155.046 (B)(8) ← *Final plat all easement be shown*
4. Demonstrate septic site approval. §155.046 (B)(15) *Do test holes*
5. Construct public improvements as shown on the revised preliminary plan or submit financial assurance in a form acceptable to the city. §155.100
6. Demonstrate the safety of the proposed development by submitting the report of an engineering geologist which delineate areas subject to slipping and other potential hazards. §155.046(21) and §155.087(B),(C), and (D) ← *Proof of the safety of the site review is required for all lots. Rpt of geologist*
- X Submit a map specifically delineating stands of existing evergreens along the proposed road and include explanation as to how the development of the proposed subdivision, including road construction, will maximize preservation of the existing evergreens. §155.046(22)
- X Dedicate a reserve strip at the end of the future extension of Cloud Nine Road. §155.081 (C)(1)
9. On the final plat, indicate roadside engineering adequate to handle stormwater runoff from slopes along the roadway, particularly those greater than 50% along frontages of Lots 4, 5, and 8, and construct all storm water drainage facilities serving the subdivision in accordance with the 155.104 of the subdivision ordinance. §155.104 *Will Eng Stormwater Plan for*
10. Grade and pave the public street within the subdivision area to the required width of 22 feet, providing for drainage as specified. §155.105
- X Obtain legal access to Woahink Lake in order to serve the proposed development. §155.102
12. All utilities serving the subdivision shall be installed underground unless specified per 155.108.
13. Obtain plan approval from Siuslaw Fire and Rescue and install fire hydrants meeting city specifications. §155.111 *Approval of S Fire + Rescue*

**Prior to Construction and Construction Document approval:**

1. A fire apparatus turnaround will be required at the terminus of Cloud Nine Road. This fire apparatus turnaround shall comply with all applicable sections of the Uniform Fire Code. (UFC Section 902)
2. A geotechnical report shall be submitted with construction plans to ensure the land is not subject to slippage or inundation in its post-developed state. In the event the geotechnical report confirms earth movements are a hazard on the subject site, the Planning Commission may request conservation or slope easements at the time of Final

- Plat approval. Any required easements may need to be accompanied by deed restrictions. *§155.087(C)*
3. The applicant must provide verification of adequate water quality available from Woahink Lake. *§155.046(B)(13)*
  4. Any required street lights on Cloud Nine Road shall meet specifications of the Central Lincoln People's Utility District. *§155.110*
  5. All plans shall be stamped and signed by a licensed Professional Engineer.

**Prior to Building Permit approval, the applicant shall:**

1. Demonstrate compliance with the Uniform Fire Code by installing sprinkler systems to NFPA 13D standards in all of the single-family residences built in the Woods on Woahink subdivision. (UFC Section 1001.9)
2. Demonstrate compliance with Section *§155.103 Sewage*.
3. Demonstrate compliance with portions of Subdivision and Zoning codes *§155 and §156* pertaining to setbacks, building height, and maximum lot coverage.
4. Demonstrate compliance with *§156.137* pertaining to off-street parking requirements for residential development.
5. Demonstrate compliance with Sections *§156.090, §156.091, §156.092 Lakes and Shorelands*.
6. Demonstrate compliance with Section *§156.105, §156.106 Excessive Slopes*.
7. Demonstrate compliance with Section *§156.124* pertaining to riparian areas.

All construction within the subdivision area shall comply with all applicable state and federal laws including standards set by the Americans with Disabilities Act and Clean Water Act.

The preliminary plat approval will be valid for one year from the date the findings of fact are signed unless an extension is otherwise requested and approved.

## II. SUMMARY AND CONCLUSIONS

Based on the findings stated above, the preliminary subdivision plat application meets the requirements of the Dunes City Development Code for approval with conditions. The proposed preliminary subdivision plat is consistent with all City ordinances, plans, and state and federal laws.

## III. DECISION

**IT IS HEREBY ORDERED that the Dunes City Planning Commission approves with conditions the Woods on Woahink preliminary subdivision plan (SUB-2005-01) based on the information in the staff report and the findings of fact stated in this document.**

This action shall become final ten (10) days from the date of signing of these Findings of Fact by a representative of the Dunes City Planning Commission. Failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

\_\_\_\_\_  
Lee Riechel, Chair  
Dunes City Planning Commission

\_\_\_\_\_  
Date



Road Commission

THE WOODS ON WOAHING RECOMMENDATIONS

Lee Riechel made a motion to approve the subdivision for The Woods on Woahink with six conditions as follows:

- ok 1. There shall be a streetlight at the cul-de-sac turn-around.
- ok 2. The City shall receive a detailed road design prior to construction.
- ok 3. During the construction of the street, the City shall receive an inspection progress report at each stage of the road project by the property owner's project engineer.
4. All trees within the 50 foot right-of-way shall be removed.
5. Streets shall meet the Dunes City Master Road ~~Plan~~ Standards. & DC Code
6. Subdivider shall bring the entire length of Cloud Nine Road up to Dune City Standards with a 22 foot width with 2 feet of rocked shoulder due to safety concerns. Require non-remonstrative agreement.

Linda Lauck seconded the motion. There were 5 ayes, 0 nays. Motion carried.

**DUNES CITY PLANNING COMMISSION  
STAFF REPORT**

**VAR-2005-01 (formerly VAR-02-05) Reedal Variance**

**Application Received:** December 13, 2004; Deemed complete June 20, 2005  
**Referrals Provided to:** George Ehlers, Lane Co. Land Mgmt.; Siuslaw Valley Fire and Rescue.  
**Notice Mailed:** June 21, 2005  
**Notice Published:** July 13, 2005  
**Report Date:** July 8, 2005  
**Hearing Date:** July 21, 2005

**I. BASIC DATA**

**Applicant:** Richard Reedal  
1-800-653-3701  
Fax: 541-683-3415

**Property Owner:** George and Rosemary Reedal  
83566 Woodland Lane  
Florence, OR 97439

**Location:** 83566 Woodland Lane. Generally located in Dunes City on the western shore of Woahink Lake, in the Woodland Lake Park Subdivision.

**Assessors Map:** 19-12-23-33  
**Tax Lot:** 900

**Area:** Approximately 0.46 acres

**Plan Designation/Zoning:** Residential

**II. REQUEST**

The applicant has requested a variance from 50-foot shoreline setback for the existing fence along the side property line, and a variance from the allowed fence height of 3.5 feet along the front property line.

**III. BACKGROUND AND CONTEXT**

The City received a request for a variance from Richard Reedal, son and representative of the property owners George and Rosemary Reedal. The application materials state that the variance request has two parts. The first issue is the replacement of the fence in the shoreline setback (within 50 feet of Lake Woahink shoreline.) The second issue is the height of the fence along the front property line.

The fence in question replaces a wooden fence which existed previously along the property lines of tax lot 900. The new fence is a six-foot high chain link fence.

The matter has come before Dunes City City Council which is currently considering the issue of whether or not the fence constitutes a structure under the definitions of the Zoning Code. City Council is also considering whether or not the current fence meets the definition of a replacement structure.

The Planning Commission must consider the variance for the subject fence as it currently stands. In addition, after consideration, the Planning commission may recommend to the City Council that the fence is not a structure under the definitions of the Zoning Code or the Building Code, which exempt fences six feet and under from needing a building permit. If the fence is not a structure, then the variance procedure is not applicable, and the Planning Commission does not need to process the variance.

#### IV. COMMENTS

##### A. Agency Comments

None provided as of July 13, 2005.

##### B. Public Comments

None provided as of July 13, 2005.

#### V. ISSUES

##### **Location of fence in the 50-foot shoreline setback**

The applicant is requesting a variance for the fence in the 50-foot shoreland setback. In order to be granted the variance, the applicant must meet all of the variance criteria. The application materials do not provide evidence of unnecessary hardship, extraordinary circumstances, or deprivation of privileges.

##### **Height of the front fence**

The applicant is requesting a variance for the front fence height. The fence exceeds the height requirement of three and one-half-feet .

##### **Neighbor dispute**

The applicant states that the fence is necessary for the safety of his parents to prevent physical assault. The variance procedure cannot be used to mediate a dispute between property owners. Legal precedent is clear in the case *Chou v. City of Keizer, LUBA No. 87-017* in which LUBA ruled that "a variance is not personal to the property owner, but goes with the land... (T)he applicant must show that the condition is one arising out of the property itself, not out of something personal to the owners. *Lovell v. Independence Planning Commission, 27 Or App 3, 586 P2d 99 (1978)*; *Faye Wright Neighborhood Planning Council v. City of Salem, 3 Or LUBA 17 (1981)*. The fact that the applicants and the petitioner have argued over the course of several years does not create an unnecessary or unreasonable hardship or practical difficulty as required in the ordinance."

## VI. STAFF RECOMMENDATION

Based on the findings in the *Draft Findings of Fact and Decision*, staff finds that the applicant does not meet the requirements for a variance.

## VII. POSSIBLE ACTIONS BY THE PLANNING COMMISSION

The Planning Commission shall review the plan, the reports of the appropriate officials and agencies, and public commentary. The Commission may hold the record open for the submission of additional written material. The Chairperson shall specify the time that the record shall remain open and the nature of the written submissions that may be received while the record remains open.

After the close of the record in the public hearing, the Planning Commission shall make findings based on the applicable criteria. The Commission may:

- A. Approve the request.
- B. Approve the request subject to conditions as defined by the Commission to ensure compliance with the applicable standards.
- C. Defer a decision until more information is provided to answer any questions of the Commission.
- D. Deny the request.

The Commission's decision shall provide justification for the approval, approval with conditions, or the denial of the application.

L:\Small City Planning\Dunes City\Planning Applications\Variance\VAR-2005-01(VAR-02-05)

**DUNES CITY PLANNING COMMISSION  
DRAFT FINDINGS OF FACT AND DECISION**

**VAR-2005-01 (formerly VAR-02-05) Reedal Variance**

Hearing Date: July 21, 2005  
Decision Date: July 21, 2005  
Findings Adopted: July 21, 2005

**I. FINDINGS OF FACT**

**The Dunes City Planning Commission finds the following:**

- A. The applicant submitted an application for a variance (VAR-2005-01), and provided all information required by applicable sections of the Dunes City Code, Chapter 156, Zoning.
- B. The Planning Commission met on July 21, 2005 to review and discuss the application (Assessors Map 19-12-23-33, tax lot 900). The Commission reviewed all material relevant to the application, including the following pieces of evidence:
  1. Application for a variance (VAR-2005-01).
  2. Staff Report dated July 13, 2005.
  3. Written Submissions:
  4. Oral Testimony: See minutes of Planning Commission Public Hearing, July 21, 2005.
- C. The Planning Commission provided proper notice of the public hearing according to Chapter 156.032 of the Dunes City Zoning Code and ORS 197.763.
- D. The Planning Commission followed the required procedures and standards as set forth in Chapter 156 of the Dunes City Code.
- E. The application does not meet all of the relevant Dunes City Code requirements for variances contained in Chapter 156.217. The application does not meet all relevant criteria for Shorelands contained in Chapter 156.092 and Zoning requirements for fences and walls contained in Chapter 156.136, and other applicable sections of the Code. Each relevant Dunes City Code standard is listed in *italics*, followed by a response.

**CHAPTER 156 – ZONING**

**§ 155.217 REQUIREMENTS FOR VARIANCES.**

**(A) Purpose.**

*(1) The purpose of a variance is to provide relief when a strict application of the zoning requirements imposes unusual practical difficulties, or unnecessary physical hardships may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from population densities, street locations, or traffic conditions in the immediate vicinity.*

**Two sections of the Zoning Code apply to the requested Variance. The first is 156.092 SHORELANDS. The second is 156.136 BUILDING AND LOT REQUIREMENTS (B)(3)(a).**

**156.092 SHORELANDS. (B) Permitted uses. (1) Low intensity uses such as parks, playgrounds, walking trails, and similar uses.**

**(C) Conditional uses.** The following conditional uses are subject to a conditional use permit granted pursuant to the general provisions of this part providing for the granting of conditional use permits (see 156.215)

**(1) Those uses set forth in division (C)(1)(a) of 156.091**

**(2) Walkways, platforms, and stairs which have the intended purpose of providing access to lakes and rivers for recreation or use of boathouses and docks.**

**(3) Other structures which can meet variance criteria and underlying zone limitations.**

**156.091 LAKES.**

**(C) (1) The following conditional uses are subject to a conditional use permit granted pursuant to the general provisions of this part providing for the granting of conditional use permits (see 156.215):**

**(a) Boathouses and docks are the only conditional uses allowed in OS-1 zones...**

**156.136 BUILDING AND LOT REQUIREMENTS**

**(B)(3)(a) In the Residential District (R-1), a fence or wall not to exceed six feet in height may be located or maintained within the required interior yards except where the requirements of vision clearance apply. Such fences or walls may be placed in front yards provided such fences or walls do not exceed three and one-half feet in height.**

**§ 155.217 REQUIREMENTS FOR VARIANCES.**

**(B) Criteria.**

**(1)(a) Variances to a requirement of this part with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if substantive and probative evidence establishing specific findings of fact have been made that the variance conforms to the following criteria:**

- 1. A strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of this part.**

**RESPONSE:** For the first part, the application does not meet this requirement. Permitted and conditional uses in within 50 feet of the mean high water line of Woahink Lake (shorelands) as delineated include playgrounds, walkways, stairs, and platforms, and boathouses. Staff recommends that the "strict or literal" interpretation of this requirement does not constitute a hardship.

For the second part, the application does not meet this requirement. The maximum allowed fence height in front yards is three and one-half feet.

- 2. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zoning district.**

**RESPONSE:** For the first part, the application does not meet this requirement. The applicant has not presented evidence of extraordinary circumstances or conditions applicable to the subject property which do not generally apply to other properties in the same zoning district.

For the second part, the application does not meet this requirement. The applicant has not presented evidence of extraordinary circumstances or conditions applicable to the subject property which do not generally apply to other properties in the same zoning district.

3. A strict or literal interpretation and enforcement of the specified requirement would deprive the applicant of privileges legally enjoyed by the owners of other properties classified in the same zoning district.

**RESPONSE:** For the first part, the application does not meet this requirement. The applicant has not presented evidence that the owners of the subject property would be denied privileges legally enjoyed by the owners of other properties in the same district.

For the second part, the application does <sup>not</sup> meet this requirement. The applicant has not presented evidence that the owners of the subject property would be denied privileges legally enjoyed by the owners of other properties in the same district.

4. The granting of the variance ~~will not be detrimental to the public health, safety, or welfare or materially injurious to properties off~~ improvements in the near vicinity.

**RESPONSE:** The application may meet this requirement. The application materials do not present evidence that granting the variance would be detrimental to the public health, safety, or welfare.

For the second part, the application can meet this requirement. The chain link fence does not impair vision. Staff recommends that the current fence is not detrimental to the public health, safety, or welfare.

F. The Dunes City Planning Commission determined that the application for a Variance (VAR-2005-01) does not meet all of the criteria for a variance listed in §156.217.

## II. SUMMARY AND CONCLUSIONS

Based on the findings stated above, the application for a variance does not meet the requirements of the Dunes City Zoning Code.

## III. DECISION

**IT IS HEREBY ORDERED that the Dunes City Planning Commission denies the Variance (VAR-2005-01) based on the information in the staff report and the findings of fact stated in this document.**

This action shall become final ten (10) days from the date of signing of these Findings of Fact by a representative of the Dunes City Planning Commission. Failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

\_\_\_\_\_  
Lee Riechel, Chair  
Dunes City Planning Commission

\_\_\_\_\_  
Date

**Draft Staff Report  
Tentative Planned Unit Development Subdivision  
File Number PUD01-05  
And Zone Change  
File Number ZON01-05**

**Application Received:** May 23, 2005  
**Accepted as Complete:** June 13, 2005  
**Notice Published:** July 7, 2005  
**Report Date:** July 14, 2005  
**Hearing Date:** July 21, 2005

**I. BASIC DATA**

**Applicant:** Ron Mann  
PO Box 2389  
Florence, OR 97439

**File Number:** PUD01-05 and ZON01-05

**Request:** Request to create a 19-lot Planned Unit Development to be developed with single family dwellings. Each proposed lot will be approximately +/- 0.6 acres in size. The property is located at 5586 Canary Rd., Assessor's Map 19-12-11-40 Tax Lot 1400.

Request for a zone change to add a PUD-suffix to Residential Zoning District for parcel 19-12-11-40 Tax Lot 1400.

**Location:** The property is located at 5586 Canary Rd., Assessor's Map 19-12-11-40 Tax Lot 1400.

**Zoning:** Residential (R-1)

**Comp Plan Map  
Designations:**

- Residential
- 'Two' on Development Suitability Map
- Slight or Moderate Limitation according to Subsurface Sewage Map

**Applicable Criteria:** Zoning Ordinance – Chapter 156  
Subdivision Ordinance – Chapter 155

**II. REQUEST**

The applicant, Ron Mann is requesting to create a 19-lot Planned Unit Development Subdivision to be developed with single family dwellings and common area. The applicant



is also requesting a zone change in order to add the PUD suffix to the parent district (R-1) as required by Section 156.184 of the Dunes City Zoning Code.

### III. BACKGROUND

The property is located at 5586 Canary Rd. otherwise known as Assessor's Map 19-12-11-40 Tax Lot 1400. The applicant is proposing to develop an 18-lot planned unit development subdivision with designated common open area to be managed as natural areas. Common area #4 shown on the plans contains a wetland area. The wetland is included in the LWI however it is considered a non-significant wetland. The applicant has indicated that a private community water system will be located on one of the common areas.

### IV. ISSUES

Tentative Plan is missing information on street design, water system, storm drainage, existing structure and drainfield, and shows insufficient open space. See Findings of Fact.

### V. REFERRALS

Referral were sent to:

- Lane County Public Works
- Central Lincoln PUD
- Charter Cable
- Siuslaw Fire and Rescue
- Qwest
- Division of State Lands

Agency comments that were received were incorporated into the staff report and Final Order for MP04-05.

### VI. PROPERTY OWNER NOTICE

Notices were sent to all property owners within 300 feet of the subject property. This complies with ORS 197.195 for notice of Limited Land Use Decisions.

No written comments were received at the time of preparation of this staff report.

### VII. STAFF RECOMMENDATION

Based on the findings in the *Draft Findings of Fact and Decision*, staff recommends that the Planning Commission move to continue the meeting to another date specified in order to provide the opportunity for the applicant to submit additional information and allow for more deliberation.

### VIII. POSSIBLE ACTIONS BY THE CITY COUNCIL

1. Approve the PUD and Zone Change Application based on the findings of fact in the Proposed Final Order.

2. Approve the PUD and Zone Change Application based on the findings of fact in the Proposed Final Order, as modified by the City Council
3. Move to continue the meeting to a certain date to provide the opportunity for the applicant to submit additional information and/or allow for more deliberation.
4. Deny the PUD and Zone Change Application.

**VIII. ATTACHMENTS**

1. Draft Final Order

**IX. EXHIBITS**

1. Application material submitted May 23, 2005.

**DUNES CITY PLANNING COMMISSION**  
**DRAFT FINDINGS OF FACT AND DECISION**  
**WOAHINK RIDGE ESTATES**  
**PRELIMINARY PUD SUBDIVISION AND ZONE CHANGE**  
**File Number PUD01-05**  
**And Zone Change**  
**File Number ZON01-05**

**Hearing Date:** July 21, 2005  
**Decision Date:** July 21, 2005  
**Findings Adopted:** July \_\_, 2005

**I. FINDINGS OF FACT**

**The Dunes City Planning Commission finds the following:**

- A. The applicant submitted an application for a planned unit development, preliminary subdivision plat of Woahink Ridge Estates (PUD01-05), and concurrent zone change request and provided all information required by applicable sections of the Dunes City Code, Chapter 155, Subdivisions and Chapter 156 Zoning Ordinance.
- B. The Planning Commission met on July 21, 2005 to review and discuss the application (Assessors Map 19-12-11-40 Tax Lot 1400. The Commission reviewed all material relevant to the application, including the following pieces of evidence:
  1. Application for a preliminary subdivision plat for Woahink Ridge Estates (PUD01-05).
  2. Staff Report dated July 11, 2005.
  3. Oral Testimony: See minutes of Planning Commission Public Hearing, July 21, 2005.
- C. The Planning Commission provided proper notice of the public hearing according to Chapter 156.032 of the Dunes City Zoning Code and ORS 197.763.
- D. The Planning Commission followed the required procedures and standards as set forth in Chapter 155 of the Dunes City Code.
- E. The application meets or can meet all of the relevant Dunes City Code requirements for subdivisions contained in Chapter 155.045-155.046; Designs and Development Standards contained in Chapter 155.080-155.111; Zoning requirements contained in Chapter 156.091-156.135; and other applicable sections of the Code. Each relevant Dunes City Code standard is listed in *italics*, followed by a RESPONSE.

**APPROVAL CRITERIA AND ANALYSIS:**

The applicant requests approval for a planned unit development, preliminary subdivision plan and zone change. The proposal shall comply with the Dunes City Zoning and Subdivision Code and the Comprehensive Plan.

## ZONING

### RESIDENTIAL (R-1) DISTRICT

**156.060 Purpose.** *The purpose of Residential (R-1) District is to provide for rural residential living opportunities envisioned in the comprehensive plan and to provide for the development at densities which will be compatible with and not adversely affect the open space, natural resources, and overall environmental quality of the city.*

#### **156.061 Permitted Buildings and Uses**

*(A) In the R-1 District, the following types of buildings and uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this part:*

- (1) One single-family dwelling per lot...

**RESPONSE:** The applicant is proposing to develop the site with one single-family dwelling on each lot. The subject site is zoned and designated Residential in the Dunes City Comprehensive Plan and single family dwellings on individual lots are permitted use in R-1 District per Section 156.061(A)(1) of the DCC, therefore the proposal complies with this requirement.

### WETLAND AND RIPARIAN OVERLAY ZONE

#### **156.123. Wetland Development Setbacks.**

*Grading, excavation, placement of fill and vegetation removal in Locally Significant Wetlands other than perimeter mowing and other cutting necessary for hazard prevention shall be prohibited within 50 feet of the LSW...*

**RESPONSE:** The plans submitted show a wetland area on common area #4. The wetland area is proposed to treat storm water runoff from the proposed development. The Local Wetland inventory adopted by the City shows the existing wetland as not significant. The Division of State lands has submitted a Wetland Land Use notification form which states that a permit may be required in order to remove or place fill within the wetland area. In addition, a wetland delineation report is required by DSL.

**RECOMMENDED CONDITIONS:** The applicant shall submit proof of a DSL permit for any work within the wetland area. In addition, a copy of the wetland delineation report shall be submitted to the city prior to construction.

### SUBDIVISION STANDARDS

#### **155.045 SUBMISSION OF TENTATIVE PLAN**

*An application for tentative plan approval shall be made by the person proposing the subdivision or major partition or his or her authorized agent or representative in a form prescribed by the city. This form shall be submitted, together with reproducible sepia and five copies of a subdivision or major partition tentative plan. The plan shall indicate the general program and objectives of the project, including any benefit of public need.*

**RESPONSE:** The application meets this requirement. The application was deemed complete on June 13, 2005.

**155.080 General Provisions**

All partitions and subdivisions shall conform to the design and development standards specified in the following sections, the Zoning Ordinance, and the Comprehensive Plan... Requirements not otherwise contained in this section may be prescribed when needed to ensure that established criteria and standards of professional subdivision design are maintained in the city.

(The applicant will be required to meet all relevant development standards at the time of applying for the building permit. However, some development standards are listed below in order to ensure review at an earlier stage in the development process. The standards listed here include standards that City staff has discussed in their official responses to the application.)

**§ 155.081 STREETS.**

**(A) Dedication**

**(A)(1) Generally.** The city may require adequate and proper streets... to be dedicated to the public...

**(B) Width**

**(1) Generally.** Widths of street rights-of-way shall not be less than those set forth in the table below...

Type of Street	Right-of-Way Width (ft.)	Paving Width (ft.)
Local streets in single-family density areas – street which in the judgment of the Planning Commission will never be more than 2400' in length, and which will have a relatively even division of traffic to two or more exits.	50	22

**RESPONSE:** The applicant is proposing to construct two private streets each with 50 feet of right-of-way. Access to the subdivision will be from the extension of Green Gate Road to the south of Canary Road. From Green Gate Road, a private road will be constructed as a loop in order to access the interior lots of the subdivision.

**(B) Width. (1) Local streets in single family density areas, less than 2400 feet in length, with a relatively even division of traffic to two or more exits to have a right-of-way of at least 50 feet and a paving width of 22 feet.**

**RESPONSE:** The applicant partially complies with this requirement. The plans submitted show both private streets with a right-of-way of 50 feet in width. However, pavement width is not shown on the plans. The plans are conditioned as follows in order to comply with DCC 155.081.

**RECOMMENDED CONDITION:** According to DCC 155.105, prior to final plat approval the owners shall grade and pave all streets in the subdivision area to the width specified in 155.081.

**(D) Intersections of Street**

**(1) Angles**

Streets shall intersect one another at an angle as near to right angle as is practicable considering topography.

**RESPONSE:** Green Gate Road appears to align with the existing Green Gate Road to the north of Canary Road as close to a right angle as possible as required by 155.081(D)(I). The proposed private road intersects proposed Green Gate Rd. at two points and each intersection is as close to a right angle as possible. The plans as submitted comply with street angle requirements stated above.

**(H) Street Names**

*Streets that are in alignment with existing street names shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the Planning Commission and shall not necessarily duplicate or resemble the name of any existing or platted street in the city or surrounding area.*

**RESPONSE:** The plans submitted show a private Road aligning with the existing Green Gate Rd. with the same name. The plans also show another private road that is not named. The plans are conditioned as follows in order to comply with 155.081(H).

**RECOMMENDED CONDITION:** The final plat shall show the name of the private road and the name shall comply with the Street Name Standards of 155.081 (H).

**(I) Grades and Curves**

*Unless otherwise permitted by the City because topographical conditions will not reasonably permit, grades shall not exceed 7% on all streets. Centerline radii on curves shall not be less than 300 feet on arterials, 200 feet on collectors and 100 feet on all other streets.*

**RESPONSE:** The plans submitted indicate the outside radii on the private street abutting lots 6 through 10, is 105 feet and the internal radii is 55 feet. The centerline radii is not specified but it appears to be less than 100 feet as required. The Planning Commission cannot determine if the plans comply with the zoning ordinance until detailed street plans are submitted indicating the finished grade and curve radii.

**ITEM TO BE ADDRESSED:** Before the Planning Commission can review the plans for compliance with the street standards, the applicant shall submit detailed street plans for review by the Road Commission and Planning Commission. Street construction shall comply with city standards for grade and curve radii as stated in 155.081 (I).

**155.083 EASEMENTS**

*(B) Easements for utilities. Dedication of easements for storm water sewers, and for access thereto for maintenance, in order to safeguard the public against flood damage and the accumulation of surface water, and dedication of easements for sanitary sewers, and for access thereto for maintenance and dedication of easements for other public utilities, may be required of the subdivider by the city along lot rear lines, lot side lines, or elsewhere as necessary to provide needed facilities for present and future development of the area in accordance with the purpose of this chapter. Easement for utility lines shall not be less than 14 feet in width; except for an easement abutting land not in the subdivision area a lesser width may be allowed.*

**RESPONSE:** The material submitted by the applicant indicates water will be provided by a private community water system with access to Woahink Lake by an easement. The storm water drainage system is proposed to be located within the right-of-way of the proposed private streets and channeled into the existing wetland. Private and public utility easements are not shown on the tentative plans and are therefore conditioned as follows in order to comply with

155.083.

**RECOMMENDED CONDITION:** Prior to final plat approval, the final plat shall show the location of all utility easements. The applicant shall also submit to the City proof that a utility easement providing all proposed parcels with access to water and the provision of utilities to serve the lots has been recorded on the affected properties. All utility easements shall comply with city standards of DCC 155.083.

**155.084 LOTS**

*(A) General dimensional requirements. The size, width, shape, and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall comply with lot requirements of the Zoning Ordinance....*

**RESPONSE:** The Dunes City subdivision ordinance has provisions for general dimensional requirements for size, width, shape and orientation of lots. However, the applicant is proposing a Planned Unit Development which allows modification of setbacks, lot size specifications and land use provisions of the zoning ordinance, building code and subdivision ordinance. Lot size and dimensions are discussed under the PUD section of this staff report.

**155.085 DRAINAGE**

*Where land in the subdivision area is or will be periodically subject to accumulation of surface water or traversed by any water course, channel, stream, or creek, the city may require the subdivider to provide for adequate unrestricted drainage over drainage land by dedicating to the public easements therefore approved by the City Council as adequate for the drainage needs of the area, or, where necessary in the judgment of the City Council for protection of such needs, by conveying ownership of such drainage land for drainage purposes to the City.*

**RESPONSE:** The plans submitted show the boundaries of a surveyed wetland area in common area #4 of the planed unit development. As indicated by the applicant the wetland is intended to store and control storm water runoff via channels within the 50 foot right-of-way of the private streets. However, a storm water management plan has not been submitted which shows how runoff from the wetland area will be treated and prevented from encroaching on adjacent property. Therefore the Planning Commission cannot determine if the plans submitted comply with the drainage requirements.

**ITEM TO BE ADDRESSED:** Prior to final plat approval, the applicant shall submit a detailed storm drainage plans indicating how runoff from the streets and wetland area will be treated and prevented from flowing onto adjacent property not part of the development.

**155.087 UNSUITABLE AREAS.**

*(B) Where slopes exceed 16%, the city may require the report of an engineering geologist before land may be subdivided.*

*(C) Where slopes exceed 12%, the city will require a site review before land may be subdivided. Where slopes exceed 16%, proof of the safety of the proposed development must be shown before the land may be subdivided.*

*(D) No land subject to landslides shall be subdivided.*

**RESPONSE:** The applicant may meet this requirement. The plans submitted do not specify percent slope. It appears several of the lots have slopes in excess of 12% and 16% and is therefore conditioned to comply with 155.087:

**RECOMMENDED CONDITION:** Staff recommends that the applicant be required to submit a report by an engineering geologist prior to construction document approval to ensure the land is not subject to slippage or inundation in its post-developed state and a separate plan showing areas over 12% shall be submitted prior to final plat approval in order to comply with 155.087.

**155.089 ACCESS**

**(A) Restrictions**

- (1) *Each property is entitled to access to a street.*
- (2) *Direct driveway access to collector and arterial street shall be avoided where possible...*

**RESPONSE:** The proposed development shows each of the 19 lots with direct access to a private street. The private street intersects Canary Road at one point. No driveways are proposed to take access off of Canary Road (County Road classified as a major collector). The plans submitted therefore comply with the access standards above.

**(B) Relation to adjoining road system.**

- (1) *A subdivision or partition shall provide for the continuation of major and secondary roads existing and adjoining subdivision or partitions for their proper projection when adjoining property is not subdivided or partitioned...*

**RESPONSE:** The plans submitted show a continuation of Green Gate Road serving the proposed subdivision. The proposed road aligns with the existing Green Gate Road and therefore complies with the provision of the code stated above.

**155.090 SOLAR ACCESS STANDARDS**

*The development shall be designed so that solar access is available to south-facing building walls and rooftops on December 21 at noon, unless not feasible due to property size, configuration, orientation, existing vegetation, topography, or other physical constraints....*

**RESPONSE:** The application meets this requirement. Due the existing trees covering all lots and the steep slopes, staff recommends that meeting this criterion is not feasible. The development shall be designed so that solar access is available to south facing building walls and rooftops on December 21 at noon unless not feasible due to property size, configuration, orientation, existing vegetation.

**155.100 AGREEMENT FOR IMPROVEMENTS**

*(A) Before City Council approval of a subdivision plat or partition map, the city may require the land divider to either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City Recorder an agreement between him- or herself and the city.*

*(B) The City Council shall consider for approval the final plat or finished plat provided that at the time of submission of such plat or finished plat a petition for improvements as required herein has been properly executed by the subdivider who is effecting the subdivision and will be assessed for the improvements.*

**RESPONSE:** The application may meet this requirement. The application includes the following statement by the agent: "Following city approval, all roads will be constructed within the next four to six months. This includes both Green Gate Road and the proposed private road..."



**155.102 WATER SUPPLY**

*All lots within the subdivision area shall, where needed as determined by the City Council in accordance with the purpose of this matter, be served by an approved water system.*

**RESPONSE:** The applicant is proposing to serve the development with a private community water system taking water from Woahink Lake by an easement. The applicant indicates an application will be made with the City to gain legal access to Woahink Lake water. The plans are conditioned as follows in order to comply with 155.102. The submittal requirements indicate the quantity and quality of water to serve the development shall be submitted per 155.046(13). The plans do not show the location of the easement required to access Woahink Lake, the location of the storage tank, if residents will apply for permits as they purchase property or will the system be in place prior. The Planning Commission cannot approve the development until a water system is approved by the City.

**ITEM TO BE ADDRESSED:** Prior to final plat approval, the applicant shall submit a detailed water plan for Planning Commission review. The water plan shall address the quantity and quality of water required to serve the development, the location of all easements to Woahink Lake, and the location of the water storage tank. The applicant will be required to obtain legal access to Woahink Lake and receive approval from the City for the proposed water system.

**155.103 SEWAGE**

*All lots within the subdivision are shall, as determined by the City Council in accordance with this chapter, be served by a sewer system approved by the State Department of Environmental Quality.*

**RESPONSE:** The plans submitted indicate each lot will be served by an on-site septic system. Each owner of the lot will be required to obtain septic system approval by Lane County Sanitarian prior to building occupancy.

**ITEM TO BE ADDRESSED:** County records indicate there is a single family structure on the subject site. The plans do not show the existing drainfield nor do they indicate if the drainfield will be removed. The applicant shall show the existing drainfield and single family dwelling and address the removal of the existing drainfield.

**155.104 DRAINAGE**

*Such grading shall be done and such drainage facilities shall be constructed by the subdivider as are adequate for the purpose of proper drainage of the subdivision area or areas affected thereby...*

**RESPONSE:** The plans submitted indicate the site drains towards the identified wetland area of common area #4. The applicant proposes to construct draining ways within the right-of-way of the private streets, channeling water to the wetland area. The wetland area will act as a water detention area for the entire development. The plans are conditioned as follows in order to comply with 155.104.

**RECOMMENDED CONDITION:** Before final plat approval, the applicant shall construct all drainage facilities serving the subdivision in accordance with the 155.104 of the subdivision ordinance.

**155.105 STREETS AND ALLEYS**

*The subdivider shall grade and pave all streets and alleys in the subdivision area to the width*

*specified in 155.081 of this chapter and provide for drainage of all such streets and alleys, and construct curbs and gutters within the subdivision in accordance with specifications adopted by the City under 155.101.*

**RESPONSE:** The applicant has proposed to construct two 50 foot wide private streets. Pavement width was not indicated in the materials submitted. The plans are conditioned as follows in order to comply with 155.105.

**RECOMMENDED CONDITION:** Prior to Final Plat approval, the applicant shall grade and pave all streets within the subdivision area to a width of 24-48 feet.

**155.108 UNDERGROUND INSTALLATION OF UTILITY AND SERVICE FACILITIES**

*All utility lines, including but not limited to those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, connection boxes and meter cabinets which may be placed above ground... The subdivider shall make all necessary arrangements with the serving utility to provide the underground services.*

**RESPONSE:** The plans submitted do not indicate utilities will be placed underground, therefore the plans are conditioned as follows in order to comply with 155.108:

**RECOMMENDED CONDITION:** Prior to final plat approval, all utilities serving the subdivision shall be installed underground unless specified per 155.108.

**155.110 STREET LIGHTS**

*The developer may be required to install street lights in a pattern fitting the subdivision and according to the specification of Central Lincoln People's Utility District.*

**RESPONSE:** The applicant has not proposed to install street lights. The Planning Commission may recommend street lights be installed suitable to the development.

**155.111 FIRE HYDRANT**

*The developer is to install suitable fire hydrants meeting city specification to serve fire flow requirements of the subdivision.*

**RESPONSE:** The applicant has not shown the location of fire hydrants to serve the development and no comments have been received by Siuslaw Fire and Rescue to date. The plans are conditioned as follows in order to comply with 155.111.

**RECOMMENDED CONDITION:** Prior to final plat approval the applicant shall obtain plan approval from Siuslaw Fire and Rescue and install fire hydrants meeting city specifications.

**PLANNED UNIT DEVELOPMENT STANDARDS**

**156.190 PERMITTED USES**

*The following buildings and uses are permitted, either singly or in combination, in a PUD...  
(A) Single-family dwellings.*

**RESPONSE:** The applicant has indicated the planned unit development will be built with single-

family dwellings on each lot. No other housing types or other uses are proposed. Single-family dwelling are a permitted use per section 156.190(A) of the Zoning Ordinance.

**156.192 SIZE**

*(A) The minimum size for a tract of land to be developed as a Planned Unit Development shall be not less than five contiguous acres and of such configuration as to be conducive to a Planned Unit Development.*

**RESPONSE:** The area to be developed, Tax Lot 1400 of Assessor's map 19-12-11-40 is 20.3 acres in size therefore exceeds the minimum size requirement for a PUD per Section 156.192 (A).

**156.193 LAND COVERAGE**

*(A)Planned residential developments. In residential developments, at least 40% of the gross area shall be devoted to open space. Of this 40%, not more than 25% of the required open space may be utilized privately by individual owners or users of the planned unit development; and at least 75% of this area shall be common or shared open space.*

**RESPONSE:** The gross area of the development is 20.3 acres. According to the material submitted, 37% of this area is common open space. All of the open space is shared or common open space to be used by all residents of the PUD. The proposed development does not meet the 40% open space requirement per Section 156.193 and is conditioned as follows.

**ITEM TO BE ADDRESSED:** Since the proposal does not contain 40% of the required open space, revised plans meeting the open space shall be submitted since this may cause the proposed lots to be reconfigured. The plans shall show 40% (8.12 acres) of the gross area dedicated to common open space.

**156.194 RESIDENTIAL DENSITY**

*(A) The residential density shall be equivalent to not more than one family unit per acre.  
(B) The overall density of a Planned Residential Development shall be calculated by dividing the total net development area by the number of family units. The net development area shall be determined by subtracting from gross development area lands intended or used for: 1) Commercial purposes. 2) Churches or schools. 3) Public or semi-public uses not intended to serve the residents of the PUD.*

**RESPONSE:** The materials submitted by the applicant indicate there will be 19 single lots that will be developed with a single-family unit on 19.22 net acres. The development therefore complies with the residential density requirements of section 156.194 of the Dunes City Zoning Ordinance.

**156.195 LOT AREA AND DIMENSION STANDARDS**

*The minimum lot area, width, depth, height, and setback requirements of this part applicable to the zoning district in which the planned unit development subdistrict lies shall not dictate the strict guidelines for development within the Planned Unit Development, but shall serve as a guideline to ensure that the development will be in harmony with the character of the surrounding area.*

**RESPONSE:** The proposed single-family residential Planned Unit development is similar to a traditional subdivision with the exception of smaller lot sizes and dedicated common space areas to serve the development. No commercial uses or multi-family units are proposed. The proposed lots range in size from approximately 25,000 square feet to 30,000 square feet in size

and all lot frontages exceed the minimum 60 foot lot frontage requirement and minimum 80 foot depth requirements per 155.084 (1) and (2) of the subdivision ordinance. The property surrounding the subject site is developed with single-family dwellings on individual lots or is vacant residential land. The plans as submitted are similar in character to the rural residential character of the surrounding property and comply with the intent of 156.195 of the PUD standards and purpose of residential district per 156.060.

**156.197 OPEN SPACE**

*The location, shape, size and character of the open space shall be provided in a manner to meet the specific needs of the Planned Unit Development and consistent with the standards set forth below, and shall be used only for those specified.*

*(A) Open space may be used for scenic, landscaping, or outdoor recreational purposes. The uses designated for the open space shall be appropriate to the scale of the Planned Unit development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.*

*(B) Open space shall be developed and improved to the extent that it will serve the purpose for which it is designated. Outdoor areas containing natural features and natural vegetation... may be left unimproved. Evergreen trees will be preserved whenever possible.*

*(E) All structures, grading, landscaping and improvements indicated on the plan as being in the open space or common ground shall be completed before any portion of the PUD is sold.*

**RESPONSE:** The plans submitted show five (5) common areas within the PUD. The applicant states all common areas will be preserved as natural areas and all evergreen trees will be preserved, except for those to be removed for building site and road construction. Common area #4 includes a wetland area which will treat storm water runoff. A community water system is proposed to be located in another common area not shown on the plans. The plans are conditioned as follows in order to comply with 156.197.

**CONDITION:** According to the open space requirements stated in section 156.197, the applicant shall construct the stormwater detention area (wetland) in common area #4 and construct the community water system before the PUD lots are sold.

**156.198 MAINTENANCE OF COMMON LAND AND FACILITIES; OWNERS' OR TENANTS' ASSOCIATIONS.**

Dunes City Zoning Ordinance requires an association of owners or tenants to be created if lands or facilities including streets or ways being held in common are shown on the final development plan. The association shall be formed and continued for the purpose of maintaining such common open space and facilities.

**RESPONSE:** The applicant has submitted a draft Declaration of Covenants, conditions and Restrictions of Woahink Ridge Estates PUD which addresses maintenance requirements for the common area and facilities. However, page 12, Section 5 of the CC&Rs shall be corrected to read "Woahink Ridge estates PUD CC&Rs do not remove the responsibility of a Landowner to comply with Dunes City Code as it relates to their property."

**ITEM TO BE ADDRESSED:** The applicant shall submit draft CC&Rs with corrections noted above.

**RECOMMENDED CONDITION:** Prior to Final Plat approval, the applicant shall record a final copy of the Declaration of Covenants, conditions and Restrictions of Woahink Ridge Estates PUD with Lane County with required corrections.

**156.199 DEDICATIONS, EASEMENTS, AND SIMILAR REQUIREMENTS**

*The Planning Commission may, as a condition of approval, for any development, require that portions of the Planned Unit Development be set aside, improved, conveyed, or dedicated for the following uses:*

- (A) *Easements necessary to the orderly extension of public utilities.*
- (B) *Streets and pedestrian ways necessary to the proper development of the Planned Unit Development and adjacent properties.*
- (C) *Recreational areas and open spaces suitable for the owner, residents, employees, or patrons of the Planned Unit Development and the general public.*

**RESPONSE:** The applicant meets this requirement. The plans have been conditioned above for the dedication of easements for utilities. Since private streets are proposed no land is required to be dedicated to the City. The common areas do not require dedication of easements.

**156.184 PROCEDURE GENERALLY.**

(A) *PUD Suffix. A Planned Unit Development may be developed or located in the residential District (R-1) or the Community Commercial, provided that a Planned Unit Development (PUD) suffix has been added to the parent district in accordance with the provisions and objectives of this subchapter. Such subdistricts shall be established by ordinance, pursuant to the provisions of 156.214(B) herein, except the applicant need not comply with 156.214(B)(2).*

(B) *Application and procedure. Any applicant desiring to develop a planned Unit Development shall submit an application...*

**RESPONSE:** A zone change application was submitted concurrently with the preliminary subdivision and planned unit development application.

**156.214 REQUIREMENTS FOR ZONING, REZONING, AND AMENDMENTS**

(B) *Criteria. Zoning, rezoning and amendments to this part shall be approved only when substantive and probative evidence establishing specific findings of fact have been made that the zoning, rezoning, an amendments to this part conform to all of the following criteria:*

(1) *The proposed change conforms to, or is not inconsistent with the comprehensive plan.*

**RESPONSE:** "The Dunes City Comprehensive Plan Policy H3 states "Dunes City shall allow orderly residential development through the use of PUD to cluster housing and protect areas with open space or natural areas." Permitting the PUD suffix is not inconsistent with the comprehensive plan and therefore complies with criterion 1 above.

(2) *It has been demonstrated that there is a public need for the change, and that need is best achieved by this proposal.*

**RESPONSE:** The Dunes City Buildable Land Inventory adopted May 2005 indicates there is not enough land to accommodate 20 years of anticipated residential growth. A planned unit

development will allow for more efficient use of land through the use of smaller lot sizes. The only way a subdivision can be developed with smaller lot sizes than the 1-acre minimum is through a planned unit development. Therefore staff feels the applicant complies with criterion 2.

*(3) The proposal is consistent with the purpose and intent of the district classification proposed.*

**RESPONSE:** The zone change request is to add the PUD suffix to the parent district (R-1). Planned Unit development is permitted use in R-1 districts therefore the request is consistent with criterion 3.

**156.187 APPROVAL CRITERIA**

*(A) In addition to the following development and maintenance standards and principles, the Planning Commission shall expressly find that the following criteria are met before it approves a Planned Unit Development:*

***(1) The location, size, design, and uses must be consistent with the comprehensive plan.***

**RESPONSE:** The subject site is zoned and designated Residential in the Comprehensive Plan. Planned Unit Developments are a permitted use in residential zoning district per Section 156.061 of the Dunes City Zoning Ordinance.

***(2) The location, design and size must be such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding land uses, that the location and design will adequately reduce the impact of the development.***

**RESPONSE:** As discussed earlier, the surrounding land uses are either single family dwellings or vacant residential land. The proposed development will be built with single family dwellings and will therefore integrate with existing surrounding land uses.

***(3) The location, design, size and land use must be such that traffic generated by the development can be accommodated safely and without congestion on existing or planned streets and will, in the case of commercial developments, avoid as much as possible traversing local streets.***

**RESPONSE:** In order to provide access to the development the applicant is proposing two private streets: 1) extending Green Gate Road off of Canary Road to the site and 2) constructing a private street off of Green Gate Road Street. Canary Road is a county road and classified as a major collector. The plans indicate no lots will access Canary Road directly. The entire development will access Canary Road via one access point (Green Gate Road). This design will eliminate private driveways on Canary Road reducing traffic conflict points and congestion. However, the street plans do not fully comply with the street standards. Before the Planning Commission can determine if the proposed development complies with the street standards, detailed plans are required to be submitted. Therefore this criteria approval has not been fully met.

***(4) The location, design, size, and land uses must be such that the residents or establishments to be accommodated will be adequately served by existing facilities and services or by facilities and services which are planned for construction within a time period that is deemed reasonable.***

### **Streets**

**RESPONSE:** The applicant is proposing to construct two private streets, with 50 feet of ROW, which will comply with city standards and therefore will adequately serve the site. The proposed street does not comply with Dunes City street standards. Before the Planning Commission can issue a decision, additional information is required to be submitted.

### **Water**

**RESPONSE:** The applicant states the development will be served by a private community water system, maintained by a Homeowners Association. At this time a water permit has not been approved by Dunes City. Additional information is required to be submitted by the applicant prior the Planning Commission issuing a decision.

### **Septic**

**RESPONSE:** the applicant indicates each proposed lot would be served by an on-site septic system. Prior to building occupancy, the septic system shall be approved by Lane County Sanitarian.

### **Utilities**

**RESPONSE:** The plans submitted do not show utility easements for electric, phone or cable. As conditioned earlier, utility easements, not less than 14 feet shall be shown on the final subdivision plat.

### **Drainage**

**RESPONSE:** Detailed storm drainage plans are required to be submitted before a decision can be made whether or not the proposal complies with storm drainage requirements.

- (5) *The location, design, size, and uses shall result in an attractive, healthful, efficient, and stable environment for living, shopping, or working.***

**RESPONSE:** The plans have been reviewed and conditioned in order to ensure the development is compatible with the surroundings environment. The applicant has also included architectural CC & Rs which will control the development of structures in order to ensure they are compatible with the development and surrounding environment. Therefore the plans as conditioned meet the criteria above.

- (6) *The plan shall preserve the maximum number of evergreen trees and desirable natural plants (as defined in the Erosion Control Ordinance), given the limits of the area to be developed.***

**RESPONSE:** As stated earlier, the applicant has proposed to preserve all evergreen trees except for those that need to be removed for the construction of dwellings and facilities such as streets. The private CC&R's also prohibit any clear cutting of trees, shrubs or bushes on individual lots. Therefore the plans comply with the above criteria.

**(7) The location, design, size and uses shall provide the maximum solar access to south-facing building walks and rooftops at noon on December 21. Application of these standards shall include but not be limited to the placement and orientation of structures, and the type and location of trees to be planted.**

**RESPONSE:** As stated earlier, the subject site is covered with evergreen trees and slopes which make meeting the solar access standards difficult. Since no new trees are being proposed, the plans comply with his requirement.

F. The Dunes City Planning Commission determined that there is not sufficient information to determine if the application for the Woods on Woahink preliminary subdivision plan (SUB-2005-01) can meet the tentative plan review criteria listed in §155.046 and other applicable sections of the Dunes City Development Code. Several items need to be addressed before a decision can be issued. The following items to be addressed are summarized below:

1 **ITEM TO BE ADDRESSED:** Before the Planning Commission can review the plans for compliance with the street standards, the applicant shall submit detailed street plans. Street construction shall comply with city standards for grade and curve radii as stated in 155.081 (l).

2 **ITEM TO BE ADDRESSED:** The applicant shall submit a detailed storm drainage plan indicating how runoff from the streets and wetland area will be treated and prevented from flowing onto adjacent property not part of the development.

3 **ITEM TO BE ADDRESSED:** Prior to final plat approval, the applicant shall submit a detailed water plan for Planning Commission for review. The water plan shall address the quantity and quality of water required to serve the development, the location of all easements to Woahink Lake, and the location of the water storage tank. The applicant will be required to obtain legal access to Woahink Lake and receive approval from the City for the proposed water system.

4 **ITEM TO BE ADDRESSED:** County records indicate there is a single family structure on the subject site. The plans do not show the existing drainfield nor do they indicate if the drainfield will be removed. The applicant shall show the existing drainfield and single family dwelling and address the removal of the existing drainfield.

5 **ITEM TO BE ADDRESSED:** Since the proposal does not contain 40% of the required open space, revised plans meeting the open space shall be submitted since this may cause the proposed lots to be reconfigured. The plans shall show 40% (8.12 acres) of the gross area dedicated to common open space.

6 **ITEM TO BE ADDRESSED:** The applicant shall submit draft CC&Rs with corrections noted in Section E.

**The recommended conditions do not imply approval by the Planning Commission.**



**II. SUMMARY AND CONCLUSIONS**

Based on the findings stated above, additional information is required in order to determine that the preliminary planned unit development, subdivision plat and zone change application meets the requirements of the Dunes City Development Code.

**III. DECISION**

It is hereby ordered that the Dunes City Planning Commission moves to continue the meeting to a certain date to provide the opportunity for the applicant to submit additional information and/or allow for more deliberation for the Woahink Ridge Estates Planned Unit Development and preliminary subdivision plan (PUD01-05).

\_\_\_\_\_  
Lee Riechel, Chair  
Dunes City Planning Commission

\_\_\_\_\_  
Date