

1 Depoe Bay Planning Commission  
2 Regular Meeting  
3 Wednesday, December 20, 2006 - 6:00 PM  
4 Depoe Bay City Hall

5  
6 PRESENT: President C. Connors, D. Goddard, B. Bruce, S. McGavock, D. Davilla (Arrived 6:03  
7 PM), B. Taunton (Arrived 6:03 PM)

8  
9 ABSENT: E. Hough

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

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13 I. CALL MEETING TO ORDER

14 Connors called the meeting to order and established a quorum at 6:01 PM.

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16 II. APPROVAL OF MINUTES: November 20, 2006 Regular Meeting (Postponed until Arrival of  
17 additional Members - Prior to Public Hearing Items).

18  
19 Motion: Goddard moved to approve the Minutes of the November 20, 2006 Regular Meeting as written.  
20 Taunton 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: Connors, Goddard, Taunton

26 Abstain: Bruce, McGavock, Davilla

27  
28 III ITEMS FROM THE AUDIENCE

29 There were no items from the Audience.

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31 IV. PUBLIC HEARING ITEMS

32 Connors said Testimony and evidence given must be directed toward criteria described by the City  
33 Planner, or other criteria in the code that the Testifier believes applies to the request. Failure to raise an  
34 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an  
35 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that  
36 issue. Application materials or other evidence relied upon by the Applicant had been provided to the  
37 City and made available to the Public. Commissioners will be asked for any declaration of ex-parte  
38 contact, conflict of interest, or bias to declare. The Public will have the opportunity to state objection to  
39 any Planning Commissioner hearing the Case. Applicants will have the opportunity to present  
40 information relevant to their Application, followed by Testimony in support of the Application, then  
41 Testimony in opposition, with the Applicant having the opportunity for rebuttal. Unless there is a  
42 request to hold the Record Open, Testimony will be closed and the Commission will enter into  
43 Deliberations on the Application.

44  
45 A. Case File: #6-CS-PC-06 (Continued) Applicant: Greg & Barb Burge  
46 Application: Development in the Coastal Shorelands Overlay Zone

1 Map and Tax Lot: 09-11-08-CB #4316  
2 Location: Between 525 and 535 S.W. Point Ave.  
3

4 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There  
5 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.  
6 There was no objection. Lewis summarized the Staff Report (copy attached to original of these Minutes).  
7 Connors asked if the Commissioners had any questions to address to the City Planner. A Commissioner  
8 asked for clarification regarding the line of measurement for the 25' Area of Visual Concern Setback (the  
9 Top of the Coastal Bluff or the line of Non-Aquatic Vegetation). Lewis illustrated using the Property  
10 Line Adjustment Survey provided by the Applicant that he determined the line of measurement is the  
11 Top-of-the-Bluff (5'-7' landward from the Vegetation Line). Connors reiterated that this is a Continued  
12 Public Hearing (The Record was kept open for 7 days for additional Testimony - No Testimony was  
13 received).

14  
15 Motion: McGavock moved to approve Case File #6-CS-PC-06 and adopt the Conditions of Approval,  
16 Items 1. thru 5. as recommended by the City Planner. Goddard 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: Goddard, Taunton, Connors, Bruce, McGavock

22 Abstain: Davilla  
23

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

29 Connors announced that the Applicant has withdrawn his Application.  
30

31 C. Case File: #4-V-PC-06 Applicant: Dennis J. Bachman  
32 Application: Variance Request  
33 Map and Tax Lot: 09-11-08-CB #5100  
34 Location: 424 S.W. Cliff St.  
35

36 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Davilla  
37 declared that she was the Real Estate Agent that sold the property to Mr. and Mrs. Bachman and recused  
38 herself. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.  
39 There was no objection. Lewis summarized the Staff Report (copy attached to original of these  
40 Minutes). Written Testimony was received from S. Lee and Howard Pruitt (copy attached to original of  
41 these Minutes). Connors asked if the Commissioners had any questions to address to the City Planner.  
42 Connors asked Lewis to verify the Setbacks of the proposed north and southwest additions. Lewis  
43 estimated +/- 15' for the southwest addition and 20+ for the north addition. The Applicant was given an  
44 opportunity to testify and answer questions from Commissioners. Dennis Bachman, 34 Cliff St., stated  
45 his Narrative clearly addresses his request but did want to mention that due to the odd shape nature of  
46 the lot and the extreme grade no adjacent views would be obstructed by the proposed additions

1 (referenced the Photographs submitted with his Application) and the neighborhood would essentially be  
2 enhanced. There was no Testimony in support of the Application and no Testimony in opposition.  
3 There was no request to keep the Record Open. The Public Hearing was closed and Deliberations  
4 began. The Commissioners discussed the removal of the deck and the extent of the remodel. They  
5 concluded that the front-yard encroachment was unusual as it would not affect visibility at the  
6 intersection of S.W. Cliff St. and S.W. Point Ave. Lewis asked Bachman if the existing stairs on the  
7 west side would be removed (an improvement to the Setback). He replied yes. Jeanine Bachman, 34  
8 Cliff St., addressed the abnormally designed house (exterior stairs to front door, spiral staircase in the  
9 middle of the living room, no downstairs) and their intention to have a ground-level front door entering  
10 into a stairwell.

11  
12 Motion: Goddard moved to approve Case File #4-V-PC-06 and adopt the Conditions of Approval, Items  
13 1. and 2. as recommended by the City Planner. The Variance Request satisfies the applicable criteria.  
14 Bruce seconded the Motion.

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

17  
18 Vote: Motion passed.  
19 Ayes: Taunton, Connors, Bruce, McGavock, Goddard

20  
21 Davilla returned to her seat.

22  
23 **D. Case File: #1-S-PC-06 Applicant: M.B. Houston Trust**  
24 Application: Subdivision and Variance  
25 Map and Tax Lot: 09-11-05-CA Supplemental Map No. 1  
26 #91000, #91016, #91017, and #91018  
27 Location: 123 N.W. Sunset St.

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29 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There  
30 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.  
31 There was no objection. Lewis acknowledged the unique circumstance of the Subject Property (DBZO  
32 does not allow a typical Townhome Development without approval of a Variance – The Planning  
33 Commission may want to consider in the future allowing Townhome Development as an outright  
34 permitted use in Multi-Family Residential Zones) and identified the difference between a Townhome  
35 and a Condominium Development. Lewis summarized the Staff Report (copy attached to original of  
36 these Minutes). Written Testimony was received from Doris Steubs Beman (copy attached to original of  
37 these Minutes) after preparation of the Staff Report. Connors asked if the Commissioners had any  
38 questions to address to the City Planner. A Commissioner asked for an explanation regarding the  
39 assigned Tax Lot Numbers. Lewis clarified that the numbers were assigned to the Condominiums not  
40 necessarily separate Tax Lots (currently the Subject Area is recorded as one Tax Lot – the Applicant is  
41 requesting approval of a Subdivision – Three Lot Townhouse Development and a fourth Lot as Common  
42 Yard/Landscape Area). A Commissioner questioned who would own the fourth Tax Lot should the  
43 Planning Commission move to approve the Application. Lewis responded the Applicant has proposed  
44 that the Homeowner’s Association (consisting of the Owners of the three Dwellings) would be the Legal  
45 Property Owner. A Commissioner reiterated that The Harbor at Depoe Bay Condominiums initiated  
46 action to remove the Subject Property from the project. The Applicant was given an opportunity to

1 testify and answer questions from Commissioners. Joan Chambers, Attorney representing the Applicant,  
2 4488 N.E. Devils Lake Blvd., Lincoln City, stated that her client, Don Houston, Trustee for M.B.  
3 Houston Trust, had intended to be here tonight but several days ago called and said he would not be able  
4 to attend (18" of snowfall). She agreed with Lewis that this is a unique situation and recapped the nature  
5 of the request as detailed in her prepared Narrative (copy attached to the Staff Report). She presented  
6 the rationale for pursuing a conversion to a Townhome Development versus a Condominium  
7 Development. She responded to the Commissioners' discussion regarding who would own the 4<sup>th</sup> Tax  
8 Lot - The Tax Assessor generally allocates a portion of the value to each of the Owners (there may not  
9 be an assigned Tax Lot Number to the Common Area). She stated there were no issues with the Staff  
10 Report or the Conditions of Approval and urged the Commission to vote in favor of the Application.  
11 She specifically referred to Item 6. of the Staff Report and addressed the five Circumstances for granting  
12 a Variance. She distributed a copy of a Recorded Easement (referenced in Doris Geubs Beman's  
13 Written Testimony) and emphasized *Said easement shall not be perpetual in nature, but shall be for the*  
14 *benefit of Parcel 1 and any subsequent owner thereof, for the purpose of maintaining and having access*  
15 *to the existing house and deck improvements for the remaining useful life thereof provided, however,*  
16 *that at such time as the same shall be removed, rebuilt or otherwise replaced, no substituted or*  
17 *additional improvement shall be placed in the area of the easement, and the easement shall thereupon*  
18 *terminate.* There was brief discussion regarding: The decision to separate the units from the The Harbor  
19 Condominium Association was made prior to the Applicant's purchase of the property; the vacating of  
20 the portion of the Plat relating to the Spyglass Units; writing provisions concerning the obligation to  
21 repair, the Homeowner's exclusive use of the driveway attached to their unit (as opposed to an  
22 easement) and the use of the remaining Common Area. There was no Testimony in support of the  
23 Application and no Testimony in opposition. There was no request to keep the Record Open. The  
24 Public Hearing was closed and Deliberations began.

25  
26 Motion: Davilla moved to approve Case File #1-S-PC-06 and adopt the Conditions of Approval, Items  
27 1. thru 3. as recommended by the City Planner and acknowledged that all of the criteria for granting a  
28 Variance have been satisfied. McGavock seconded the Motion.

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

31  
32 Connors recommended that the Conditions of Approval further address Easements. Lewis suggested  
33 revising Item 2. c. *A Plat and one exact copy meeting the requirements of DBZO Section 15.100 and*  
34 *ORS 92.050-92.100. All existing and proposed Access and Utility Easements on Lot #4 (the*  
35 *Common/Open Space Lot) that are granted to Lots #1-3 (the Lots with the Residential Dwellings) shall*  
36 *be described on the Plat.* A Commissioner clarified that the revision did not include the referenced  
37 Perpetual Easement. Connors felt that Beman may not understand the nature of the Easement she  
38 mentioned in her letter. Lewis responded it would be appropriate that he cite excerpts of the Recorded  
39 Easement in the Findings.

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41 Motion Amendment: Davilla amended the Motion to include All Parties are aware of the existence of  
42 the Non-Perpetual Easement abutting Lots #8 and #9. McGavock accepted the Amendment.

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

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46 Vote: Motion as amended passed.

1                   Ayes: Davilla, Connors, Bruce, McGavock, Goddard, Taunton

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3 V.     UNFINISHED BUSINESS:

4 There was none.

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6 VI.    CITY COUNCIL LIAISON REPORT

7 There was none.

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9 VII.   PLANNER'S REPORT

10 Lewis reviewed his Report (copy attached to the original of these Minutes). McGavock questioned the  
11 status of the Stop Work Order issued by the State of Oregon Department of State Lands on a Project in  
12 Little Whale Cove. Lewis responded it is his understanding that they are allowing construction to  
13 resume in the region outside the area of concern.

14  
15 VIII.  PLANNING COMMISSION CONCERNS

16 McGavock confirmed that the Planning Commission Meeting has changed to the second Wednesday of  
17 the month. Goddard was curious why the Subdivision Application (Case File: #1-PD-PC-06, Charlie  
18 Leon Scrivner, Applicant) was withdrawn. Lewis replied per his conversation, the Applicant essentially  
19 said he realizes he has invested a lot of time and money into the Proposed Project but has decided not to  
20 pursue the purchase of the property at this time. Davilla announced her resignation. She offered her  
21 support to the Planning Commission as a recently elected City Council Member. She stated it has been a  
22 very rewarding experience and she thoroughly loved hearing the last Case – very intriguing. Connors  
23 thanked Davilla for all her hard work. Connors noted she would like to discuss allowing Townhome  
24 Development as an outright permitted use in Multi-Family Residential Zones (continue DBZO review).  
25 Lewis announced the first Public Hearing relating to Amendments to the Parking Requirements will be  
26 at the February 14, 2007 Meeting.

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28 IX.    ADJOURN

29 There being no further business, the meeting was adjourned at 7:25 PM.

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34 Carol Connors, President

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37 Carla Duering, Recording Secretary