

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, September 21, 2005 - 7:00 PM
4 Depoe Bay City Hall

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7 PRESENT: S. McGavock, C. Connors, B. Taunton (arr. 7:02), B. Langdon (arr. 7:01), D. Johnson,
8 D. Goddard

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10 ABSENT: D. Davilla

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

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14 I. CALL MEETING TO ORDER

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

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17 II. APPROVAL OF MINUTES: August 17, 2005 Regular Meeting
18 Langdon recommended that the Minutes be amended as follows (copy attached to original of these
19 Minutes): (Page 4, Line 25.) *Delete and does the Commission wish to allow expansion of a Grand*
20 *fathered Conditional Use Permit, as current regulations would not allow such a use today in the R-4*
21 *Zone. Insert and questioning whether approval of an expansion of a Grand fathered Conditional Use*
22 *was allowed as current regulations would not allow such a use to be approved in the R-4 Zone today.*

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24 Motion: Langdon moved to approve the amended Minutes of the August 17, 2005 Regular Meeting.
25 Connors seconded the motion.

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

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29 Vote: Motion passed.

30 Ayes: McGavock, Connors, Taunton, Langdon, Johnson, Goddard

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32 III. ITEMS FROM THE AUDIENCE

33 Ron Nowark, 425 S.W. Pine Court, stated that he was under the impression that the Dunn Coastal
34 Shorelands Application (Case File: #7-CS-PC-04) would be on tonight's Agenda. City Planner
35 responded next month. He asked what the request would be for. Lewis replied that no additional
36 information has been submitted. Ron requested if the Pine Court Cul-de-sac (eight) Property Owners
37 could be notified. Lewis said he would be notifying the Public that had previously provided testimony
38 and would include the Property Owners in the notification process as well. Nowark also inquired if the
39 opportunity to provide testimony would be allowed. Lewis answered it will be a Continued Public
40 Hearing and Public Testimony would be re-opened.

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43 IV. PUBLIC HEARING ITEMS

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1 A. Case File #3-PAR-PC-05
2 Applicant: Greg and Barb Burge
3 Application: Two-Lot Partition
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5 Johnson noted that a letter was received from the Applicant (copy attached to the original of these
6 Minutes) apologizing for not being able to attend tonight's meeting. Johnson said testimony and
7 evidence given must be directed toward criteria described by the City Planner, or other criteria in the
8 code that the testifier believes applies to the request. Failure to raise an issue, accompanied by
9 statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to
10 the issue precludes appeal to the State Land Use Board of Appeals on that issue. Application materials
11 or other evidence relied upon by the Applicant had been provided to the City and made available to the
12 Public. He asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare.
13 There was none. Johnson then asked if anyone had objection to any Planning Commissioner hearing the
14 case. There was no objection. Lewis summarized the Staff Report (copies attached to original of these
15 Minutes). Johnson asked if the Commissioners had any questions to address to the City Planner. A
16 Commissioner asked with the part that they remove is there a proper Setback. Lewis replied, yes.
17 There was no testimony in support of the Application and no testimony in opposition. There was no
18 request to keep the record open. The Public Hearing was closed and deliberations began.
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20 Motion: Langdon moved to approve the Two-Lot Partition Application for Case #3-PAR-PC-05 with
21 the Conditions of Approval as recommended by the City Planner. Goddard seconded the motion.
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23 Johnson said it was moved and seconded, and called for discussion. There was none.
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25 Vote: Motion passed.

26 Ayes: McGavock, Connors, Taunton, Langdon, Johnson, Goddard
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29 B. Case File #3-CU-PC-05
30 Applicant: Quade/Young Family Joint Venture
31 Application: Conditional Use Permit
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33 Johnson said testimony and evidence given must be directed toward criteria described by the City
34 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
35 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
36 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
37 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
38 City and made available to the Public. Johnson asked if any Commissioner had ex-parte contact,
39 conflict of interest, or bias to declare. Johnson declared that he looked at the site. Johnson then asked if
40 anyone had objection to any Planning Commissioner hearing the case. There was no objection. Lewis
41 summarized the Staff Report (copies attached to original of these Minutes). Lewis suggested that
42 Condition (Page 5., Item No 4.) be revised to *Prior to issuance of a Building Permit the Applicant shall*
43 *receive Storm Drainage Plan Approval from the Oregon Department of Transportation and the City*
44 *Field Superintendent*. Written testimony was received from Andrew C. Wisniewski (copy attached to
45 original of these Minutes). Lewis clarified that the Code does not restrict the height of Retaining Walls

1 to 8', however it does require that a wall exceeding 8' in height be reviewed by the Planning
2 Commission. Lewis illustrated (using the Site Plan provided by the Applicant) the proposed plan for a
3 Commercial and Residential Development on the Subject Property. Johnson asked if the
4 Commissioners had any questions to address to the City Planner. Commissioners ensued in discussion
5 regarding the Zoning Code pertaining to Retaining Walls Item *a. No Retaining Wall shall be constructed*
6 *for the purpose of back filling to artificially heighten a lot's ground elevation to improve views from the*
7 *Subject Property* and Item *b. No Retaining Wall shall be constructed to elevate the grade of a lot unless*
8 *necessary to establish a use or structure permitted in the underlying Zone.* The Applicant was given an
9 opportunity to testify and answer questions from Commissioners. Neil Quade, 5369 N.E. Port Ln.,
10 Lincoln City, reiterated the importance of maximizing the development of the property to compensate
11 for the increasing property values. The property slopes 12½ ft. from the highway to the back. The retail
12 space would be constructed to be pedestrian friendly at the Highway 101 level. 6' cut to allow for rear
13 parking is the primary reason for the Retaining Wall. It also gives them the opportunity to generate level
14 parking for the residential units at the back of the property. A Commissioner referring back to the
15 Ordinance inquired, your intention is not to install the Retaining Wall to create a view. Quade replied,
16 our intention wasn't that, it had more to do with the fact of being able to create level parking. Johnson
17 stated he had an academic question. He understood their desire to terrace the property, which is
18 acceptable and legal to do. The Retaining Wall gives a vertical face to the rear terrace. Johnson asked,
19 if your request was denied and you were required to slope the land what would you do. Quade
20 answered, it wouldn't work. We would end up with parking at the back at approximately a 7% grade. A
21 Commissioner asked if the parking lot was not level and you built the 2nd level terrace residential units
22 without a Retaining Wall, would the building height be taller or the same. Quade responded if they
23 matched the grade of the retail units (at Highway 101 level) with the rear residential units it would
24 necessitate (due to the naturally higher grade at the rear of the property) building a Retaining Wall in the
25 back of the property as well as constructing a shorter Retaining Wall in front to accommodate the
26 parking for the rear residential units. Basically it would require two Retaining Walls. The units would
27 be the same height; of course they would be sitting 3' lower. There was no additional testimony in
28 support of the Application and no testimony in opposition. There was no request to keep the record
29 open. The Public Hearing was closed and deliberations began. Johnson reminded the Commissioners of
30 the City Planner's earlier statement concerning Retaining Walls exceeding 8' in height requiring the
31 Conditional Use Procedure and that all Retaining Wall related requirements would apply. Johnson
32 gave a recap of the Proposal.

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34 Motion: Connors moved to approve the Conditional Use Permit Application for Case File as
35 recommended by the City Planner with the amended Conditions of Approval (Page 5., Item No 4.).
36 Goddard seconded the motion.

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38 Johnson said it was moved and seconded, and called for discussion. A Commissioner expressed concern
39 over the issues conveyed in Mr. Wisniewski's written testimony. Will it destroy his views and deplete
40 the value of his property and does Mr. Wisniewski understand the proposal. Lewis replied that he has
41 not had any conversation with him to know if he understands. Lewis said based on elevations the view
42 would still be blocked. For example, the Proposal could be to build an allowed Single-Family Home
43 (with the finish grade at the existing grade) to a building height of 35' and it would be the equivalent
44 height as what is being proposed. A Commissioner clarified that if the Commission granted the
45 additional 1' in height that would not materially alter Mr. Wisniewski's view.

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Vote: Motion passed.

Ayes: McGavock, Connors, Taunton, Langdon, Johnson, Goddard

Johnson stated he would sign both Case’s Final Orders tomorrow unless there is an objection. There was none.

V. CITY COUNCIL LIAISON REPORT.

Langdon reported that (1) The Public Hearing/Continued Deliberations on the Proposed Amendments to the Comprehensive Plan, Zoning Ordinance and Zoning Map Relating to Uses and Standards in the City will be held at a City Council Special Meeting, Friday, October 21st at 6:00 PM (2) Peggy Leoni presented information in support of Ordinance #260 renewal. Johnson noted that Steve McGavock is the Liaison for the month of October per the Rotation Chart. Connors volunteered to replace McGavock who is unable to attend.

VI. PLANNER’S REPORT

There was none.

VII. PLANNING COMMISSION CONCERNS

Johnson requested the City Recorder to state for the record the Attorney’s response regarding Fractional Ownership. Murray acknowledged that she had a conversation with our new City Attorney, Mr. Gintner, yesterday and he verbally confirmed that Dave Gordon’s opinion that Fractional Ownership Use in the R-1 Zone is not allowed per our Rules - That opinion applies in all of our Residential Zones under our current Ordinances. Johnson reminded the Commissioners of the Land Use/Planning Training Session in Newport on Saturday, October 22nd, 9 a.m. – 3:30 p.m. Connors and Goddard are interested in attending.

VIII. ADJOURN

There being no further business, the meeting was adjourned at 7:55 PM.

Richard Johnson, Chairman

Carla Duering, Recording Secretary