

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, March 16, 2005 - 7:00 PM
4 Depoe Bay City Hall

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6
7 PRESENT: D. Johnson, B. Langdon, S. McGavock, C. Connor, B. Taunton, D. Davilla (arr 7:02 PM)

8
9 ABSENT: E. Placido

10
11 STAFF: City Planner L. Lewis, City Recorder Pery Murray , Recording Secretary C. Duering

12

13 I. CALL MEETING TO ORDER

14 Johnson called the meeting to order and established a quorum at 7:00 PM.

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16 II. APPROVAL OF MINUTES: February 16, 2005 Regular Meeting

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18 Motion: Langdon moved to approve the Minutes of the February 16, 2005 Regular Meeting as written.

19 Taunton seconded the motion.

20

21 Johnson said it was moved and seconded, and called for discussion. There was none.

22

23 Vote: Motion passed.

24 Ayes: McGavock, Connors, Taunton, Langdon

25 Abstain: Johnson

26

27 III. ITEMS FROM THE AUDIENCE

28 There were no items from the audience.

29

30 IV. NEW BUSINESS

31 There was no new business.

32

33 V. PUBLIC MEETING ITEM

34 A. Case File #1-GEO-PC-05

35 Owner: Ed Hough

36 Applicant: Villa Construction, Inc.

37 Application: Geologic Hazards Permit

38 Johnson said testimony and evidence given must be directed toward criteria described by the City
39 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
40 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
41 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
42 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
43 City and made available to the public. He asked if any Commissioner had ex-parte contact, conflict of
44 interest, or bias to declare. Davilla declared she was co-owner of Villa Construction, Inc. and recused
45 herself from the hearing. Johnson then asked if anyone had objection to any Planning Commissioner

1 hearing the case. There was no objection. Lewis summarized the Staff Report (copies attached to
2 original of these Minutes). The Applicant was given an opportunity to testify and answer questions
3 from Commissioners. Johnson called for testimony in opposition. Fran Recht, 66 N.E. Williams,
4 testified that she was not opposed but expressed concern that the conditions were not thorough enough.
5 She recommended that the conditions (Page 5, No. 6) include that the location of the property corners
6 and the soil creep line (as shown on Figure 2 of the Geological Engineer's Report) be marked on the
7 property and be reviewed and verified by the Geologist. Applicant responded to Recht's concerns
8 stating the plan is obvious, the property corners and setback requirements are met. If a Geologist's
9 review is included as a condition he will talk to the owner, however he felt it was an unnecessary
10 expense. There was no additional testimony in opposition of the application, and no testimony in
11 support. The Public Hearing was closed and deliberations began. Recht clarified her comments and also
12 asked that the area of the site experiencing shallow soil creep (as shown on Figure 2 of the GeoTech
13 Report) be marked as relating to footings (Page 5). A Commissioner stated that they would rely on Staff
14 Summary (Page 4 Item C.) and did not feel staking the property was necessary.

15
16 Motion: McGavock moved to approve Case File #1-GEO-PC-05 with revisions. City Planner reviewed
17 amended conditions of approval: Page 5. Item 4. All roof and *driveway* drains shall be collected and
18 tight-lined in separate *systems* independent of the footing drains and discharged to a disposal point as
19 approved by the City Superintendent. Insert Item 7. *Should construction occur in the eastern most*
20 *portion of the site (as identified in Figure 2 of the report) additional geotechnical engineering slope*
21 *stability investigation will be required.* Langdon seconded the motion.

22
23 Johnson said it was moved and seconded, and called for discussion. There was none.

24
25 Vote: Motion passed.

26 Ayes: McGavock, Connors, Taunton, Langdon, Johnson
27

28 Davilla returned to her seat.

29
30 B. Case File: #2-CS-PC-05
31 Owner: Richard Christian
32 Applicant: Michael Norris
33 Application: Coastal Shorelands

34 Johnson said testimony and evidence given must be directed toward criteria described by the City
35 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
36 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
37 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
38 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
39 City and made available to the public. He asked if any Commissioner had ex-parte contact, conflict of
40 interest, or bias to declare. Langdon declared she had walked the vicinity and had served on the
41 Commission when a similar case was determined. Johnson declared he had looked at the case. Johnson
42 then asked if anyone had objection to any Planning Commissioner hearing the case. There was no
43 objection. Lewis summarized the Staff Report (copies attached to original of these Minutes) and noted
44 correct address is *495 Alsea Avenue* not *492*. Written testimony was received today from Ruth Moreland
45 (copies attached to original of these Minutes). Lewis made reference to two prior cases (one withdrawn)

1 that took into consideration Vista Street (an undeveloped but platted street) and required the Applicants
2 to utilize the Land Use Variance procedures in order to proceed with their proposed plans. The
3 Applicant was given an opportunity to testify and answer questions from Commissioners. Johnson
4 called for testimony in opposition. Fran Recht, 66 N.E. Williams, testified that she served on the
5 Planning Commission in 98/99 and Vista is a platted street and Applicant should be held to the 20'
6 setback standard. Johnson clarified that the Staff Report had stated that the deck would be extended
7 *north* the correct direction is *south*. Applicant replied that the property owner has no access on Vista and
8 made reference to other homes in the area. Property owner is trying to repair and protect an existing
9 structure and in the process make it a more aesthetically pleasing house. Does it make sense to require a
10 front yard setback on the Vista Street side of the property? Existing house is 12½ ft. from property line,
11 deck is 5 ft., and less encroachment is being proposed on the west side. Bette Silver, 420 S.W. Cardinal
12 Street, stated she testified in 1999 hearing. Vista Street is a platted public street per a 1928 Plat.
13 Ordinance 13 identified and named the street and the City Council has never vacated it. There was no
14 additional testimony in opposition of the application, and no testimony in support. The Public Hearing
15 was closed and deliberations began. There was lengthy discussion with most of the discussion focusing
16 on the Vista Street setback requirement and whether it was appropriate that it be resolved through the
17 Variance process. Property Owner asked if Vista is a street then can he drive on it? Johnson answered
18 yes. Applicant asked what is the process to change the requirements of the front yard street setbacks?
19 Johnson replied Ordinance Text Amendment process. Hearing no objection, the Public Hearing will be
20 continued and testimony will be re-opened. Applicant was directed to submit a Variance Application
21 and Staff to Re-Notice.

22

23 C. Case File: #7-CS-PC-04

24 Owner: A. Joe Dunn

25 Applicant: A. Joe Dunn

26 Application: Coastal Shorelands

27 Johnson said testimony and evidence given must be directed toward criteria described by the City
28 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
29 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
30 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
31 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
32 City and made available to the public. He asked if any Commissioner had ex-parte contact, conflict of
33 interest, or bias to declare. Langdon declared she had walked the vicinity. Johnson then asked if anyone
34 had objection to any Planning Commissioner hearing the case. There was no objection. Lewis
35 summarized the Staff Report (copies attached to original of these Minutes). Written testimony was
36 received from Keith and Sandra Harris (copies attached to Staff Report), Ruth Moreland, Susan
37 Florentino and Eric Meyer (copies attached to original of these Minutes). The Applicant was given an
38 opportunity to testify and answer questions from Commissioners. Johnson called for testimony in
39 opposition. Fran Recht, 66 N.E. Williams, testified that Applicant needs to clarify compliance to all side
40 and Area of Visual Concern setback standards. Ordinance cites *where there is no coastal bluff or no*
41 *clear break in slope, the Area of Visual Concern is an area 25 feet landward (measured on the*
42 *horizontal) from the line of mean higher water or the line of non-aquatic vegetation, whichever is the*
43 *furthest landward*. Geologist's Report, dated November 9, 2004, Page 5. *This corresponds to a setback*
44 *of approximately 25 feet from where the natural top edge of the bluff would be prior to construction of*
45 *the wall, based on our observations*. Geologist's Letter, dated December 13, 2004. *However, we must*

1 *point out that the closer setback, while allowable by Depoe Bay statute, increases the risk of damage*
2 *due to abnormally large waves at the site, and/or risk of damage due to debris, which may be tossed*
3 *ashore during extreme storm events.* Not sure if decks are allowed in Area of Visual Concern. Deck
4 may need to be reduced in size or removed from area. Applicant stated he does not think there is a bluff
5 line on the property. Riprap wall is man-made. Vegetation line should be used. Mr. Dunn, owner, will
6 forego the deck. Keith Harris, 450 S.W. Pine Court, asked who enforces these recommendations? City
7 Planner stated County is responsible for structural inspections and City Planner for compliance to
8 setback standards. Sandy Harris, 450 S.W. Pine Court, asked how much fill would be allowed?
9 Johnson responded that their letter was received. There was no additional testimony in opposition of the
10 application, and no testimony in support. The Public Hearing was closed and deliberations began. There
11 was lengthy discussion with most of the discussion focusing on determining if the top of the coastal
12 bluff, break in slope, riprap wall or vegetation line should be used to determine setback in Area of Visual
13 Concern.

14
15 Motion: Langdon moved to use the natural bluff line as articulated by Geologist's November 9, 2004
16 report to determine setback. McGavock seconded the motion.

17
18 Johnson said it was moved and seconded, and called for discussion. There was none.

19
20 Vote: Motion passed.

21 Ayes: McGavock, Connors, Taunton, Langdon, Davilla

22 Noes: Johnson

23
24 Motion: Langdon moved to continue the Public Hearing to the next Regular Meeting and ask the
25 Applicant to return with a revised site plan addressing storm drainage concerns and impact to adjacent
26 properties, compliance to setback standards, identification of site elevations and design of structures
27 above the base flood level, and forego the deck. McGavock seconded the motion.

28
29 Johnson said it was moved and seconded, and called for discussion.

30
31 City Planner asked if Applicant would be able to address Area of Visual Concern criteria for exceptions
32 to setbacks in their revised application. Johnson assured Planner that Applicant has the right to request
33 exceptions. It was clarified that testimony would be reopened and the Staff will Re-Notice.

34
35 Vote: Motion passed.

36 Ayes: McGavock, Connors, Taunton, Langdon, Johnson, Davilla

37
38 D. Case File: #3-CS-PC-05

39 Applicant: Warren & Jean Ford

40 Application: Coastal Shorelands and Variance Request

41 Johnson said testimony and evidence given must be directed toward criteria described by the City
42 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
43 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
44 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
45 issue. Application materials or other evidence relied upon by the Applicant had been provided to the

1 City and made available to the public. He asked if any Commissioner had ex-parte contact, conflict of
2 interest, or bias to declare. There was none.

3
4 Recess: 9:21 PM – 9:26 PM

5
6 Lewis summarized the Staff Report (copy attached to original of these Minutes). Written testimony was
7 received from Patrick and Monika Farris, Kate G. Becker and Donna L. Howard, Ruth Moreland, Mike
8 and Mary Norris and Dwain and Joan Bethel (copies attached to original of these Minutes). The
9 Applicant was given an opportunity to testify and answer questions from Commissioners. There was
10 lengthy discussion with most of the discussion focusing on the time limit on a Variance. It was the
11 consensus of the Commission that since the Applicant had stated that they would not be starting
12 construction for 5-6 years that it would not be appropriate to proceed with the Variance procedure at this
13 time. Applicant stated that they would withdraw the Variance Request, however they would like to seek
14 exception to the Area of Visual Concern 40' setback standard. The Commission was hesitant to proceed
15 with the Applicant's request. Applicant withdrew their Application. City Planner and City Recorder
16 asked the Commission to clarify the Coastal Shoreland Land Use Application process and how Staff
17 should proceed in the future. Commission agreed to postpone hearing. Applicant was directed to
18 withdraw Variance Request and to re-submit a revised Application for Development in the Coastal
19 Shorelands Zone. Staff was directed to Re-Notice and City Planner to prepare a new Staff Report based
20 on the revised Application.

21
22 II. CITY COUNCIL LIAISON REPORT.

23 Langdon reported 1) A decision was made in the Public Hearing: LUBA Remand to Depoe Bay City
24 Council (Moreland vs. City of Depoe Bay, LUBA No. 2004-101) 2) A date for the Public Hearing on the
25 Matrix will be scheduled at the April 19, 2004 Regular Meeting.

26
27 VIII. PLANNER'S REPORT

28 Lewis reviewed his written report (copy attached to original of these Minutes).

29
30 IX. PLANNING COMMISSION CONCERNS

31 Johnson announced a meeting, hosted by the developer, on March 19th, at the Community Hall regarding
32 the Stonebridge Proposed Planned Development.

33
34 X. ADJOURN

35 There being no further business, the meeting was adjourned at 10:25 PM.

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40 _____
Richard Johnson, Chairman

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42
43 _____
44 Carla Duering, Recording Secretary