

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, April 19, 2006 - 7:00 PM
4 Depoe Bay City Hall
5

6 PRESENT: President C. Connors, S. McGavock, B. Bruce, B. Taunton, D. Davilla, D. Goddard,
7 J. Messina
8

9 STAFF: City Planner L. Lewis, Recording Secretary C. Duering
10

11 I. CALL MEETING TO ORDER

12 Connors called the meeting to order and established a quorum at 7:02 PM.
13

14 II. APPROVAL OF MINUTES: March 15, 2006 Regular Meeting

15 McGavock moved to approve the Minutes of the March 15, 2006 Regular Meeting as written. Goddard
16 seconded the motion.
17

18 Connors said it was moved and seconded, and called for discussion. There was none.
19

20 Vote: Motion passed.

21 Ayes: Bruce, Taunton, Connors, Goddard, Messina, McGavock

22 Abstain: Davilla
23

24 III ITEMS FROM THE AUDIENCE

25 There were no items from the audience.
26

27 IV. PUBLIC HEARING ITEMS
28

29 A. Case File #1-CS-PC-06 (Continue Deliberations)

30 Applicant: Catherine A. Wright

31 Application: Coastal Shorelands Development and Variance

32 Map and Tax Lot: 09-11-08-CA #6801

33 Location: S.W. Cliff St.
34

35 Lewis acknowledged a letter dated April 18, 2006 (copy attached to original of these Minutes) was
36 received via fax from Catherine Wright, Applicant, indicating her desire to withdraw her Application
37 and a letter dated April 19, 2006 (copy attached to original of these Minutes) was received via fax from
38 Jim & Lana Wetherill, Property Owner, requesting that the application process be continued and an
39 updated Geologic Hazards Report would be submitted as instructed. Lewis specified he would ask the
40 Property Owner to submit a new Application (a new Case File number will be assigned.)
41

42 B. Case File #1-PAR-PC-06

43 Applicant: Thomas E. and Jeanette M. Halvorsen

44 Application: 2-Lot Partition

1 Map and Tax Lot: 09-11-05-CA #2000
2 Location: 120 N.E. Austin St.
3

4 Connors explained the Public Hearing procedure. Connors said testimony and evidence given must be
5 directed toward criteria described by the City Planner, or other criteria in the code that the testifier
6 believes applies to the request. Failure to raise an issue, accompanied by statements or evidence
7 sufficient to afford the Commission and the parties an opportunity to respond to the issue precludes
8 appeal to the State Land Use Board of Appeals on that issue. Application materials or other evidence
9 relied upon by the Applicant had been provided to the City and made available to the Public. She asked
10 if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There was none.
11 Connors then asked if anyone had objection to any Planning Commissioner hearing the case. There was
12 no objection. Lewis summarized the Staff Report (copy attached to original of these Minutes). Lewis
13 noted that the Applicant was not able to attend tonight's meeting. Connors asked if the Commissioners
14 had any questions to address to the City Planner. Connors clarified that the access must be a minimum
15 25' wide (per Staff Report, Conclusion, Item 2.) not 20' as stated by Lewis. There was no testimony in
16 support of the Application and no testimony in opposition. There was no request to keep the Record
17 open. The Public Hearing was closed and deliberations began.
18

19 Motion: Davilla moved to approve Case File #1-PAR-PC-06 and adopt the Conditions of Approval,
20 Items 1. thru 4. as recommended by the City Planner. Goddard seconded the motion.
21

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

24 Vote: Motion passed.

25 Ayes: Taunton, Davilla, Connors, Goddard, Messina, McGavock, Bruce
26

27 It was the consensus of the Commission to direct Lewis to prepare the Findings, Conclusion and Final
28 Order for Connors's signature.
29

30 B. Case File #1-CU-PC-06

31 Applicant: Robert and Vicky Thomas

32 Application: Conditional Use (10' High Retaining Wall) and

33 Review New Construction (6-Unit Condominium Development) in the L-I Zone

34 Map and Tax Lot: 09-11-08-BD #7900

35 Location: S.E. Shell Ave.
36

37 Connors said testimony and evidence given must be directed toward criteria described by the City
38 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
39 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
40 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
41 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
42 City and made available to the Public. She asked if any Commissioner had ex-parte contact, conflict of
43 interest, or bias to declare. There was none. Connors then asked if anyone had objection to any
44 Planning Commissioner hearing the case. There was no objection. Lewis summarized the Staff Report

1 (copy attached to original of these Minutes). Written Testimony was received from Richard J. Cutler
2 (copy attached to original of these Minutes). Connors asked if the Commissioners had any questions to
3 address to the City Planner. Connors noted the omission of the standard Archeological Resources
4 Condition and suggested the inclusion of that condition in the Final Order. Lewis further defined the
5 Condition. The Applicant was given an opportunity to testify and answer questions from
6 Commissioners. Robert Thomas, 2402 N.E. Douglas, Newport, testified the 10' retaining wall is for the
7 purpose of creating a level parking lot; maintaining access driveway (off Shell Ave.) at 10% grade; and
8 to provide a shield from Highway 101 noise. He hopes to be able to accommodate Dick Cutler's,
9 adjacent Property Owner, requests to preserve as much of his view as possible and design the retaining
10 wall to reduce the impact on the large spruce in the southeast corner of his lot. A Commissioner asked if
11 a fence is planned at the top of the retaining wall to prevent someone from falling onto concrete.
12 Thomas replied a 4' fence is proposed. Connors called for testimony in support of the Application.
13 There was none. Connors called for testimony in opposition of the Application. Fran Recht, 66 N.E.
14 Williams, testified she is in favor of the Application, however she would like to see one Condition be
15 added and acknowledged: *The Applicant is aware that this is a L-I Zone and light industrial activities*
16 *are to be expected.* Thomas responded Dick Cutler's business venture is a winery and he is in full
17 support of his project and he clearly recognizes that this is a L-I Zone. There was no additional
18 testimony in opposition. There was no request to keep the Record open. The Public Hearing was closed
19 and deliberations began.

20
21 Motion: Davilla moved to approve Case File #1-CU-PC-06 and adopt the Conditions of Approval,
22 Items 1. thru 7. as recommended by the City Planner and amend the Conditions to include Item. 8.
23 Archaeological Resources statement that Lewis presented verbally *The site is identified in the*
24 *Comprehensive Plan Inventory as having potential archaeological resources. The DBZO Section*
25 *3.360(5)(b)(1) states that development on identified archaeological sites shall be conducted in a manner*
26 *so as to minimize site disturbance and prevent irreversible loss of archaeological resources. This does*
27 *not require the Property Owner to hire an archaeologist, however, it does require the Property Owner*
28 *to be cognizant of archaeological resources when developing the site. The Applicant needs to be aware*
29 *of potential archaeological resources and take feasible action to minimize site disturbance and prevent*
30 *irreversible loss of archaeological resources; Item 9. The Applicant agrees to construct a 4' chain link*
31 *fence at the top of the retaining wall; and Item 10. Applicant acknowledges that the proposed*
32 *development is in a L-I Zone and Applicant is aware of potential impacts.* McGavock seconded the
33 motion.

34
35 Connors said it was moved and seconded, and called for discussion. There was none.

36
37 Vote: Motion passed.

38 Ayes: Davilla, Connors, Goddard, Messina, McGavock, Bruce, Taunton
39

40 It was the consensus of the Commission to direct Lewis to prepare the Findings, Conclusion and Final
41 Order for Connors's signature.

42
43 C. Case File #1-V-PC-06
44 Applicant: Waldport Seafood Company/Siletz Tribe

1 Application: Variance (Parking)
2 Map and Tax Lot: 09-11-08-BA #6200 and #6300
3 Location: 272 S.W. Hwy. 101
4

5 Connors said testimony and evidence given must be directed toward criteria described by the City
6 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
7 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
8 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
9 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
10 City and made available to the Public. She asked if any Commissioner had ex-parte contact, conflict of
11 interest, or bias to declare. Goddard declared that she owns property on the west side of Hwy. 101
12 slightly north of the referenced property. Connors then asked if anyone had objection to any Planning
13 Commissioner hearing the case. There was no objection. Lewis summarized the Staff Report (copy
14 attached to original of these Minutes). The Commissioners asked Lewis to clarify how he calculated the
15 number of parking spaces and to verify if Applicant is required to provide handicapped parking. Lewis
16 referenced that in favor of this Application the Downtown Refinement Plan illustrates increasing Hwy.
17 101 on-street parking (parallel) south of the Bridge if implemented and additional private lots would be
18 acquired for Public Parking as they become available. Lewis noted however that the number of parking
19 spaces available in front of the referenced property would be reduced. Lewis advised the Commission
20 should they move to approve this Application the Findings need to reflect the circumstances of this
21 particular parcel or area as they may see other Parking Variance Applications in the future. The
22 Applicant was given an opportunity to testify and answer questions from Commissioners. Richard
23 Ligon, 150 S.W. Maple, Waldport, one of three owners of Waldport Seafood Company – a potential
24 tenant of the referenced property owned by the Confederated Tribes of Siletz, gave a brief history of
25 Waldport Seafood Company and their desire to expand their operation to include this property
26 (Restaurant and Seafood Market) as well as the warehouse (Fish Processing Plant) owned by the City of
27 Depoe Bay. He acknowledged that there is no off-street parking on the property as the Ordinance
28 defines it, extraordinary circumstances – size of the existing building and topography prohibits it. He
29 believes that the recent new business ventures opening south of the Bridge will encourage patrons to
30 continue shopping/eating on both sides of the Bridge. He does not feel the parking issue will be a
31 deterrent to his business and that the 10 on-street spaces will suffice. A Commissioner asked what their
32 plans are for the exterior of the building. Applicant replied they do not intend to reconstruct the
33 building, however they will be painting and adding signage. Connors called for testimony in support of
34 the Application. There was none. Connors called for testimony in opposition of the Application. Fran
35 Recht, 66 N.E. Williams, testified that she believes the re-opening of a Seafood Market will be an asset
36 to the town, however she does not favor the granting of a Parking Variance for a Seafood Restaurant.
37 The operation of a Restaurant without the required parking will exacerbate parking and traffic safety
38 issues and will conflict with the approved Downtown Refinement Plan. We all want revitalization of
39 the vicinity south of the Bridge, but granting this Variance Request is not the solution. A solution is
40 already partially outlined in the adopted Downtown Refinement Plan (illustrates off-site parking lots).
41 Her preferred solution would be for the Planning Commission to ask the City to initiate as soon as
42 possible a Parking System Development Fee (allows planned uses to be calculated and fees determined
43 for people who are unable to provide their own off-street parking) similar to other cities. She presented
44 the basis of her opinion (four out of the five circumstances for granting a Variance are not met and so the

1 Application must be denied) as detailed in her prepared Narrative (copy attached to original of these
2 Minutes) and the implications of approval would make a bad situation worse. She distributed a copy of
3 the rendering (copy attached to original of these Minutes) illustrating the parking (currently 10 diagonal
4 spaces reduced to 4 parallel spaces in front of referenced building) and read a portion (*In order to
5 improve traffic circulation and safety, ODOT recommends that this parking be converted to parallel
6 parking, particularly on the east side of the highway where there is a single travel lane versus two travel
7 lanes*) of Page 23. (copy attached to original of these Minutes) of the Downtown Refinement Plan.
8 Richard Ligon stated the assertion that our request would give us something that nobody else has ever
9 had is absolutely ridiculous. He reiterated that their Restaurant/Seafood Market is a permitted use in
10 the M-C Zone and the exceptional circumstances and uniqueness of this location qualifies their request
11 for a Parking Variance. Ligon did not think there is anything in DBZO that requires an Applicant to go
12 out 500' or 750' to try to purchase property for parking prior to applying for a Variance – such an
13 assertion would be ludicrous and asked the Commission to correct him if he was wrong. Ligon specified
14 that they would not pursue opening just a Seafood Market in this location - not economical it has already
15 failed once. They have a great opportunity to enhance their business, create jobs, and revitalize this part
16 of town, that's exactly in conformance with the City's Downtown Refinement Plan. Connors asked how
17 many seats are you proposing to have in your Restaurant and what are your proposed hours of operation.
18 Ligon answered probably about 50-55 seats, hours are in an evolutionary stage as they may be serving
19 breakfast but are inclined to open a fine dining Restaurant (south end of building) offering lunch and
20 dinner, Seafood Market (north end of building) would probably be open 8 a.m. to 8 p.m. summer, 9 a.m.
21 to 5 p.m. in the winter. Commissioners asked Lewis to reiterate the parking situation once the
22 Downtown Refinement Plan is implemented and the anticipated date. Lewis replied that a considerable
23 amount of money is essential to this project and would likely entail the City applying for grant funding
24 where a percentage of matching funds would be required – reality is it will be quite some time. There
25 was no additional testimony in opposition. There was no request to keep the Record open. The Public
26 Hearing was closed and deliberations began. A Commissioner asked if the City has a conceptual plan
27 for Parking SDC's. Lewis answered, no – He was aware of a Downtown Core Parking Study that may
28 have mentioned unexecuted alternative parking options and funding sources. A Commissioner reminded
29 the Commission that in the past they have required businesses adjacent to Hwy. 101 who are unable to
30 meet the DBZO Parking Requirements to acquire alternative off-street parking. A Commissioner stated
31 she believes adequate parking currently exists for a number of businesses south of the Bridge. A
32 Commissioner asked could this be processed as a Conditional Use with a time line. The Commission
33 concluded that would be inappropriate, however perhaps a Condition of Approval that the Applicant
34 return for Planning Commission review in regards to sufficient parking. Connors mentioned at the
35 recent Planning Commission/City Council Workshop the parking issue south of the Bridge as well as
36 any pre-existing structure (currently any pre-existing allowed use) prior to Ordinance No. 24 be exempt
37 from the adopted parking requirements were topics to review at future Workshops. There was lengthy
38 discussion concerning growth south of the Bridge; vitality of the community; supporting the Downtown
39 Refinement Plan; the value of the Fish Plant/Market for the economy of Depoe Bay; the proposed
40 Harbor Pedestrian Walkway identifies a pathway from the present City Park parking lot right up the
41 steps next to that building; and how to include a Condition of Approval requiring that the parking issues
42 be revisited at a later date.

43

1 Motion: Goddard moved to approve Case File Case File #1-V-PC-06 and adopt the Conditions of
2 Approval as recommended by the City Planner and amend the Conditions to include *The Applicant*
3 *comes back in a 2-year period of time to revisit the parking.* Taunton seconded the motion.
4

5 Connors said it was moved and seconded, and called for discussion. There was none.
6

7 Vote: Motion passed.

8 Ayes: Connors, Goddard, Messina, McGavock, Bruce, Taunton, Davilla
9

10 It was the consensus of the Commission to direct Lewis to prepare the Findings, Conclusion and Final
11 Order for Connors's signature.
12

13 Lewis clarified the addition of Condition of Approval *Item 3. The Parking Variance will be granted for*
14 *a period of 2-years from the date of these Findings, Conclusions and Final Order. At which time the*
15 *Applicant shall return to the Planning Commission to review the Parking Variance.*
16

17 Goddard expressed that she was uncomfortable with the wording of her Motion and felt the Condition
18 needed to be further defined. The Commission ensued in discussion and concluded to extend the period
19 to 5-years.
20

21 Motion Amendment: Goddard amended the motion to extend the period from 2-years to 5-years.
22 Taunton seconded the motion.
23

24 Connors said it was moved and seconded, and called for discussion.
25

26 Lewis restated *Item 3. The Parking Variance will be granted for a period of 5-years from the date of*
27 *these Findings, Conclusions and Final Order. At which time the Applicant shall return to the Planning*
28 *Commission to review the Parking Variance.*
29

30 Vote: Motion passed.

31 Ayes: Goddard, Messina, McGavock, Bruce, Taunton, Davilla, Connors
32

33 Ligon thanked the Planning Commission. Charles Church, co-owner of Waldport Seafood, asked when
34 we come back in 5-years can we loose the Variance. Connors responded that the Planning Commission
35 would revisit it. There may not be a reason for you to return if the Ordinances are changed. A
36 Commissioner stated that the Commission is in the process of reviewing the DBZO. Ligon said they
37 want to be a positive citizen and help solve the parking problem not hinder it, will be actively involved
38 in the meetings. Recht asked if a System Development Fee is established would that be revisited as well
39 and stressed that the phrasing of the Condition is too vague. Connors stated the parking issue would be
40 revisited – if fees were part of the parking issue it will be revisited. A Commissioner asked if the
41 company intends to maintain the name Waldport Seafood Company. Ligon replied that is yet to be
42 decided and in regards to the SDC, legislatively of course they would have to pay it and would not
43 object.
44

1 V. UNFINISHED BUSINESS:

2 There was none.

3

4 VI. CITY COUNCIL LIAISON REPORT

5 Connors reported on the Joint City Council/Planning Commission Workshop – DBZO Review.

6

7 VII. PLANNER'S REPORT

8 Lewis reviewed his written report (copy attached to original of these Minutes). Lewis also announced

9 that the City has received unofficial word that the City has been recommended by the DLCD to receive

10 306A Grant Funds to expand the City Park.

11

12 VIII. PLANNING COMMISSION CONCERNS

13 McGavock expressed his concern regarding the DBZO review process. It was agreed that the

14 Commission would schedule a Workshop for 6:00 p.m., May 17th, 2006; to share their ideas and

15 formulate a plan as to what direction they will be proceeding.

16

17 IX. ADJOURN

18 There being no further business, the meeting was adjourned at 8:55 PM.

19

20

21

22

23

24 _____
Carla Duering, Recording Secretary

Carol Connors, President