

1 Depoe Bay Planning Commission  
2 Regular Meeting  
3 Wednesday, October 18, 2006 - 7:00 PM  
4 Depoe Bay City Hall

5  
6 PRESENT: President C. Connors, D. Goddard, B. Taunton, E. Hough, S. McGavock, D. Davilla

7  
8 ABSENT: B. Bruce

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

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12 I. CALL MEETING TO ORDER

13 Connors called the meeting to order and established a quorum at 7:01 PM.

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15 II. APPROVAL OF MINUTES: September 20, 2006 Workshop and Regular Meeting

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17 Motion: McGavock moved to approve the Minutes of the September 20, 2006 Workshop and Regular  
18 Meeting as written. Taunton seconded the motion.

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

21  
22 Vote: Motion passed.

23 Ayes: Taunton, Connors, Hough, McGavock, Goddard

24 Abstain: Davilla

25  
26 III ITEMS FROM THE AUDIENCE

27 There were no items from the audience.

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29 IV. NEW BUSINESS

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31 A. Case File: #4-CU-PC-05 Applicant: City of Depoe Bay

32 Application: Conditional Use – Water Reservoir

33 Consideration to Extend the Earth Moving Period

34 From October 31, 2006 to November 30, 2006

35 Map and Tax Lot: 09-11-05-DC #101 Location: North End of N.E. Summit Place

36  
37 Lewis recapped the Findings, Conclusions, and Final Order for Case File #4-CU-PC-05 Order Item 6.  
38 *All earthmoving shall occur between June 1<sup>st</sup> and October 31<sup>st</sup>, only if weather permits.* He referenced  
39 City Field Superintendent, Terry Owings, written request (copy attached to the original of these  
40 Minutes). The earth work is approximately 90% complete however because of the unforeseen amount of  
41 rock that has been encountered the need for an extension has occurred.

1 Motion: McGavock moved to approve the Request to Extend the Earth Moving Period from October 31,  
2 2006 to November 30, 2006. Hough seconded the motion.

3  
4 Connors said it was moved and seconded, and called for discussion. There was none.

5  
6 Vote: Motion passed.

7 Ayes: Davilla, Connors, Hough, McGavock, Goddard, Taunton

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9 V. PUBLIC HEARING ITEMS

10 Connors explained the Public Hearing procedure, noting that this procedure applies to all Public Hearing  
11 Items (Agenda Items A. and B.) that will be heard this evening. Connors said Testimony and evidence  
12 given must be directed toward criteria described by the City Planner, or other criteria in the code that the  
13 Testifier believes applies to the request. Failure to raise an issue, accompanied by statements or  
14 evidence sufficient to afford the Commission and the parties an opportunity to respond to the issue  
15 precludes appeal to the State Land Use Board of Appeals on that issue. Application materials or other  
16 evidence relied upon by the Applicant had been provided to the City and made available to the Public.  
17 Commissioners will be asked for any declaration of ex-parte contact, conflict of interest, or bias to  
18 declare. The Public will have the opportunity to state objection to any Planning Commissioner hearing  
19 the Case. Applicants will have the opportunity to present information relevant to their Application,  
20 followed by Testimony in support of the Application, then Testimony in opposition, with the Applicant  
21 having the opportunity for rebuttal. Unless there is a request to hold the Record Open, Testimony will  
22 be closed and the Commission will enter into deliberations on the Application.

- 23  
24 A. Case File: #3-V-PC-06 Applicant: Ray and JoAnn Reichert  
25 Application: Variance Request  
26 Map and Tax Lot: 09-11-05-CD #08300  
27 Location: Between Williams Avenue and Bensell Place  
28

29 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Davilla  
30 declared her husband had been contacted by the Applicant (regarding building a home) and recused  
31 herself. Connors then asked if anyone had objection to any Planning Commissioner hearing the case.  
32 There was no objection. Lewis summarized the Staff Report (copy attached to original of these Minutes).  
33 Written Testimony was received from Ron Graves (copy attached to original of these Minutes). Connors  
34 asked if the Commissioners had any questions to address to the City Planner. A Commissioner asked if  
35 the Sideyard Setbacks could be reviewed and revised if necessary at the time a Geologic Hazards Permit  
36 Application is filed. Lewis replied yes. The Applicant was given an opportunity to testify and answer  
37 questions from Commissioners. JoAnn Reichert, 20 Seagrove Loop, Lincoln City stated that she had no  
38 testimony but would answer any questions. Connors asked the Applicant if it was acceptable to her that  
39 the Planning Commission waits to determine the Sideyard Setbacks until a Geologic Hazards Permit and  
40 Building Plans are received. Ray Reichert, 20 Seagrove Loop, replied that they would not be opposed.  
41 They have a copy of a Geologic Hazards Report dated November 1, 2005. Lewis asked if they would  
42 grant Mr. Grave's request (the Building Height as viewed from the east (Bensell Place) will not exceed 15

1 feet). Reichert stated they would. There was no Testimony in support of the Application. Connors called  
2 for Testimony in opposition to the Application. Steven Hausotter, 120 N.E. Williams Avenue, indicated  
3 he was not opposed but did have a concern. He has an existing Driveway encroaching on the westward  
4 side of the Subject Property and is asking for an assurance from the Applicant that they will not impact  
5 his Driveway. Lewis responded that the Applicant will maintain a minimum 20' setback from Williams  
6 Avenue and therefore the existing Driveway would not be impacted by the Variance Request. Hausotter  
7 cited Building Code and stated that a Geological Engineer may require the Applicant to construct a  
8 Retaining Wall. Ben Waters, current Property Owner, cut back the vegetation extensively and since then  
9 a tremendous amount of erosion has occurred. Lewis indicated that stability of the topography and the  
10 possibility of a need for a Retaining Wall would be reviewed at the time the Applicant applies for a  
11 Geologic Hazards Permit (Public Hearing Process). Reichert reiterated that Mr. Hausotter's Driveway  
12 (one of two) had nothing to do with the Variance Request. At the time the Driveway was built a prior  
13 Owner (Nash) probably owned both lots and it wasn't an issue. He will take care of the problem. There  
14 was no request to keep the Record open. The Public Hearing was closed and deliberations began. Lewis  
15 suggested adding an additional Condition of Approval *Building Height as viewed from the east (Bensell*  
16 *Place) will not exceed 15 feet.* Connors inquired how is the Commission assured that the maintenance of  
17 Bensell Place would be upheld regardless of change of Property Ownership. A Commissioner answered  
18 that the document would need to be recorded. Reichert asked if the maintenance of the roadway would be  
19 shared at the time other adjacent properties are improved. After a short discussion Lewis recommended  
20 amending Item 2. *Bensell Street Improvements. The Applicants shall be responsible for improvements to*  
21 *Bensell Street including: a. Roadway improvements and maintenance. The applicant shall provide*  
22 *adequate access, i.e. gravel surface, on Bensell Place from Williams Avenue to the driveway. Although*  
23 *public right-of-way, Bensell Place is not improved to City Standards and is not maintained by the City.*  
24 *The Applicant and Property Owners of future developed properties on Bensell Place will be responsible*  
25 *for maintaining Bensell Place to access the Subject Properties, i.e. gravel, filling potholes, etc. The*  
26 *Applicant shall record a document in the Deed Records of Lincoln County acknowledging maintenance*  
27 *responsibilities of Bensell Place.* Connors stated she was apprehensive to address the Sideyard Setbacks  
28 until after a Geological Hazards Report has been reviewed. Lewis advised the Commission to revise Item  
29 *1. c. Side Yards: The Side Yards shall be a minimum of 5 feet. The Side Yards shall be greater than 5*  
30 *feet and as close to the standard 1 foot to every 3 feet of Building Height as possible. The maximum Side*  
31 *Yards possible will be determined by the City once the detailed Building Plans are prepared. At the time*  
32 *a Geologic Hazards Permit is applied for, the Planning Commission will review and determine the*  
33 *minimum Side Yard Setbacks.*

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35 Motion: McGavock moved to approve Case File #3-V-PC-06 and adopt the Conditions of Approval,  
36 Items 1. thru 3. as recommended by the City Planner with the amended Conditions as discussed.  
37 Hough seconded the motion.

38  
39 Lewis reviewed the revised Conditions of Approval: 1. C. *Side Yards: The Side Yards shall be a*  
40 *minimum of 5 feet. The Side Yards shall be greater than 5 feet and as close to the standard 1 foot to*  
41 *every 3 feet of Building Height as possible. The maximum Side Yards possible will be determined by the*  
42 *City once the detailed Building Plans are prepared. At the time a Geologic Hazards Permit is applied*

1 for, the Planning Commission will review and determine the minimum Side Yard Setbacks.; Item 2.  
2 Bensell Street Improvements. The Applicants shall be responsible for improvements to Bensell Street  
3 including: a. Roadway improvements and maintenance. The applicant shall provide adequate access,  
4 i.e. gravel surface, on Bensell Place from Williams Avenue to the driveway. Although public right-of-  
5 way, Bensell Place is not improved to City Standards and is not maintained by the City. The Applicant  
6 and Property Owners of future developed properties on Bensell Place will be responsible for  
7 maintaining Bensell Place to access the Subject Properties, i.e. gravel, filling potholes, etc. The  
8 Applicant shall record a document in the Deed Records of Lincoln County acknowledging maintenance  
9 responsibilities of Bensell Place; and including an additional Condition Building Height as viewed from  
10 the east (Bensell Place) will not exceed 15 feet.

11 The Commissioners discussed including in the motion that the criteria for granting a Variance have been  
12 satisfied.

13  
14 Motion Amendment: McGavock amended the motion to include that the circumstances do exist for  
15 granting a Variance. Hough accepted the amendment.

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

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19 Vote: Motion as amended passed.  
20 Ayes: Connors, Hough, McGavock, Goddard, Taunton

21  
22 Davilla returned to her seat.

23  
24 Recess: 7:40 PM – 7:50 PM

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26 B. Case File: #1-PD-PC-06 Applicant: Charlie Leon Scrivner  
27 Application: Planned Development, Geologic Hazards Permit and Zone Change  
28 Map and Tax Lot: 09-11-05-DC #100, #3900, #4000, #4100 and 09-11-05-CD #7800  
29 Location: North of N.E. Collins Street and N.E. Summit Street

30  
31 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Davilla  
32 declared that she was a licensed Real Estate Agent and has the potential of selling lots in the proposed  
33 Subdivision. Connors acknowledged that she resides on Summit Place and is currently building a home  
34 on Summit Street. Connors then asked if anyone had objection to any Planning Commissioner hearing  
35 the case. There was no objection. Lewis summarized the Staff Report (copy attached to original of  
36 these Minutes). Lewis acknowledged that he had received comments from the City of Depoe Bay City  
37 Field Superintendent and the Lincoln County Road Maintenance Supervisor regarding the proposed  
38 development. Lewis noted that the Applicant provided a copy of an e-mail from Joshua L. Williams Fire  
39 Chief, Depoe Bay Fire District, after preparation of the Staff Report (copy attached to original of these  
40 Minutes). Written Testimony was received from Hans and Patty Kuhn including a cross-section  
41 drawing (copy attached to original of these Minutes) illustrating the proposed Sand Ave., one existing  
42 and two planned dwellings (Lot #19 and Lot #25). Connors asked if the Commissioners had any

1 questions to address to the City Planner. A Commissioner asked Lewis to clarify the maximum street  
2 grade? Lewis responded that the City Field Superintendent has indicated that the street grade is not to  
3 exceed 17½% (example: View of the Bay Planned Development). Connors announced that the  
4 Planning Commission has been convened since 6:00 p.m. (Workshop) and generally we endeavor to  
5 adjourn by 9:30 p.m. She reiterated that this is a complex Application and anticipates that the Public  
6 Hearing will be continued. Paul Hightower, P.E. (Civil and Traffic Engineer – practicing for over 20  
7 years), Hightower Engineering, 1520 S.E. 2<sup>nd</sup> Ave., No. 1, Albany. He gave a brief history of his  
8 relationship with the Subject Property: Hired by a previous client, John Miller (current Owner)  
9 regarding a proposed development (Sea Pointe); Mr. Miller is presently entered into a Real Estate  
10 Purchase and Sales Agreement; and he (Hightower) is here tonight representing Charlie Leon Scrivner  
11 (Purchaser) of the Subject Property and his intention to create a high-end, non-conventional  
12 development. Hightower gave a detailed Power Point Presentation (copy attached to original of these  
13 Minutes) of the proposed 35-Lot Single-Family Residential Planned Development. He summarized:  
14 they believe they have met all the requirements; perhaps there is some fear, recognizes there may be a  
15 lack of knowledge of the ability to construct and build on this topography and feels they should not be  
16 penalized for lack of knowledge; demonstrated the proposal in detail emphasizing tree preservation,  
17 there will not be a stability or erosion problem, met the City’s private road criteria (consistent with what  
18 has been done in the View of the Bay PD); improving existing City streets and intersections; providing a  
19 storm drainage plan that coincides with the City of Depoe Bay Master Plan; granting 40% open space;  
20 going the extra mile in every aspect (public system, private roads, geologic, vegetation) of land  
21 development. Discussion ensued regarding continuing the Public Hearing and requesting the Applicant  
22 to return with additional or revised information: Address Public Agency Comments; Pedestrian System;  
23 Geologic Hazards Report; Tree Preservation Plan; More Definition of Green Space/Open Space; Draft  
24 CC&Rs; Western Edge - Consider relocating Building Footprints and reconfiguring Lots #11, #19, and  
25 #24. Hightower encouraged the Commissioners to explore the Subject Property and the City of Depoe  
26 Bay Water Reservoir Project. Connors asked if the intention is to develop the lots to sell as opposed to a  
27 Construction Contractor/Developer (footprints may be altered). Hightower responded that the Developer  
28 may partner with another individual so it is possible they could be building some of the homes. He  
29 acknowledged that the Building Footprints could be changed, however it certainly would be restricted by  
30 constraints (setbacks, topography, etc.). It was the consensus of the Planning Commission to continue  
31 the Public Hearing to the November 15, 2006 Regular Meeting. Lewis recommended starting the  
32 Regular Meeting at 6:00 p.m. in lieu of the Workshop (include the Zoning Ordinance Review on the  
33 Regular Meeting Agenda). The Commissioners agreed.

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35 VI. CITY COUNCIL LIAISON REPORT  
36 Connors reported that she would ask the City Council to consider making a determination in December  
37 on rescheduling (Wednesday between the first and second City Council Meeting each month) the  
38 Planning Commission Meeting so Commissioners could make arrangements to attend the meeting in  
39 January.

40  
41 VII. PLANNER'S REPORT  
42 Lewis reviewed his report (copy attached to the original of these Minutes).

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2 VIII. PLANNING COMMISSION CONCERNS  
3 McGavock asked for clarification regarding CC&Rs; Connors inquired about the process for requesting  
4 an extension of the 120-Day Decision Date; Davilla announced her unopposed candidacy for City  
5 Council Position #5 and that she will be resigning from the Planning Commission effective January 1<sup>st</sup>  
6 unless the Commission would like her to resign earlier; Connors mentioned her concern regarding  
7 Planning Commissioners fulfilling the duties of their position specifically attending and participating in  
8 the Meetings. The Commission discussed options available: Chat with the Mayor and/or Commissioner  
9 regarding the matter; request the Commissioner voluntarily resign; or follow the procedure dictated by  
10 State Law for removing a Commissioner from office.

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12 IX. ADJOURN  
13 There being no further business, the meeting was adjourned at 10:00 PM.

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18 Carol Connors, President

19 \_\_\_\_\_  
20 Carla Duering, Recording Secretary