

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, May 17, 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 7:00 PM.
13

14 II. APPROVAL OF MINUTES: April 19, 2006 Regular Meeting

15 Davilla moved to approve the Minutes of the April 19, 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: Taunton, Davilla, Connors, Goddard, Messina, McGavock, Bruce
22

23 III ITEMS FROM THE AUDIENCE

24 There were no items from the audience.
25

26 IV. PUBLIC HEARING ITEMS
27

28 A. Case File: #1-GEO-PC-06

29 Applicant: Rob & Joy Wilgus

30 Agent: Gary Stevens

31 Application: Geologic Hazards Permit

32 Map and Tax Lot: 09-11-05-DC #5100

33 Location: N.E. Whale Watch Court in View of the Bay Planned Development
34

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

1 The Applicant was given an opportunity to testify and answer questions from Commissioners. Gary
2 Stevens, 1044 S.W. Mark St., Newport, testified that he had the opportunity to review the Staff Report
3 prepared by Lewis and noted a minor modification to the submitted Plan: In order to lessen the visual
4 impact to an adjacent neighbor the retaining wall will be slightly lower and constructed of rock instead
5 of concrete. A Commissioner asked for clarification on the height of the retaining wall and emphasized
6 a possible vehicle related safety issue. Stevens specified at the garage area the height is 6'-8' which does
7 necessitate installing a curb. Connors called for Testimony in support of the Application. There was
8 none. Connors called for Testimony in opposition to the Application. Rick Davilla, 35 S.W.
9 Southpoint, stated he was not in opposition of the Application but did have a question to address to the
10 City Planner. Is a stone/rock retaining wall over 4' required to be engineered? Lewis deferred the
11 question to the Lincoln County Building Department. Stevens stated that the project is in the process of
12 being engineered and could incorporate the wall. A Commissioner asked if this is a natural stone wall.
13 Stevens replied yes. There was no Testimony in opposition. There was no request to keep the Record
14 open. The Public Hearing was closed and deliberations began.

15
16 Motion: Davilla moved to approve Case File #1-GEO-PC-06 and adopt the Conditions of Approval,
17 Items 1. thru 7. as recommended by the City Planner and in accordance with the Geotechnical
18 Investigation and Erosion Control Recommendations prepared by H.G. Shlicker & Associates, Inc.
19 Section 8.0 Conclusions and Recommendations. Goddard seconded the motion.

20
21 Connors said it was moved and seconded, and called for discussion. There was none.

22
23 Vote: Motion passed.
24 Ayes: Davilla, Connors, Goddard, McGavock, Bruce, Taunton
25 Abstain: Messina

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: #2-CS-PC-06
31 Applicant: Chris Edwardson
32 Application: Coastal Shorelands Development and Variance Request
33 Map and Tax Lot: 09-11-08-BD #6300
34 Location: 475 S.W. Coast Ave.

35
36 Connors said Testimony and evidence given must be directed toward criteria described by the City
37 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an
38 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
39 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that
40 issue. Application materials or other evidence relied upon by the Applicant had been provided to the
41 City and made available to the Public. She asked if any Commissioner had ex-parte contact, conflict of
42 interest, or bias to declare. There was none. Connors then asked if anyone had objection to any
43 Planning Commissioner hearing the case. There was no objection. Lewis summarized the Staff Report
44 (copy attached to original of these Minutes). Lewis noted Written Testimony was received after

1 preparation of the Staff Report from James T. and Louise M. Hayes, Erwin and Gelean Metz, and
2 Marjory Armstrong (copy attached to original of these Minutes). Lewis distributed the portion of the
3 submitted Plan illustrating the proposed house and existing garage elevations. Connors asked if the
4 Commissioners had any questions to address to the City Planner. The Commissioners asked Lewis to
5 clarify the minimum lot area standard and determination of building height of the proposed structure.
6 The Applicant was given an opportunity to testify and answer questions from Commissioners. Chris
7 Edwardson, 369 Walnut Ct., Dallas, stated his intention to build a beach house on the referenced small,
8 pre-existing lot; proposed Plan is modest in terms of its visual impact from the street; a good neighbor
9 home; conforming to the general appearance of the homes in the area. He portrayed his awareness of
10 the storm drainage situation. Edwardson did not have an opportunity to read the Written Testimony so
11 was unable to address the surrounding Property Owners' concerns. A Commissioner suggested moving
12 the proposed structure to the north to expand the visual area between the existing and proposed
13 structures; verified location and use of existing garage. Connors called for Testimony in support of the
14 Application. There was none. Connors called for Testimony in opposition to the Application. Jim
15 Hayes, 30 S.W. Heiberg Street, referenced his Written Testimony and stated some concerns not
16 mentioned in his letter. He contends that the lot line needs to be adjusted to correct the encroachment of
17 the existing house on the Subject Property (leaving a 2,800 sq. ft. lot) and asked Lewis to confirm
18 whether the building footprint or street level was used as the east side line of measurement when
19 figuring the building height. Lewis responded (after re-examining the submitted elevation) it is the
20 street. Commissioners and Lewis ensued in a brief discussion regarding the building height. Erwin
21 Metz, 530 Coast Avenue, reiterated the substandard lot size, Setback Standards, and the building height
22 impacting his ocean view. A Commissioner asked Metz and Hayes if their visual impact concern was
23 based on the building height or the minimal space between the structures. Both agreed their main
24 concern is the building height. Hayes specified Marge Armstrong, an adjacent Property Owner's (unable
25 to attend the Meeting) main concerns were the building footprint and height. Edwardson was given an
26 opportunity for rebuttal. He stated extensive vegetation, trees, and an existing garage on the Subject Lot
27 are currently impacting views; his proposed building height meets the DBZO Standard; and he is asking
28 for an approval of a Front Yard Setback Variance (to construct a deck adjacent to an existing garage that
29 is located on the front property line); he recognizes that constructing only a 2-story home would not
30 allow him to utilize all his rights as a Property Owner. There was no additional Testimony in
31 opposition. Hayes requested to keep the Record open to allow him the opportunity to submit additional
32 Written Testimony. Conversation occurred between Edwardson, Hayes, Lewis, and Connors.

33

34 Recess: 8:05 PM – 8:12 PM

35

36 Hayes withdrew his request to keep the Record open. The Public Hearing was closed and deliberations
37 began. Connors acknowledged the items to deliberate are the Coastal Shorelands Overlay Zone
38 specifically the Area of Visual Concern, Geotechnical and Geologic Hazards Evaluation, and a Variance
39 Request. There was lengthy discussion concerning moving the proposed structure to the north (align
40 with existing garage) to expand the visual area between the existing and proposed structures and
41 notifying the affected adjacent Property Owner of a modification in the Variance Request; remedy the
42 existing house and deck encroachment onto the Subject Lot and the creation of substandard lots; a
43 recorded easement to allow for the purpose of maintenance and repair of buildings; possible elimination
44 of the cantilever portion of the structure; exception to the 25' Area of Visual Concern; and deck

1 dimensions. It was the concensus of the Commission that all of the Engineering Geologist's
2 recommendations should be adhered to; adjacent affected Property Owner be notified since the Planning
3 Commission initiated a relocation of the proposed house to the north to align with the existing garage
4 (placing the house 4'6" from their south property line) and allowing them the opportunity to comment;
5 Applicant shall complete a Property Line Adjustment between Tax Lots 6300 and 6400 (extend around
6 the perimeter of the existing building and extend west to the west property line) and redefining the
7 recorded easement.

8
9 Motion: Davilla moved to approve Case File #2-CS-PC-06 and adopt the Conditions of Approval, Items
10 1. thru 11. as recommended by the City Planner and amend the Conditions to include *Item 12. The*
11 *Applicant shall complete a Property Line Adjustment to correct the encroachment between Tax Lots*
12 *6300 and 6400; Item 13. The north side of the proposed house will align with the north side of the*
13 *existing garage; Amend Section D. Findings, Item 2. Variance Request to The Planning Commission*
14 *finds that the circumstances for granting a Variance for the front yard deck do exist if the proposed*
15 *house is relocated to the north to align with the north edge of the existing garage. This results in a*
16 *Variance to the north side yard as well as the front yard. The Planning Commission finds the Variance*
17 *criteria for both the front yard and north side yard Variances do exist. Applicant's compliance with*
18 *these Conditions of Approval will improve the view corridors that are not in existence at this time.*
19 Direct Staff to prepare the Findings, Conclusions, and Final Order to be forwarded to the adjacent
20 affected Property Owner to make them aware of the potential decision and give them an opportunity for
21 comment (written response must be received by June 7, 2006) and for review and approval at the next
22 Planning Commission Meeting. McGavock seconded the motion.

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

25
26 Vote: Motion passed.

27 Ayes: Connors, Goddard, Messina, McGavock, Bruce, Taunton, Davilla

28
29 Edwardson asked the Commission and Lewis to confirm the tasks he needed to accomplish.

30
31 V. UNFINISHED BUSINESS:

32 There was none.

33
34 VI. CITY COUNCIL LIAISON REPORT

35 Connors reported (1) An Appeal was filed on a Planning Commission Decision (Case File: #1-V-PC-06
36 Waldport Seafood Company/Siletz Tribe Variance Request); (2) Nuisance Complaint – Property
37 Cleanup is not completed (130 S.W. South Point St.).

38
39 VII. PLANNER'S REPORT

40 There was none.

41
42 VIII. PLANNING COMMISSION CONCERNS

43 Connors expressed her concerns regarding Pirate Coffee Company and the City's Business License
44 Application Certification procedure. Determination to issue a Business License is based on information

1 provided by an Applicant who intentionally or unintentionally may have misrepresented the nature of
2 their business which could result in a business not complying with Off-Street Parking Requirements,
3 potential fees, etc. The City does not have any enforcement unless there is a complaint. Lewis
4 responded regarding City Staff's obligation to address the issue and recommended that during the
5 Review of the DBZO Parking Requirements the Commission might include a discussion on how to
6 resolve the compliance issue. The Commissioners ensued in a brief discussion.

7
8 IX. ADJOURN

9 There being no further business, the meeting was adjourned at 9:15 PM.

10
11
12
13 _____
Carol Connors, President

14 _____
15 Carla Duering, Recording Secretary