

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, April 20, 2005 - 6:00 PM
4 Depoe Bay City Hall

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7 PRESENT: D. Johnson, B. Langdon, S. McGavock, C. Connors, D. Davilla, E. Placido (arr 6:03 PM)

8
9 ABSENT: B. Taunton

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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 6:00 PM.

15
16 II. APPROVAL OF MINUTES: March 16, 2005 Regular Meeting

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18 Motion: Connors corrected the Minutes as follows: Spelling of *Connors not Connor*. Langdon moved
19 to approve the Minutes of the March 16, 2005 Regular Meeting with corrections. McGavock seconded
20 the motion.

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

23
24 Vote: Motion passed.

25 Ayes: McGavock, Connors, Langdon, Johnson, Davilla

26
27 III. ITEMS FROM THE AUDIENCE

28 Bill Wright, 55 S.E. Sunnyview Lane, asked if he would be allowed to discuss items on the Agenda at a
29 later time or must they be discussed now. Johnson replied that he would be given the opportunity as
30 each Agenda item is presented.

31
32 IV. NEW BUSINESS

33 A. Case File #2-C1-PC-05

34 Applicant: Gilbert Urciel

35 Application: Development in the C-1 Retail Commercial Zone

36 Lewis summarized the Staff Report (copies attached to original of these Minutes). Planner specified that
37 he had discussed with the Applicant that he could begin clearing and grading the site prior to approval of
38 the Building Permit, however Applicant has placed the foundation forms, which can be moved should
39 the Planning Commission's Conclusions deem it necessary. The Applicant was not present. Johnson
40 called for comments from the Audience. There was none. There was some discussion among the
41 Commissioners regarding the fact that the Applicant had placed the forms prior to approval of the
42 Building Permit by the Planning Commission.

43
44 Motion: Langdon moved to approve the Building Permit Application for Case File #2-C1-PC-05 as
45 recommended by the City Planner. Connors seconded the motion.

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

2
3 Vote: Motion passed.

4 Ayes: McGavock, Connors, Langdon, Johnson, Placido, Davilla

5
6 V. PUBLIC HEARING ITEMS

7 A. Case File: #2-CS-PC-05 (Continued)

8 Owner: Richard Christian

9 Applicant: Michael Norris

10 Application: Coastal Shorelands/Variance

11 Lewis summarized the Staff Report (copies attached to original of these Minutes). Johnson asked if the
12 Commissioners had any questions to address to the City Planner. A Commissioner requested Lewis to
13 clarify the street location of the fence. Lewis replied adjacent to Vista Street on the ocean side, not in
14 the Area of Visual Concern. A Commissioner requested the Planner explain in detail the Variance
15 Request. Lewis further detailed the Variance Request using the Site Map provided by the Applicant. A
16 Commissioner asked about the existing concrete walkway location. Lewis clarified. The Applicant was
17 given an opportunity to testify and answer questions from Commissioners. Applicant stated he was
18 representing the Homeowner as well as asked permission to read into the Record a letter submitted to the
19 City Planner that morning. Johnson did not allow the reading of the letter indicating this was not the
20 forum to address the issues raised in the mentioned letter. Johnson stressed that the Applicant had
21 several options available: Withdraw the Variance Application and submit a form to start the Legislative
22 Process to change the existing Ordinance, submit a form asking the City to Vacate the Street, or proceed
23 with the continuation of this Public Hearing. Applicant stated this was confusing from the Applicant's
24 standpoint. He believed it was indicated and implied at the last Meeting as to whether the Commission
25 felt a 20' setback requirement was applicable to the property adjacent to Vista Street. A Commissioner
26 reiterated pertinent portions of the March 16, 2005 Minutes. Applicant and Commissioners ensued in
27 discussion concerning the issue of two front yard setback requirements and whether the existing concrete
28 entry walkway is at grade-level. Property Owner decided to proceed with the Variance Request process.
29 Johnson called for testimony in support of the Application. Property Owner presented his need for the
30 Variance (using the Site Map) in order to allow him the opportunity to remodel his home, construct a
31 retaining wall/chain link fence and deck addition. There was no additional testimony in support of the
32 application, and no testimony in opposition. There was no request to keep the record open. The Public
33 Hearing was closed and deliberations began. A Commissioner stated their concern regarding if the
34 Applicant had met the requirements for the granting of a Variance. Johnson affirmed the need for a
35 Variance due to the exceptional or extraordinary circumstance associated with the undeveloped Vista
36 Street and for the preservation of the existing non-conforming structure. He also stated that Variances
37 have been granted to other property owners in the same vicinity as the subject property. Two
38 Commissioners agreed with Johnson and stated their support of granting the Variance. A Commissioner
39 questioned the height of the chain-link fence and referred to the Staff Report Recommendation of a
40 maximum height of 6' and Applicant's request for a total height of 9' (retaining wall, beam, and fence).
41 Property Owner replied 4' is the maximum height of the chain-link fence.

42
43 Motion: Connors moved to approve the Findings, Conclusions, and Final Order for Case File #2-CS-
44 PC-05 as recommended by the City Planner. McGavock seconded the motion.

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

2
3 Commissioners further discussed the height of the retaining wall/chain link fence and finish grade-level
4 and concluded that they would amend the condition to allow the wall/fence to reach a maximum height
5 of 9’.

6
7 City Planner reviewed amended conditions of approval *the wall/fence shall have a maximum height of 9’*
8 *at the south end extending downward to a maximum height of 7’ at the north end. Delete 3.b. The north*
9 *side shall have a minimum deck setback of 3’6”.*

10
11 Motion Amendment: Connors amended the motion to include the amended conditions. McGavock
12 seconded the motion.

13
14 Vote: Motion as amended passed.

15 Ayes: McGavock, Connors, Johnson, Placido, Davilla

16 Noes: Langdon
17

18 B. Case File: #7-CS-PC-04 (Continued)

19 Owner: A. Joe Dunn

20 Applicant: A. Joe Dunn

21 Application: Coastal Shorelands

22 Lewis summarized the Staff Report (copies attached to original of these Minutes). Lewis noted that that
23 the Applicant has indicated that he would be addressing the Flood Plain Standards and the Area of
24 Visual Concern criteria for exceptions to setback standards. Lewis apologized for the late Staff Report
25 and indicated the Public did not get the opportunity to review the report. Bob Kolwitz, K Construction
26 (Contractor for A. Joe Dunn), submitted pictures of the site (copies attached to original of these Minutes)
27 and asked for some guidance from the Commission regarding the existence of a coastal bluff. There was
28 lengthy discussion with most of the discussion focusing on determining if the top of the coastal bluff,
29 break in slope, riprap wall or vegetation line should be used to determine setback in the Area of Visual
30 Concern. A Commissioner restated the Motion from the March 16, 2005 Minutes to *Continue the*
31 *Public Hearing to the next Regular Meeting and ask the Applicant to return with a revised site plan*
32 *addressing storm drainage concerns and impact to adjacent properties, compliance to setback*
33 *standards, identification of site elevations and design of structures above the base flood level.* It was the
34 consensus of the Commission to continue the Public Hearing, reiterating the request for additional
35 information. City Planner advised the Applicant to request an extension to the 120-Day Decision Time-
36 Line and submit the requested material no later than Tuesday, May 10th. Fran Recht, 66 N.E. Williams
37 Avenue, protested the Commission’s case procedures. Her perception was that the Commission was in
38 the Deliberation Phase prior to the taking and closing of Public Testimony. She requested that the
39 Application be denied today or request in writing a 120-Day Extension and that the decisions made at
40 the March 16, 2005 Meeting be upheld.

41
42 C. Case File: #3-CS-PC-05 (Continued)

43 Applicant: Warren & Jean Ford

44 Application: Coastal Shorelands and Variance Request

1 Davilla declared that her husband spoke with the Applicant after the March 16, 2005 Meeting and
2 recused herself from the hearing. Lewis summarized the Staff Report (copy attached to original of these
3 Minutes). Written testimony was received from Kate G. Becker, Donna L. Howard, Ruth Moreland, and
4 Mike Norris (copies attached to original of these Minutes). Johnson asked if the Commissioners had any
5 questions to address to the City Planner. Lewis suggested that if approved there be a time limit on the
6 Coastal Shorelands Application coinciding with the expiration date of the Geo Technical Report. A
7 Commissioner stated that they felt pressure from the Staff to make a decision in this case based on a
8 comparison of prior cases in which no time limit was specified so therefore there was none. She felt that
9 those cases were non-comparable. Applicant was given an opportunity to testify and answer questions
10 from Commissioners. Johnson called for testimony in support. Gary Fairfield, Fairfield Design,
11 declared adherence to the 40' setback would not allow for the construction of a house conducive to the
12 value of the property. Johnson called for testimony in opposition. Monika Farris, 525 Yaquina Avenue,
13 asked for an explanation of the decision being made tonight and what is the process? Johnson explained
14 that it was a Coastal Shorelands Application and what the process would be. She also asked for
15 clarification of how the height and setback requirements are determined. Lewis defined the 35'
16 maximum height restriction for this zone as measured from the lowest finish grade to the peak of the
17 roof. She expressed her concern should a huge building be proposed for the site. Fran Recht, 66 N.E.
18 Williams Avenue, testified that she did not believe that the Commission can approve this Application if
19 you apply the exceptions to the Area of Visual Concern as it does not meet the Standards under Section
20 4.820(6) which only allows an exception *where a permitted use of a lot existing prior to the*
21 *establishment of this Ordinance would be precluded by strict adherence to these requirements...* There
22 is no evidence in the record that building a home on the subject lot would be precluded by strict
23 adherence to the setback requirements. Tree protection standards do not apply to lots under 1 acre while
24 the standards absolutely require protection in the Area of Visual Concern. She asked that the
25 Application be denied and articulated the following reasons: The request is not the minimum necessary,
26 the obstruction of visual character is not minimized, options for maximizing variance setbacks away
27 from aesthetic resources have not been exercised. Applicant restated that by allowing the requested
28 encroachment into the Area of Visual Concern they would be able to construct their modest home,
29 protect the visibility from Vista Street, and leave a higher percentage of existing mature trees. There
30 was no request to keep the record open. The Public Hearing was closed and deliberations began. There
31 was lengthy discussion with most of the discussion focusing on establishing a 5-year time limit
32 (equivalent to the Geo Technical Report) as a Condition of Approval and whether Applicant would be
33 allowed to proceed with the Variance Process in the future.

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35 Motion: McGavock moved to approve the Findings, Conclusions, and Final Order for Case File #3-CS-
36 PC-05 as recommended by the City Planner with the following revision. Insert Item 8. *A valid Building*
37 *Permit must be obtained by January 25, 2010.* Connors seconded the motion.

38

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

40

41 Vote: Motion passed.

42 Ayes: McGavock, Connors, Johnson

43 Noes: Placido, Langdon

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45 Recess: 7:50 PM – 8:00 PM

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2 Davilla returned to her seat.
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4 D. Case File: #1-PD-PC-05

5 Applicant: Northwest, Inc.

6 Agent: Pavitt Land Use Consulting

7 Application: Planned Development and Zone Change
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9 Johnson said testimony and evidence given must be directed toward criteria described by the City
10 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
11 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
12 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
13 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
14 City and made available to the public. He asked if any Commissioner had ex-parte contact, conflict of
15 interest, or bias to declare. Connors declared she had attended the meeting hosted by the developer, on
16 March 19th, at the Community Hall. Davilla declared that she was a licensed Real Estate Broker in the
17 State of Oregon and may receive compensation for the resale of property created through the
18 development process. Johnson then asked if anyone had objection to any Planning Commissioner
19 hearing the case. There was no objection. Lewis summarized the Staff Report (copies attached to
20 original of these Minutes). Written testimony was received from John Gibson, Mark Snyder, Jean
21 Ludlam, Bob Wolford, Ellen McCaleb, Steve Keck, David Dunne, Mike Rotsolk of Fernwood
22 Environmental Services, Lewis and Beverly Schiller, and David and Shauna Iler (copies attached to
23 original of these Minutes). Johnson asked if the Commissioners had any questions to address to the
24 City Planner. A Commissioner suggested that Condition 5., be amended to read, Preliminary *approval*
25 *of Stonebridge Planned Development Phase I...* instead of *Tentative approval...* Lewis noted on Page
26 16, Staff Analysis, first paragraph, the correct Zone Standard should be *R-4* not *C-1*. Condition 10.,
27 should be amended to read, *Final engineering plans for streets, water, sewer, and storm drainage shall*
28 *be reviewed for approval by the City Field Superintendent and applicable State and Federal Agencies.*
29 A Commissioner stated that on Page 3. Depoe Bay Zoning Ordinance #24 (as amended) Item A., 2. *The*
30 *staff of a flag lot shall have a minimum width and frontage of not less than twenty five (250 feet*
31 *should be (25) feet.* Johnson reminded Lewis that the standard Archeological Resources compliance statement
32 needed to be incorporated into the Conditions. Johnson suggested that there be a Collins Street exit
33 during the development of Phase 1 and that perhaps that should be included as a Condition of Approval.
34 Terry Owings, City Field Superintendent, indicated that he would be meeting with the Applicant
35 regarding connecting their proposed 8" line to the existing 6" water system. Amend Item 3. Public
36 Agency Comment, Sanitary Sewer, to read, *The developer/property owner shall be responsible for*
37 *installation and maintenance of any pumps that are required.* Agent, Dawn Pavitt, of Pavitt Land Use
38 Consulting, Engineer, Dave Buhl, of i.e. Engineering, Inc., and Wetland Specialist, Mike Rotsolk, of
39 Fernwood Environmental Services, gave a detailed presentation of the proposed 56-Lot Stonebridge
40 Planned Development and answered questions from the Commissioners. David Green, of West Coast
41 Bank, testified to the value of having affordable housing in Depoe Bay and how this development can
42 meet this need. Applicant, Dan James, of Northwest Homes, was also available. Johnson called for
43 testimony in opposition. Fran Recht, 66 N.E. Williams Avenue, testified she was generally in favor of
44 the Application but did have significant concerns. Items listed in the Staff Report, Analysis Section
45 were not included in the Conclusion Sections, for example Storm Drainage Requirements. In regards to

1 Protection of Streams she requested that no fill be allowed and that a bridge instead of a culvert be used
2 for the stream crossing. Drainage way should be referred to and treated as an intermittent stream with
3 wildlife and aesthetic values. She recommended that Conclusion Section, Condition 6. *Development*
4 *activity shall be limited to storm drainage improvements, landscaping with native plant materials, a*
5 *pedestrian trail, and one road crossing be revised to No disturbance of the South Depoe Bay Creek*
6 *Area shall occur unless for restoration purposes. The drainage way changed to intermittent stream.*
7 *Insert ODF&W shall be consulted and any recommendations to enhance wildlife values are followed*
8 *including planting trees, shrubs, and other natural vegetation.* Storm Drainage System requirements
9 should include *the installation of settling basins and oil/water separators before flowing into the*
10 *intermittent stream.* Condition 7., amended to, *The trail(s) shall connect to the street system and cul-de-*
11 *sac and provide access to the public.* Agent mentioned a Conservation Easement. Fran suggested it be
12 specified who will hold the easement and where that dedication would occur. The City needs
13 clarification of those assurances. Modify 10., *Final engineering plans for streets, water, sewer, storm*
14 *drainage, and road crossing shall be reviewed for approval by the City Field Superintendent and*
15 *applicable State and Federal Agencies. Revise 8., A pre-development activity permit, meeting the*
16 *requirements of DBZO Section 4.900, shall be submitted for finding of compliance of conditions to the*
17 *City prior to construction.* Insert Condition requiring Applicant be responsible for fees incurred from
18 seeking expert review i.e. Erosion Control. In reference to the Transportation Plan addressing traffic
19 flow the City also needs to take into consideration speed limit, width, access, and the likelihood of
20 maintenance. Dorothy Mayes, 335 S.E. Anchor Avenue, expressed her concerns. Will the new water
21 tower be completed prior to the request for increased usage? Owings responded historically it takes
22 more than 2-3 years for the development and sales to be completed. 1.2 million gallon storage tank will
23 be installed on the north side within 2 years. Lewis indicated that the time-line for Final Approval by the
24 Planning Commission is approximately 2 months. Can Developer be encouraged to indicate in their
25 publications the use of Collins Street to Ainslee Avenue as access rather than Winchell Street? Lewis
26 responded City does not want to get into a position of designating the reduction of traffic on certain local
27 streets over others. Are there any future plans for a stoplight at Collins Street? Johnson indicated that
28 the Downtown Refinement Plan is looking into the possibility of a signal at the Fire Station. She
29 articulated her concern for public safety and reiterated the need for law enforcement as a result of the
30 increased population. Johnson stated that was beyond the authority of the Planning Commission. Bill
31 Wright, 55 S.E. Sunnyview Lane, said he was pleased with the submitted Application and the
32 Community Hall Meeting, as the Developer seemed to be receptive to the concerns of the Property
33 Owners adjacent to the proposed development. However tonight he said he was deeply troubled. He
34 believes he owns 250' of property along 4 or 5 of those lots (Lots 1-7). The Developer's plans had
35 proposed a buffer zone in lieu of constructing a fence but tonight it was being proposed as cutting trees
36 and erecting a fence. Agent indicated that Property Owners were in favor of tree removal. He stated he
37 was not. Fran Recht reminded the Planning Commission that there is a Standard regarding pre-
38 development in forested areas in Section 4.900 4.d. Pavitt indicated there was significant discussion
39 regarding trees at the Community Hall Meeting. It is not the intention of the Developer to clear cut trees
40 but to comply with Ordinance 256 Standards. They offered to fence as an amenity, if it is not considered
41 as an amenity than it won't be incorporated into the plan. Connecting trail between Lots 7 and 8 is an
42 acceptable Condition. She apologized for reference to drainage way rather than intermittent stream.
43 Drainage Report does specify many levels of plantings i.e. herbaceous plants, shrubs, trees, etc. They
44 agree that there should be no disturbance of South Depoe Bay Creek and are allowing for a 120' setback
45 and intend to work with necessary agencies including ODF&W. Do not plan to dedicate property to the

1 City. The Homeowners will have a non-profit corporation, which will have the responsibility of
2 managing the conservation easement. Final Engineered Plans including the road crossing and detailed
3 grading plan will be submitted, they will be following procedure for the essential permits for water
4 quality and erosion control. Talked with Jim Chambers (Lincoln County) at length concerning
5 transportation and he has not expressed any concern in terms of the amount of impact and number of
6 cars. A Commissioner asked for clarification concerning the bridge versus culvert. Pavitt stated that is
7 part of the Engineer's design process. The desire is to make it safe and as environmentally friendly as
8 possible with minimum intrusion. Buhl stated obviously a bridge would have a lot less impact, however,
9 the cost factor of construction, maintenance, and inspections of a bridge may make the whole
10 development less feasible. Rotsolk recapped the intent to re-vegetate the Riparian Zone and storm water
11 will be treated in a bio-filtration manner subject to State Water Standards. There was no additional
12 testimony in support of the Application, and no testimony in opposition. There was no request to keep
13 the record open. The Public Hearing was closed and deliberations began. It was agreed to continue
14 deliberations to the next Regular Meeting, May 18th. Johnson directed the City Planner to prepare a Staff
15 Report with a revised set of Conditions of Approval. The Commissioners reviewed several of the
16 Conditions to be included and amended: *Standard Archeological Resources Condition; Private streets*
17 *will be maintained; Public-Access Trail to be extended to cul-de-sac; Development to abide by*
18 *guidelines defined in Geotech Technical Report; Crossing and fill to be completed with minimum impact*
19 *to stream and are subject to approval by City, State, and Federal Agencies; Letter of approval required*
20 *from DEQ regarding water quality meeting standards; The Developer/Property Owner shall be*
21 *responsible for installation and maintenance of any sanitary pumps that are necessary; No disturbance*
22 *of the South Depoe Bay Creek Area shall occur unless for restoration purposes; A pre-development*
23 *activity permit, meeting the requirements of DBZO Section 4.900, shall be submitted for finding of*
24 *compliance of conditions to the City prior to construction; and the dedication easement needs to be*
25 *addressed.*

26

27 VI. CITY COUNCIL LIAISON REPORT.

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29 VII. PLANNER'S REPORT

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31 VIII. UPCOMING EVENTS

32 Johnson announced (1) A Joint Meeting with the Economic Business Development Committee, on
33 Thursday, May 5, 2005, 6:30 p.m., immediately following will be the Economic Business Development
34 Committee Regular Meeting where he will be presenting the Matrix Recommendation (2) He mentioned
35 a Land Use Planning Training Session on October 22, 2005 in Newport and asked Staff to distribute a
36 copy of the information sheet to the Commissioners (3) The Matrix Public Hearing will be on the City
37 Council May 17, 2005 Agenda.

38

39 IX. PLANNING COMMISSION CONCERNS

40 It was the consensus of the Commissioners that they objected to having so many items on the Agenda.
41 In regards to having pertinent information to Commission Review of the Application in a timely manner
42 a specified deadline policy needs to be established.

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1 X. ADJOURN

2 There being no further business, the meeting was adjourned at 10:05 PM.

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Richard Johnson, Chairman

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11 Carla Duering, Recording Secretary