

1 Depoe Bay City Council
2 Special Meeting
3 Monday, June 19, 2006 - 7:00 PM
4 Depoe Bay City Hall
5

6 PRESENT: A. Brown, P. Cameron, P. Taunton, G. Romans, J. Brown, M. Lavery

7
8 ABSENT: Mayor J. White
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10 STAFF: City Recorder P. Murray, City Planner L. Lewis, City Attorney P. Gintner, Recording
11 Secretary F. Dreamingtime
12

13 1. CALL TO ORDER

14 Alice Brown called the meeting to order and established a quorum at 7:00 P.M.
15

16 II. Public Hearing (Continued): Case File #1-APPEAL-PC-06 – Appeal of Planning Commission
17 Decision on Application for Variance to Parking Requirements, Case File #1-V-PC-06

18 Alice Brown noted that the hearing was continued from June 6, and that additional materials were
19 distributed to the Council on June 7, in response to the appellant’s request. These materials included the
20 original variance application, the Planning Commission Staff Report, Planning Commission meeting
21 minutes, testimony submitted to the Planning Commission, and other file documents. She provided an
22 outline of tonight’s hearing procedure. Lavery stated that as a Depoe Bay business owner, he had a
23 “class conflict of interest” in the hearing but could render an unbiased decision on the matter; Alice
24 Brown noted that his business was neither a restaurant nor a seafood market. Lewis summarized the
25 Staff Report (copy attached to original of these minutes). Alice Brown asked if there were questions on
26 the Staff Report, and hearing no other questions, asked Lewis to clarify a requested extension on the
27 variance. Alice Brown called the appellant forward.
28

29 Appellant Fran Recht, 66 NE Williams, first asked that Councilors declare any ex-parte contact, bias, or
30 conflict of interest. There were no further declarations. Recht said that this is a de novo hearing and she
31 did not feel the Planning Commission correctly applied the standards to the application, and the
32 application was a precedent-setting request. She then reviewed in detail her written testimony (copy
33 attached to original of these minutes), which was submitted just before the meeting. Her testimony
34 included specific arguments why she believes each of the five standards required by the Depoe Bay
35 Zoning Ordinance were not met. Alice Brown called for questions; there were none. She then called for
36 testimony in support of the appeal. Bruce Silver, 420 SW Cardinal, said he felt the appeal was well-
37 founded and emphasized 1) That outright use should not be confused with ignoring a standard to that
38 outright use, 2) Changing the use of a building may effect parking or future expansion of the building,
39 3) That straight-in parking vs. diagonal parking would exacerbate the safety issue involved with backing
40 out of a parking place onto the highway, 4) and most important is the equality of how our standards and
41 ordinances are applied to business owners in Depoe Bay.
42

43 Alice Brown called for testimony from anyone in opposition to the appeal. Richard Ligon, 150 SW
44 Maple in Waldport, is one of the three owners of Waldport Seafood Company (the applicant) and was
45 present to speak for the company. He felt that in this location, a seafood market alone would fail, as it
46 did for the previous business owner, but that the combination of a seafood market plus a restaurant

1 would be a winning combination, just as it is in Waldport. He said the lot is unique due to its terrain, and
2 they are trying to use it as it exists. He did not pursue acquiring parking space from property across or
3 down the highway because he felt it was too dangerous for people to be walking along the highway
4 without a sidewalk, or crossing the highway without a crosswalk, and that he did not feel that a
5 restaurant in this location would cause parking congestion because 75-80% of nearby parking is usually
6 vacant, and that the Downtown Refinement Plan will result in additional parking spaces overall. He said
7 the building is in need of repair and refurbishing. He said he felt the Planning Commission did apply the
8 criteria appropriately and that there is no other viable use for the building, which does have a restaurant
9 permitted as an outright use. Referring to Lewis' Staff Report, he said that on street parking spaces
10 cannot be designated to a particular business, and he is trying to do something that will be of benefit to
11 the city, and plans to participate in Downtown Refinement Plan implementation in the future. Alice
12 Brown asked if anyone had questions of Mr. Ligon. A Councilor clarified Ligon's key points as 1) he
13 feels he needs the seafood market as well as the restaurant to establish a viable business; Ligon said that
14 was correct and that restaurants tend to lose money in the winter and the seafood market would be
15 supporting the restaurant during those times. 2) Ligon felt that the property is unique, with its position
16 being on the edge of the harbor and the highway, and that Ligon felt that off-site parking was a risk to
17 patrons due to lack of a clear, safe pathway to the property from off-site parking areas (no crosswalk
18 across the highway, and no sidewalk along the narrow edge of the highway). Another Councilor asked:
19 1) There are 54 seating spaces shown on the existing floor plan, with additional seating upstairs at some
20 point. Ligon said at the current time the intention is to develop only the downstairs. 2) Has a shared
21 parking agreement with neighboring property owners been considered? Ligon said he is open to any
22 reasonable solution.

23
24 Alice Brown called for testimony by other interested parties, neither for nor against the appeal. Peggy
25 Leoni, 355 SW Hwy 101, said everyone should be treated equally, and that when Ms. Recht was on the
26 Planning Commission, Recht supported relaxed parking for the downtown core. She felt that the more
27 successful Depoe Bay businesses are, the greater likelihood ODOT will install crosswalks to increase
28 public safety when crossing the highway. She had letters from neighboring property owners Richard
29 Cutler, Rob & Dawn Aldridge, and LeeAnn & Jack Brown, and said she has spoken with nearly every
30 property owner south of the bridge, and all were in favor of the variance. She felt every possible
31 privilege should be given to the applicant. Jerome Grant 356 E Logsdon Road in Siletz, represented the
32 Sea Hag, and said he would support whatever decision the Council makes on this issue. He had spoken
33 with the City Planner for the City of Ashland, where parking requirements are handled quite differently,
34 although they have similar circumstances to Depoe Bay. He said that granting this variance would likely
35 result in other businesses wanting similar consideration, and he did not feel that a new seafood market
36 would necessarily fail just because the previous one did. He did not feel that the property was unique,
37 stating that there are several other similar properties around the harbor. He questioned whether the fish
38 plant lease was signed yet, saying that if the lease is contingent upon the granting of this variance that it
39 would create a conflict of interest. He suggested changing the ordinance to be more business-friendly
40 rather than granting variances. Jaci McKim, 55 Collins Street, said that as a member of the Depoe Bay
41 Economic Business Development Committee, she knows that parking in Depoe Bay is "broken", and
42 also suggested changing the ordinance instead of granting a variance. She said she lives by two parking
43 lots that are empty most of the time, and has seen required parking go unused, which is a burden on the
44 business owner who must acquire and maintain it. As a taxi driver, she said that she often picks up and
45 drops off fares near the applicant's building, and that usually the parking spaces are empty. Katherine

1 Pyle, 2209 McGee in Berkeley, CA, owns acreage at the south end of town, and felt it would be good for
2 the people who live here to have access to fresh seafood on a daily basis.
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4 Alice Brown called for rebuttal by the appellant. Ms. Recht said the Council is obligated to uphold the
5 ordinances, and if changes are needed, they should be changed. She said a variance should not be
6 granted when the variance standards cannot be met. She said that there are a lot of streets in Depoe Bay
7 that don't have sidewalks. She said that most parking spaces are full in the summer, and that waiving
8 parking requirements isn't the solution – the solution is to make logical choices about where public
9 parking lots and other off-street parking is established, which is a function of system development fees,
10 and not what is before the Council at this time.
11

12 Mr. Silver requested an opportunity to rebut; there was brief discussion about proper procedure. Alice
13 Brown asked if there were any requests to hold the record open for seven days; Mr. Silver requested this.
14 There was discussion regarding the Council's options for leaving the record open. Gintner provided
15 clarification, and stated that the procedure being followed was flexible and further testimony could be
16 accepted at this time. Alice Brown called for testimony from any other interested parties. Mr. Silver said
17 he knows of six businesses that met the parking requirement by providing additional parking at a
18 distance of at least 500 feet in most cases. He said the Council cannot ignore the ordinances. He said the
19 ordinances can be changed, and advised the Council to consider long-range planning rather than band-
20 aids. Ms. Leoni said the Planning Commission made a decision they felt was in compliance with the
21 ordinance and that was in the best interests of the community. She said the City Planner and the City
22 Attorney found the Planning Commission's decision acceptable. Mr. Grant said that he believes at least
23 two pedestrians have been hit while crossing the highway, and that a crosswalk or stop light is needed in
24 the area.
25

26 Alice Brown offered the appellant an opportunity for rebuttal. Ms. Recht said that the City Planner and
27 the City Attorney are not decision-makers, and the City needs to look at the standards. Alice Brown
28 noted the hearing could be continued to a date and time certain, or the record could be left open for a
29 minimum of seven days. Discussion followed.
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31 Alice Brown asked if there were any requests to leave the record open. Bruce Silver requested the record
32 remain open for seven days.
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34 Motion: Laverty moved to leave the record open for seven days to receive additional testimony, followed
35 by seven days for response, and seven days for rebuttal. Cameron seconded the motion.
36

37 Alice Brown said it was moved and seconded, and called for discussion. There was none.
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39 Vote: Motion passed.

40 Ayes: Alice Brown, Cameron, Taunton, Romans, Jack Brown, Laverty
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42 Alice Brown closed the public hearing. It was the consensus of the Council to postpone beginning
43 deliberations until after everyone had a chance to review written testimony submitted while the record
44 remains open. Deliberations were scheduled for 7:00 P.M. on Monday July 17, 2006.
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1 III. ADJOURN

2 There being no further business, the meeting was adjourned at 9:08 PM.

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Alice Brown, Council President

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11 Fox Dreamingtime, Recording Secretary