

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

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7 PRESENT: S. McGavock, C. Connors, B. Taunton, B. Langdon, D. Johnson, D. Goddard, D. Davilla

8
9 STAFF: City Planner L. Lewis, City Recorder Pery Murray, Recording Secretary C. Duering

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11 I. CALL MEETING TO ORDER

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

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14 II. APPROVAL OF MINUTES: October 19, 2005 Regular Meeting
15 Motion: Davilla moved to approve the Minutes of the October 19, 2005 Regular Meeting as written.
16 Connors seconded the motion.

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

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20 Vote: Motion passed.

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

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23 III. ITEMS FROM THE AUDIENCE

24 There were no items from the audience.

25
26 IV. PUBLIC HEARING ITEMS

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28 A. Case File #7-CS-PC-04 (Continued)

29 Applicant: A. Joe Dunn

30 Application: Coastal Shorelands

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32 Johnson reminded the Commissioners that this is an Application to develop in the Coastal Shorelands
33 Overlay Zone, Written and Oral Testimony was received and closed, and Deliberations had begun when
34 there was a power outage. Johnson acknowledged that at that time they had identified determining what
35 line is the line from which the 25' Area of Visual Concern setback should be defined as the key issue to
36 be resolved and referenced the discussion regarding reconsideration of the March 16, 2005 Motion. A
37 Commissioner stated that the Commission needs to bear in mind that the unanimous Planning
38 Commission Decision was made based on safety issues and read the relevant segments of the December
39 13, 2004 Letter (Amendment to the Recommended Setback) from the Engineering Geologist. A
40 Commissioner agreed and indicated that after reviewing the documentation it is obvious that the Riprap
41 Wall is manmade and not part of the natural topography and felt that establishing the Vegetation Line
42 versus the Riprap Wall would be appropriate. There will be a safety issue no matter where the
43 determination line is established.

44
1 DBPC 11/16/05

1 Motion: Connors moved to reconsider the March 16, 2005 Motion *to use the Natural Bluff Line as*
2 *articulated by the Geologist's November 9, 2004 Report to determine setback.* Davilla seconded the
3 motion.

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5 Lewis restated that there are 3 lines (Riprap Wall; 5' westward is the Natural Bluff Line; and
6 approximately 5' in front of that is the Vegetation Line.) from which the 25' Area of Visual Concern
7 could be measured.

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

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11 Lewis commented that after the close of Public Testimony two letters were received regarding
12 reconsideration of the Motion and stated for the Record that we are not able to accept any further
13 Testimony regarding this Case therefore those two letters are not to be part of the Record. A
14 Commissioner asked if we have had any legal counsel regarding reconsidering the Motion. Lewis
15 replied no.

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17 Vote: Motion passed.
18 Ayes: Connors, Taunton, Johnson, Davilla, Goddard
19 Noes: McGavock, Langdon

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21 A Commissioner expressed concern as to how much the two letters of written testimony have influenced
22 the decisions of the Commissioners.

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24 Motion: Connors moved to use the Vegetation Line as the westward line to measure the 25' setback in
25 the Area of Visual Concern. Taunton seconded.

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

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29 Commissioners further discussed the location of the Riprap Wall, Vegetation Line, and the Natural Bluff
30 Line; the December 13, 2004 Letter from the Engineering Geologist; and the 1985 Staff Report for the
31 Ebb Tide Estates Addition.

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33 Vote: Motion passed.
34 Ayes: Connors, Taunton, Johnson, Davilla, Goddard
35 Noes: McGavock, Langdon

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37 Johnson and Lewis reviewed the Staff Report Conditions of Approval.

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39 Motion: Connors moved to approve the Coastal Shorelands Application for Case #7-CS-PC-04 with the
40 Conditions of Approval as recommended by the City Planner. McGavock seconded.

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42 Vote: Motion passed.
43 Ayes: McGavock, Connors, Taunton, Johnson, Davilla, Goddard
44 Noes: Langdon

1 Johnson acknowledged he would sign the Case Final Order tomorrow unless there is an objection.
2 There was none.

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B. Case File #2-CU-PC-05 (Continued)
Applicant: James and Debra Poplin
Application: Conditional Use Permit Expansion

8 Johnson recapped the August 17, 2005 decision to re-open the Public Hearing. Johnson said testimony
9 and evidence given must be directed toward criteria described by the City Planner, or other criteria in the
10 code that the testifier believes applies to the request. Failure to raise an issue, accompanied by
11 statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to
12 the issue precludes appeal to the State Land Use Board of Appeals on that issue. Application materials
13 or other evidence relied upon by the Applicant had been provided to the City and made available to the
14 Public. He asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare.
15 Johnson again acknowledged that he had been to the Mini-Storage site. Johnson then asked if anyone
16 had objection to any Planning Commissioner hearing the case. There was no objection. Lewis
17 summarized the revised Staff Report (copy attached to original of these Minutes). Johnson asked if the
18 Commissioners had any questions to address to the City Planner. There was none. The Applicant was
19 given an opportunity to testify and answer questions from Commissioners. They were not present.
20 There was no testimony in support of the Application and no testimony in opposition. There was no
21 request to keep the record open. The Public Hearing was closed and deliberations began. Johnson
22 suggested an additional recommended Condition of Approval - Outdoor boat/RV storage shall be
23 outside the 50' Riparian Corridor Boundary. A Commissioner stated their hesitancy to approve
24 expansion of a Conditional Use that would not be allowed in the R-4 Zone today. A Commissioner
25 concurred and added had the original approval not specified the exact number of buildings and only
26 indicated Mini Storage Area that would be a different situation. Lewis read Section 6.020 *Authorization*
27 *to Grant or Deny Conditional Use Permit Conditional Uses listed may be permitted, enlarged or altered*
28 *upon authorization by the Planning Commission in accordance with the standards and procedures set*
29 *herein; Section 6.020 Item 2. In approving a Conditional Use Request or the modification of a*
30 *Conditional Use...* There was lengthy discussion regarding continued outdoor boat/RV storage, site
31 perimeter screening, and having the authority to allow the expansion.

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Motion: Davilla moved to approve the Findings, Conclusions, and Final Order for Case File #2-CU-PC-05 with the Conditions of Approval as recommended by the City Planner with the following revisions: Insert *No future expansion of this use in this area; all RV parking must be outside the Riparian Corridor and dust free; Perimeter of the property be screened with vegetation that will have a variety of different heights with some materials being a minimum of 6' in 2 years with the intention that the structures and RVs be obscured from sight by the vegetation* and the revised Findings, Conclusions and Final Order be submitted for review and approval at the next Planning Commission Meeting. McGavock seconded the motion.

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

1 A Commissioner mentioned that the Conditions of Approval should also include re-vegetation of the
2 Riparian Corridor. A Commissioner specified with native vegetation. Lewis recommended that the
3 Vegetation Plan (Riparian Corridor and Perimeter of the Property) be prepared and submitted to City
4 Staff for approval.

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6 Motion Amendment: Davilla amended the motion to include the additional Condition. McGavock
7 seconded the motion.

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

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11 Vote: Motion passed.

12 Ayes: McGavock, Taunton, Langdon, Johnson, Goddard, Davilla

13 Noes: Connors

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15 C. Case File: #4-CU-PC-05

16 Applicant: City of Depoe Bay

17 Application: Conditional Use Permit and Geologic Hazards Permit

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19 Johnson said testimony and evidence given must be directed toward criteria described by the City
20 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
21 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
22 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
23 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
24 City and made available to the Public. He asked if any Commissioner had ex-parte contact, conflict of
25 interest, or bias to declare. Connors declared that she lives on Summit Place and owns an adjacent lot.
26 Langdon declared she has attended numerous meetings where the Water Tank has been discussed.
27 Johnson then asked if anyone had objection to any Planning Commissioner hearing the case. There was
28 no objection. Lewis summarized the Staff Report (copies attached to original of these Minutes).
29 Written testimony was received from Monroe Ludlam (copy attached to original of these Minutes).
30 Johnson asked if the Commissioners had any questions to address to the City Planner. A Commissioner
31 asked Lewis to clarify why Condition 5. *The Applicant/Property Owner shall complete and sign the*
32 *Declaration of Covenants and Conditions of Responsibility and Indemnity (The Declaration) provided*
33 *by the City...* applies. Several additional questions were posed and the City Planner deferred and asked
34 that they be addressed to the Applicant. The Applicant was given an opportunity to testify and answer
35 questions from Commissioners. A Commissioner asked if razor or barbed wire would be across the top
36 of the fence and where is the location of the locked gate. Terry Owings, City Superintendent, assured
37 the Commission that security measures are being implemented i.e. the fence is 8' high and the top has a
38 35 degree angle; the Tank ladder gate will be locked; and illustrated using the Site Plan the location of
39 the locked gate in relationship to the access road. A Commissioner asked what is the Construction
40 Timeline. Owings replied the plans are 80% complete; submit Application for Building Permit in
41 February 2006; advertise for bids in late February or March; utilizing the entire construction season -
42 Approximately 1-1½ years to complete. A Commissioner asked how it would be installed. Owings
43 answered it is delivered to the site in sheets and will be constructed by bolting them together. A
44 Commissioner inquired about the Drainage Plan. Owings referred to Drawing C-3. A Commissioner

1 asked if the existing drainage lines have the capacity to handle the increased flow. Owings responded
2 the 10" line increases to 12" at Williams Avenue. Owings stated the Tank has a 2-million gallon storage
3 capacity; 5 temporary Tanks will be installed during construction period; and the City will have a choice
4 of colors. Commissioners asked if it could be designed in the shape of a fishing troller or be painted
5 with murals (laughter). There was no testimony in support of the Application. Fran Recht, 66 N.E.
6 Williams, testified that she supported the need for a new Water Tank but was not for this Application.
7 She asked the Chairman to allow the Audience the opportunity to object to Carol Connors, an adjacent
8 Property Owner, to hearing the case. Johnson replied that the ex-parte contact, conflict of interest, or
9 bias to declare procedure had been followed. Recht expressed the following concerns: The 40' highly
10 visible Tank is in a residential area and is being proposed to have screening in the rear rather than the
11 southern and western sides; plans are difficult to read and requested that the Record be kept open for 7
12 days; 30' high concrete block retaining wall could be re-designed to be planted with vegetative covering
13 and the concrete color needs to be specified; Erosion Control Plan (Drawing C-1) is difficult to
14 understand (perhaps there is a narrative description of the system available); huge amounts of fill will
15 occur during construction and current Code requires the location of the spoil disposal site be specified;
16 silt needs to be contained to prevent exposure to N. Depoe Bay Creek and Ocean; utilities should be
17 underground and located on the northeast side of the structure; objection to placement of the fence and
18 the need for razor wire and expressed desire to maintain public access to a beautiful westerly view of the
19 Ocean; she believes the Geological Hazard Report recommends that the Tank be built to withstand an
20 averaged level of earthquakes and she felt it needs to identify the ability to withstand the anticipated
21 magnitude of any earthquake along the Oregon Coastline. She requested that her concerns be addressed
22 in the Final Order of Approval. Johnson verified that Recht was requesting the Record be kept open for
23 7 days and asked if she would provide a Written Summary of her recommended additional Conditions of
24 Approval. She confirmed her request and apologized for not being able to provide Written Testimony
25 prior to the Public Hearing. There was no additional testimony in opposition of the Application. Terry
26 Owings reiterated that the Drawings are not yet complete; the necessity of security fencing; the
27 landscaping plan will include site-obscuring screening; will consult the Engineer regarding retaining
28 wall vegetation; and will invite the Engineer to attend the next Meeting to further answer the structural
29 questions and address the Commission and Public concerns. Johnson stated that the Final Order also
30 needed to include the standard Archeological Resources Condition.

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32 After a brief discussion it was the consensus of the Commission to continue the Public Hearing to the
33 December 21, 2005 Meeting.

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35 V. CITY COUNCIL LIAISON REPORT

36 There was none. Johnson noted that Debbie Davilla is the Liaison for the month of December.

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38 VI. PLANNER'S REPORT

39 Lewis reviewed his written report (copy attached to original of these Minutes). The Commissioners
40 discussed the Worldmark Building Permit Application.

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42 VII. PLANNING COMMISSION CONCERNS

43 A Commissioner restated their question to the City Planner concerning Case File #4-CU-PC-05,
44 Condition 5. *The Applicant/Property Owner shall complete and sign the Declaration of Covenants and*

1 *Conditions of Responsibility and Indemnity (The Declaration) provided by the City.* Lewis will review
2 the template and respond at the next meeting. Johnson reminded the Commission of the City Recorder's
3 November 14, 2005 Memo requesting the representative selection for the upcoming two-year term to
4 serve as a member of the Economic Business Development Committee.

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6 VIII. ADJOURN

7 There being no further business, the meeting was adjourned at 8:50 PM.

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Richard Johnson, Chairman

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Carla Duering, Recording Secretary

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