

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, April 11, 2018 – 6:00 P.M.
4 Depoe Bay Community Hall
5

6 PRESENT: M. Phillips, J. Hayes, R. Hageman, J. Speer, J. Faucett, G. Steinke
7 STAFF: City Planner L. Lewis
8 VACANCY: One Vacant Seat
9

10 Hageman explained the items on the Agenda and introduced the new Planning Commissioner, Judy Faucett.
11

12 I. CALL MEETING TO ORDER

13 Hageman called the Meeting to order and established a Quorum at 6:05 P.M.
14

15 II. APPROVAL OF MINUTES:

16 To be approved at the next Meeting.
17

18 III. ITEMS FROM THE AUDIENCE

19 There was none.
20

21 IV. PUBLIC HEARING ITEMS
22

23 A. Case File: #2-CS-PC-18
24 Applicant: Keith Sheldon
25 Designer: Tom Golden
26 Application: Coastal Shorelands Development
27 Zone, Map and Tax Lot: R-1 Residential 09-11-08-CB #05700
28 Location: 571 S.W. Point Avenue
29

30 Hageman said Testimony and evidence given must be directed toward Criteria described by the City Planner, or
31 other Criteria in the Code that the Testifier believes apply to the request. Failure to raise an issue, accompanied
32 by statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to the
33 issue precludes appeal to the State Land Use Board of Appeals on that issue. Application materials or other
34 evidence relied upon by the Applicant had been provided to the City and made available to the Public.
35

36 Hageman explained the Public Hearing procedure: He will call for Planning Commissioner ex-parte contact,
37 conflict of interest or bias to declare. There will be an opportunity to object to any Planning Commissioner
38 hearing the Case. Applicants will have the opportunity to present information relevant to their Application,
39 followed by Testimony in support of the Application, then Testimony in opposition, with the Applicant having the
40 opportunity for rebuttal. Unless there is a request to hold the Record Open, Testimony will be closed and the
41 Commission will enter into Deliberations on the Application.
42

43 Hageman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There was
44 none.
45

46 Hageman then asked if anyone had objection to any Planning Commissioner hearing the Case. There was no
47 objection.
48

49 Lewis summarized the Staff Report (copy attached to original of these Minutes). Lewis noted the Applicant is
50 requesting an exception to the Area of Visual Concern in order to construct two four foot high retaining walls.
51 Written Testimony was received after preparation of the Staff Report from Carol McCarthy and Bert and
52 Gretchen Sperling (copies attached to original of these Minutes).
53

54 Hageman noted a correction to the Staff Report: (page 3 of 7) 2. Applicant's Proposal: ... *Application form and*
55 *fee/deposit for Substantial Development in the Coastal Shorelands Zone and Variance.*

1 Hageman asked if the Commissioners had any questions to address to the City Planner.

2
3 There was brief discussion regarding the location and height of the retaining walls and regarding existing versus
4 finished grade elevations. Lewis deferred to the designer for clarification on why two four feet high retaining
5 walls are being proposed in the Area of Visual Concern as opposed to one with stairs.

6
7 The Applicant was given an opportunity to testify and answer questions from Commissioners.

8
9 Tom Golden, Designer, representing the Applicant, summarized the request stating that the house is proposed to
10 be built level with the existing grade except at the west end where the property begins sloping downward. An
11 existing rock wall is proposed to be replaced with two north-south oriented terraced high rock walls and one east-
12 west oriented wall along a portion of the north property line. The rock walls would be a maximum four feet high.
13 The purpose of the two north-south oriented walls is to allow for a gentler grade between the house and the top of
14 the bluff, and provide pedestrian access. Two smaller walls will provide a greater margin of safety versus one
15 taller wall.

16
17 Discussion ensued between Tom Golden and the Planning Commission regarding the distance of the deck and
18 house from the Area of Visual Concern, and the distance between the front property line and the edge of street
19 pavement. Golden indicated the covered deck is proposed to be 13 feet from the Area of Visual Concern and the
20 house was an additional 6 feet eastward (19 feet from the Area of Visual Concern). Golden said there is 12 feet
21 between the front property line and the edge of street pavement. Therefore, with a 30 foot front yard setback, the
22 house is proposed to be 42 feet from the street.

23
24 Hageman called for Testimony in support of the Application.

25
26 Terry Altemus, 204 S.W. South Point Street, spoke in favor of the request stating although he has viewed the
27 ocean many times from the subject property, it is not right to prohibit building, selling, or buying private property,
28 and the property owner should have the ability to develop the property.

29
30 Discussion ensued between an audience member and the Planning Commission regarding South Point public
31 access to the coastal bluff area.

32
33 Hageman called for Testimony in opposition of the Application.

34
35 Fran Recht, Williams Avenue, spoke in opposition of the request and submitted her concerns in writing (copy
36 attached to original of these Minutes). In summary, Recht stated that the rock walls being located in the Area of
37 Visual Concern do not meet the exception criteria.

38
39 Carol McCarthy, one-half owner of the adjacent property to the north, spoke in opposition of the request and read
40 her letter into the record. In summary, McCarthy was opposed to the original seven foot high wall (changed to a
41 maximum of four feet high) and the location of the rock walls in the Area of Visual Concern.

42
43 The Applicant was given an opportunity for rebuttal.

44
45 Tom Golden responded to the concerns and engaged in further discussion with the Planning Commission. The
46 Commission asked why not relocate the house to the east so the rock walls are located out of the Area of Visual
47 Concern. Golden responded the proposed location would enable a view of the ocean and coastline to the south.
48 Hageman stated that by relocating the house and walls eight feet to the east, then all standards would be met.
49 Speer noted that an alternative is to eliminate the walls and leave the house and covered deck in the proposed
50 location.

51
52 There was no further Testimony.

53
54 (Copy of Sign-In Sheet attached to original of these Minutes)

1 There was no request to keep the Record Open or to Continue the Public Hearing.

2
3 The Public Hearing was closed and deliberations began.

4
5 Hageman stated that the finished grade of the (eastern portion) of the house should be a maximum one foot above
6 existing grade as shown on the plans. He added that the driveway at the front property line should be the same
7 grade as the street.

8
9 Options were discussed between Golden and the Planning Commission including: (1) Maintain the existing wall
10 and the proposed house location with no walls in the Area of Visual Concern or (2) Relocate the proposed walls
11 and house a minimum eight feet to the east so the walls are outside of the Area of Visual Concern.

12
13 Being no further discussion Hageman called for a Motion.

14
15 There was further discussion regarding DBZO Building Height point of measurement and use of retaining walls
16 and artificial fill and the Applicant's proposal.

17
18 Motion: Hayes moved to approve the Coastal Shorelands Application (Case File #2-CS-PC-18) and adopt the
19 Conditions of Approval (1. thru 3.) as prepared by the City Planner and amended to not approve the four foot
20 walls within the 25 foot Area of Visual Concern, to approve a wall located a minimum 25 feet from the top of
21 bluff, and approve a wall along a portion of the north property line that meets the north-south oriented wall and is
22 no higher than four feet, or move the house eight feet to the east so the rock walls are located outside of the Area
23 of Visual Concern. (Hageman interjected) Additionally, the finished grade of the eastern portion of the house
24 shall be no more than one foot above the existing grade and the driveway at the front property line shall be the
25 same grade as the street. Speer seconded.

26
27 At the request of an audience member Lewis restated the motion.

28
29 Vote: Motion passed.

30 Ayes: Phillips, Hayes, Hageman, Speer, Faucett, Steinke

31
32 The Planning Commission directed Lewis to prepare the Findings, Conclusions and Final Order for Hageman's
33 signature.

34
35 An audience member asked for clarification regarding the Conditions of Approval and the appeal period. Brief
36 discussion ensued.

37
38 V. NEW BUSINESS

39
40 A. Case File: #1-PD-PC-18 (Findings, Conclusions, and Final Order)

41 Applicant: The Hills of Depoe Bay, L.P.

42 Engineer/Planner: Reece & Associates, L.P.

43 Application: The Hills of Depoe Bay Planned Development – Phase 1 Preliminary Plan

44 Zone, Map and Tax Lot: R-2 Residential 09-11-05, Portion of tax lot #00100

45 Location: North End of Depoe Bay City Limits, Over 1,000 Feet East of Highway 101

46
47 Hageman stated that public testimony on this Case was closed at the March 7, 2108 Planning Commission
48 Meeting.

49
50 The Planning Commission reviewed/discussed the Findings, Conclusions, and Final Order (copy attached to
51 original of these Minutes).

52
53 The following item was inserted/amended:
54

1 Findings: Page 16, 5u: Protection of Historic and Archaeological Sites. *No listed Historic Sites are located in*
2 *Phase 1. Archeological records are not available to the public. Any **discovery of evidence found during site***
3 *clearing would be submitted to the State Historic Preservation Officer **and the Confederated Tribe of Siletz***
4 ***Indians.***

5
6 Motion: Speer moved to approve the Findings, Conclusions and Final Order (Case File #1-PD-PC-18 – Planned
7 Development Phase 1 Preliminary Plan) as prepared by the City Planner and amended by the Planning
8 Commission. Hayes seconded.

9
10 Vote: Motion passed.

11 Ayes: Hayes, Hageman, Speer, Steinke, Phillips

12 Abstain: Faucett

13
14 The Planning Commission directed Lewis to prepare the revised Findings, Conclusions and Final Order for
15 Hageman’s signature.

16
17 IV. PUBLIC HEARING ITEMS

18
19 B. Depoe Bay Zoning Ordinance (DBZO) Text Amendment

- 20 • Section 4.910 Signs – Regarding Murals

21
22 Lewis read into the record the proposed Ordinance change regarding murals (copy attached to original of these
23 Minutes). He noted the maximum 20% façade coverage does not apply to murals.

24
25 Hageman gave a brief synopsis of the Planning Commission and City Council discussions at previous meetings
26 regarding murals.

27
28 Hageman called for Testimony.

29
30 Debbie Callender recommended that proposed language requiring a “sketch from an artist” needs to include the
31 latest technology that provides visuals that are equal or greater in detail than a sketch from an artist.

32
33 Fran Recht stated that the proposed Code language does not include standards for the Planning Commission to
34 judge or decide when considering approval of a mural. There is ambiguity in the description that needs to be
35 addressed with greater detail. Recht opposed the third paragraph that provides an exception to marine and fishing
36 related companies being able to have a mural related to marine and fishing. Recht recommended the third
37 paragraph be deleted. Recht stated it is premature to approve this amendment without working further on it.

38
39 There was no further Testimony.

40
41 The Public Hearing was closed and deliberations began.

42
43 The Planning Commission discussed the public input stating: (1) It is difficult to judge taste (some people will
44 like a mural and others will not like it); (2) Murals are a slippery slope regarding freedom of speech; and (3) The
45 proposed language is subjective. Lengthy discussion followed.

46
47 In conclusion the Planning Commission discussed the request to include murals was directed by the City Council.

48
49 The Planning Commission makes a recommendation to the City Council who then makes the final decision.

50
51 Hageman called for a Motion.

52
53 Motion: Faucett moved to disapprove the proposed mural amendment and forward the recommendation to City
54 Council. Phillips seconded.

1 Vote: Motion passed.

2 Ayes: Hageman, Speer, Faucett, Steinke, Phillips, Hayes

3
4 Recess: 7:35 – 7:40 p.m.

5
6 C. Depoe Bay Zoning Ordinance (DBZO) Text Amendment

- 7 • Section 3.115 Commercial Zone C-1 Design Guidelines

8
9 Hageman provided the background of how the Draft Commercial Zone C-1 Design Guidelines (copy attached to
10 original of these Minutes) were initiated and drafted including the need to make the commercial areas more
11 pedestrian friendly.

12
13 Hageman called for Testimony.

14
15 Karl Granat, property owner in Depoe Bay, stated that the proposed parking exemptions only benefit the first two
16 block, that parking currently is not geared to benefit public parking, that parking standards are not required if the
17 business is not expanding, the owners of a parking lot are not covered by insurance for public parking, and
18 recommended changes to the parking standards, i.e. changing the current retail parking space of 1 space per 200
19 square feet of floor area to 500 or 550 square feet of floor area.

20
21 Fran Recht read into the Record written testimony (copy attached to original of these Minutes). In summary,
22 Recht applauded the Planning Commission for this needed effort, stated the draft language is hard to read, that the
23 review process is not specified, and is opposed to allowing an increase in building height, and opposed to
24 allowing dining areas within the public right-of-way.

25
26 Tammy Gates stated there is a problem with the proposed building height increase, there are residences behind the
27 commercial areas that would have views diminished, and the commercial corridor needs to maintain the same
28 character.

29
30 Karl Granat spoke regarding prohibiting residential uses on the ground floor. Granat stated that retail is a tough
31 sell; he would rather see a residence in a commercial building as opposed to a vacant commercial building.

32
33 Patrice Dwyer, property owner on Williams Avenue, stated she is opposed to the increased building height due to
34 the adverse visual impacts to residences located behind the commercial area.

35
36 Tammy Powell stated that retail businesses in Depoe Bay have a problem finding workforce employees who can
37 afford to live near their work. She also stated concern about the current System Development Charges (SDC) and
38 the need to restructure the SDC charges.

39
40 There was no further Testimony.

41
42 (Sign-In Sheet attached to original of these Minutes)

43
44 Hageman suggested the Planning Commission continue the Public Hearing to address the draft language,
45 including but not limited to building height and parking. Hageman encouraged the audience to attend and/or
46 provide testimony at future Planning Commission Meetings.

47
48 Lewis noted Written Testimony was received from Ron Walters (copy attached to original of these Minutes).

49
50 Motion: Phillips moved to hold a workshop at the regular May 2018 Planning Commission Meeting and continue
51 the Public Hearing to the regular June 2018 Planning Commission Meeting. Speer seconded.

52
53 Vote: Motion passed.

54 Ayes: Speer, Faucett, Steinke, Phillips, Hayes, Hageman

1 VI. UNFINISHED BUSINESS

2 There was none.

3

4 VII. CITY COUNCIL LIAISON SCHEDULE AND REPORT

5 Speer reported on the following: (1) City imposed a \$2,900 lien on the South Forty Lane property that the City
6 had junk removed; and (2) City Council considered two Applicants for the Planning Commission, appointing
7 Faucett and not appointing Recht.

8

9 Hageman reported on the following: (1) City Council approved the Whale Watch Planned Development Phase 1
10 Zone Change; (2) Complaints about the person playing bagpipes on Hwy 101; and (3) Eric and Terry are no
11 longer with the City and it was too bad there wasn't a chance to thank them for their years of service.

12

13 VIII. PLANNER'S REPORT

14 Lewis reviewed the Planner's Report – Land Use and Building Permit Activity March 1, 2018 – April 4, 2018
15 (copy attached to original of these Minutes).

16

17 IX. PLANNING COMMISSION CONCERNS

18 There was none.

19

20 X. ADJOURN

21 There being no further business, the Meeting was adjourned at 8:42 p.m.

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23

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31

Roy Hageman, President

Carla Duering, Recording Secretary