

**DUNES CITY PLANNING COMMISSION
REGULAR MEETING
January 19, 2006**

I. CALL TO ORDER

Chair Lee Riechel called the meeting to order at 7:21 p.m.

ROLL CALL

Present: Chair Lee Riechel; Commissioners, George Burke, Susie Navetta, Les Zemlicka, Ron Shearer; Planning Secretary, Teri Tinker and several citizens in the audience.

II. APPROVAL OF MINUTES

November 17, 2005: Lee Riechel requested change of the minutes. Riechel said his name was listed as Riechel Riechel, and wanted one removed.

ACTION: Susie Navetta made a motion to accept the November 17, 2005 minutes as corrected. Les Zemlicka seconded the motion. There were 4 ayes, 0 nays. Motion carried.

December 15, 2005:

ACTION: George Burke made a motion to accept the December 15, 2005 minutes. Ron Shearer seconded the motion. There were 4 ayes, 0 nays. Motion carried.

III Announcements and Correspondence

None

IV Public Hearings

None

V. New Business

1. Election of Commissioners, Chair and Vice Chair.

MOTION: George Burke made a motion to nominate Lee Riechel for Planning Commission Chair. Les Zemlicka seconded the motion. There were 4 ayes, 0 nays, Lee Riechel abstained. Motion carried.

MOTION: Les Zemlicka made a motion to nominate Susie Navetta for Planning Commission Vice Chair. Ron Shearer seconded the motion. There were 4 ayes, 0 nays, Susie Navetta abstained. Motion carried.

2. CCI group recommendations - Land Use Codes.

MOTIONS FOR THE CCI
LAND USE CODE REVISION

MEETING DATES:
DECEMBER 13 AND 20, 2005
JANUARY 10, 2005

CCI Item 1: Mark Chandler made a motion to amend the draft revision to maintain the city's current locally significant, non-riparian wetland setbacks 155.2.5.500.C Protection of Wetland Areas, substitute "50 Feet" for "25 Feet"; 155.2.5.500.D Substitute "50 Feet" for "25 feet"; 155.2.5.500.1.C Approval Criteria, substitute "50 feet" for "25 feet". Marilyn Miller seconded the motion. There were 21 ayes, 1 nay (Norman Martin), 6 abstained (Judy Martin, George Burke, John Scott, Peter Howison, Les Zemlicka and Lee Riechel). Motion carried.

George Burke said this affects many places in the Code, and some research needs to be done to make sure this gets changed in all places in the document we sent to the State.

ACTION: Lee Riechel made a motion to approve, providing we get DSL's support in writing. George Burke seconded the motion. There were 5 ayes, 0 nays. Motion carried.

CCI Item 2: Mark Chandler made a motion to change the draft code revision at 155.2.5.500.2 Allowed Activities within Wetland Protection Areas: Delete "C." section allowing fencing in WLPAs. Jerry Wasserburg seconded the motion. There were 18 ayes, 1 nay, (Norman Martin), 6 abstained (Judy Martin, George Burke, John Scott, Peter Howison, Les Zemlicka and Lee Riechel). Motion carried.

Peter Howison said this is dealing with allowing fences in the wetlands. George Burke said there are two different kinds of wetlands. Lee Riechel said we have 1. riparian areas. 2. Not riparian, but significant. 3. Not riparian, non significant. Peter Howison said they want to keep the 50 foot no fence. There was discussion about how this would affect fencing of pets and children.

ACTION: George Burke made a motion to accept as is. Susie Navetta seconded the motion. There were 5 ayes, 0 nays. Motion carried.

CCI Item 3: Ralph Farnsworth made a motion to maintain the solar access section of the current code: 155.090, 156.140 and 156.160 through 156.167 (stated 156.160, but it is believed he meant 156.167--*cbf*). Marilyn Miller seconded the motion. There were 17 ayes, 0 nays, 6 abstained (Judy Martin, George Burke, John Scott, Peter Howison, Les Zemlicka and Lee Riechel). Motion carried.

Peter Howison said if in the future someone has a tree that grows in view or blocking off the solar access, that someone would have a right to petition to have that vegetation trimmed. Howison also said this is important for developments, in that you can't arrange a subdivision or PUD in such a way to take advantage of solar access, and we need to be pro-active, and need to leave this in at this time.

George Burke said he has a real problem with cutting trees down to make solar access. Burke said when you're building in a forest, you don't have solar access. Burke said he did not know if you want to de-forest an area to have solar access. Burke said when you have a 40 foot tree that grows to be a 50 foot tree in ten years, then starts to shade a new home's solar system, he has a real problem with topping the tree.

Lee Riechel said the reason he is opposed to solar access is that if you look at the rules, it allows you to access solar energy from the sun at noon on December 21st. Riechel said he could see a couple trees a few miles away that would interfere. Riechel said he has a problem with the City

giving permission with a permit, even though it is in the rules, to cut trees on other peoples' properties, and effecting neighbors.

ACTION: George Burke motioned to put the item back into code. Susie Navetta seconded the motion. There were 4 ayes, 1 nay (Lee Riechel). Motion carried.

CCI Item 4: Richard Koehler made a motion to maintain Design and Development Standards of the current code 155.080 by including the sentence "The city may require appropriate higher design and development standards than the minimum required by this section upon a finding by the City Council that the division is located in an area possessing natural conditions which require special consideration or the division is intended for especially intensive development." that would be located in the draft revision of the code at 155.3.0.1. Jerry Wasserburg seconded the motion. There were 20 ayes, 0 nays, 6 abstained (Judy Martin, George Burke, John Scott, Peter Howison, Les Zemlicka and Lee Riechel). Motion carried.

Peter Howison said the item needs to be clarified to be able to use, but does not want to give up this section so it can use in the future. George Burke mentioned that the attorney said the City Council has that right, whether it is in there or not. Lee Riechel said in past experience, he has had a hard time putting generalities in specifications, and would like the item left out of the draft, and be worked on.

CCI Item 5: Johan Hogervorst made a motion to define natural and special consideration. Bill Robinson seconded the motion. There were 18 ayes, 0 nays, 6 abstained (Judy Martin, George Burke, John Scott, Peter Howison, Les Zemlicka and Lee Riechel). Motion carried.

ACTION: Les Zemlicka made a motion to send back to CCI item 4 and 5 for combining and redefinition. Ron Shearer seconded the motion. There were 5 ayes, 0 nays. Motion carried.

CCI Item 6: John Stead made a motion for the following:

Whereas the Dunes City Comprehensive Plan states that, Coastal shorelands, significant resources, and habitats are defined as the areas

within 50 feet (measured horizontally) of the line twelve feet above mean sea level on Siltcoos lake, 39.8 feet above mean sea level for Woahink Lake, and the area within 50 feet (measured horizontally) of the stream bed of Woahink Creek and other Class F creeks as defined by the Forest Practices Act, and the jurisdictional wetland identified within Dunes City limits (sic)

The residential development adjacent to the shoreline is considered to be consistent with shoreland goals since a 50-foot setback is required [Page 40].

And Policy K1 states, As defined by the Oregon Division of State lands, the ordinary high water line of Siltcoos Lake is 12' above mean sea level and the ordinary high water line of Woahink Lake is 39.8 above mean sea level. The shorelands area is 50 feet measured horizontally from these points.

And whereas, The vegetative cover on the shorelines of Siltcoos and Woahink Lakes is recognized as important habitat for fish and wildlife and fore its importance in stabilizing the banks from erosion/ A development setback of 50 feet has been established to protect those riparian resources." [Page 39]

Therefore be it resolved that the Proposed Ordinance 155 be consistent with the Comprehensive Plan and in agreement with exiting ordinances in all references to ordinary high water, ordinary low water, and the definitions for zone boundaries, shoreland, shorelands shoreland, area and shoreline and that all reference to "apparent shoreline" be deleted from the Proposed Ordinance.

Ralph Farnsworth seconded the motion. There were 24 ayes, 0 nays, 7 abstained (Judy Martin, George Burke, John Scott, Peter Howison, Les Zemlicka, Susie Navetta, and Lee Riechel). Motion carried.

Peter Howison said this would change the Comprehensive Plan. Lee Riechel said the Comprehensive Plan and current Code, says the shoreland area is defined by the ordinary high water, and extending inland 50 feet. Riechel said there is a major hole in our wetland protection in the existing code, in that it offers no protection at all between ordinary high water and actual water line. Riechel said what the Code was trying to do was to protect the 50 foot shoreland that goes from where the water normally is, to where the high water is. Riechel said they tried to fix in two ways: 1. Something that could be measured. Riechel said

when we go out on a site review, we need to be able to determine where these boundaries of the shoreland are, and we need to determine where the ordinary high water line is. 2. Someone has to go out with a stadia rod, GPS, or something to measure, which is very expensive. Riechel said if we required to have someone to go out and get a shoreline survey, there would be the need give them some kind of relief so they don't have to pay so much, so maybe a stadia rod or GPS would do.

CCI Item 7: Marilyn Miller made a motion to amend the original motion for the purpose of construction and vegetation removal near the shoreline of Siltcoos Lake, Siltcoos River, Woahink Lake, Woahink Creek, Little Woahink Lake, Little Woahink Creek, and Gibbs Creek, the shoreland area is the section of land above the water extending from the ordinary low watermark to 50-feet inland from the ordinary high water mark. Jerry Wasserburg seconded the motion. There were 24 ayes, 0 nays, 7 abstained (Judy Martin, George Burke, John Scott, Peter Howison, Les Zemlicka, Susie Navetta, and Lee Riechel). Motion carried.

ACTION: Lee Riechel made a motion to combine items 6 and 7 and approve with the condition that the shoreland area be determined at a minimum, by use of lake stage stadia rod and surveyors level. George Burke seconded the motion. There were 5 ayes, 0 nays. Motion carried. Susie Navetta wanted to make a note that she did not abstain on item #7.

CCI Item 8: Jerry Wasserburg made a motion as follows:
Resolved: Dunes City Council recognizes the great effect that human habitation and landscape can have on surface water, ground water, and drinking water quality. Whereas, Dunes City Council will develop Best Management Practices (BMP) program following the DLDC & DEQ Water Quality management Code & Model Development Code to guide residents, contractors, developer, visitors and others whose activities may affect water quality. Whereas, Dunes City Council may fund their BMP program with available financial resources and to further seek support from foundations and agencies to support the program. Whereas, Dunes City Council will elect a BMP Commission to implement the BMP program, to aid in seeking funds, to maintain records for public inspection and publish guidelines in the form of a BMP handbook. Christine May seconded the motion.

CCI Item 9: Lee Riechel made a motion to amend the motion on the floor to change Commission to Committee. Mark Chandler seconded the motion. Vote was unanimous. Motion carried.

Vote for the original amended motion was unanimous. Motion carried.

ACTION: Susie Navetta made a motion to accept items 8 and 9 together with a caveat of ongoing activity outside the scope of the current code revision. Les Zimlicka seconded the motion. There were 5 ayes, 0 nays. Motion carried.

CCI Item 10: John Stead made a motion that the City shall maintain its existing standard and specific rules instead of employing a combination of the safe harbor method and the inventory process. Karen Peck seconded the motion.

CCI Item 11: Gerry Wasserburg made a motion to table the motion. Mark Chandler seconded the motion. There were 17 ayes, and 6 nays. Motion carried.

ACTION: None. Both were tabled.

CCI Item 12: Ralph Farnsworth made a motion to replace 155.2.1.210.4 Residing Density, Section B, to define the overall density of a PUD as being no greater than what a legal subdivision would be on the same development area as per 155.4.3. John Stead seconded the motion. Vote was unanimous. Motion carried.

CCI Item 13: John Stead made a motion to amend Farnsworth's motion that the overall density of a PUD be no more than what a legal subdivision would be on the same development. Bill Robinson seconded the motion. Vote was unanimous. Motion carried.

Call for the question on the amended original motion. Vote was unanimous. Motion carried.

Peter Howison said there were several motions on PUDs. Howison said we can't eliminate a PUD as it is in the Comprehensive Plan, so would like to recommend one acre per lot recommendation. Howison said there needs to be a minimum lot size.

ACTION: Lee made a motion to accept items 12 and 13. Ron Shearer seconded the motion. There were 5 ayes, 0 nays. Motion carried.

CCI Item 14: Bill Robinson made a motion that PUD lots less than one-acre shall dispose of sewage effluent in a community sewage treatment facility located on ground suitable for sewage disposal. Lee Riechel seconded the motion. There were 10 ayes, 13 nays. Motion failed.

ACTION: None. Motion failed

CCI Item 15: John Stead made a motion to approve the Resolution calling for the Modification of the Planning Commission's Decision Making Procedure (See Exhibit A). Karen Peck seconded the motion. There were 23 ayes, 3 nays. Motion carried.

RESOLUTION
for the
CCI Meeting January 10, 2006

Modification of the Planning Commission's Decision Making Procedure

Proposed Ordinance 155.4.1.6 D. 1. Type III Procedure (Quasi-Judicial)
A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type III applications submitted to the City.

Whereas at the February 12, 2004 Council meeting, following discussion of the Planning Commission's authority to approve land use decisions with the Council being the first level of appeal for the applicant, not LUBA, the Council voted in favor of the Planning Commission making land use decisions;

And

Whereas the requirement of an additional Type III hearing before the City Council following the hearing before the Planning Commission complicates procedures and may cause the City to exceed the 120-day time limit for final land use decisions and places an unnecessary burden on staff, the applicant, local citizens and the City Council;

And

Whereas the applicant should be given the option of requesting an additional hearing before the City council;

Therefore be it resolved

That Type III decisions be made by the Planning Commission after a public hearing, with appeals reviewed by the City Council;

And be it further resolved that

The Proposed City Ordinance 155 Draft shall be fully amended to implement the intent of this resolution.

Lee Riechel said this is the third time around on this particular issue. Riechel said the value of this to the City is that there are no planning experts there, and when this table is filled up with other people, there are very few people at that table that have really read the Code, sentence by sentence, word by word.

Riechel said the Planning Commission will make errors and City Council will make errors. Riechel said If the Planning Commission makes an error, and someone complains about it, instead of appealing to LUBA, which costs the City an arm and a leg, they can appeal it to City Council, and City Council can say the Planning Commission made an error and go back to Planning Commission or say no, there was no error and continue on, so this is a safeguard for the City. Riechel said one major change for the Planning Commission is the Commissioners will have a higher level of responsibility to get it right the first time.

Burke said we need to look at funding to support staff, because were not the staff to go through this stuff and do all this. I would want funding for the staff we have been using or another staff, but would like budgeted funding for staff. Burke said this would need to be a buget item for staff to take care of subdivisions, PUDs, etc. Burke said the budget is coming out of roads etc.

Lee Riechel said we need to look at workload. Riechel said with Teri's workload and that she is jack-of-all trades in the office, if we get down to this level of doing the research on these, there has to be some resource to be able to do the job right, and the only resource we have right now is the contract with LCOG. Riechel said maybe the City needs to find funds for additional staff support for complex applications.

Les Zemlicka said Teri is at that front window 90% of the time, and she should not be there, there should be someone right there at the front desk answering the window. Zemlicka said that would break her away so she could look at that stuff and she would not be interrupted every few seconds and then try to remember where she was, and have to start all over.

Susie Navetta said Martins, Richard ^{Koehler}~~Gottier~~, and herself, went down to Ten Mile Lake and had a meeting with their Planning staff and Mike ~~Mader~~^{Mafer}. Navetta said Mike and four other people work through grants. Navetta said all their subdivisions etc. are farmed out and everything is done by grants. Riechel said the City needs to investigate that.

ACTION: Lee Riechel made a motion to accept. Les Zemlicka seconded the motion. There were 5 ayes, 0 nays. Motion carried.

3. Reedal / Helmuth Complaint - Discuss Procedure.

Lee Riechel said he talked to Sheldon Meyer and asked how we should handle this. Riechel said usually there is one item with one complaint, and one committee to handle that task, so Riechel said he recommended that the Planning Commission take on the task of working on this complaint as there are a number of items to be addressed relative to the Code and Conditional Use Permit. Riechel said what he would like to do is the initial research and recommend to the City Council, and come up with a process.

1. Planning Secretary to get all information together. Search records on file etc. Need better drawings from complainant
2. Verify if Richard Reedal has legal power of attorney to file complaint.
3. We need to do a site review.
4. Have a public hearing and send to City Council in March?

Ms. Helmuth said the State owns where the dock is and wanted to know if it is DSL or Dunes City jurisdiction?

Lee Riechel said this is a gray area. Riechel said the state owns the submerged land. The City has jurisdiction over the area of its City Limits.

VI. Old Business

George Burke said there needs to be a work session to go over applications and procedures. Work session set up for January 31, 2006.

VII. Unscheduled Business


None

VIII. Adjournment

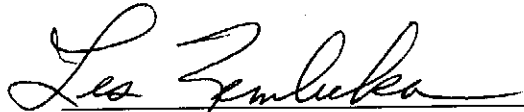
Meeting adjourned at 10:00 pm



Lee Riechel, Chairperson



Teri Tinker, Planning Sec'y




Les Zemlicka, Planning Commissioner



George Burke, Planning Commissioner



Susie Navetta, Planning Commissioner



Ron Schearer, Planning Commissioner