

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Thursday, July 5, 2007 - 6:00 PM
4 Depoe Bay City Hall

5
6 PRESENT: President C. Connors, V. Sovern, D. Goddard, E. Hough

7
8 ABSENT: B. Taunton, S. McGavock, B. Bruce

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

11
12 I. CALL MEETING TO ORDER

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

14
15 II. APPROVAL OF MINUTES: June 13, 2007 Regular Meeting.

16
17 Motion: Sovern moved to approve the Minutes of the June 13, 2007 Regular Meeting as written.
18 Goddard 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: Sovern, Goddard, Connors, Hough

24
25 III ITEMS FROM THE AUDIENCE

26 There were no items from the Audience.

27
28 IV. PUBLIC HEARING ITEMS

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

42
43 A. Case File: #2-CS-PC-07

44 Applicant: Dina Orlova

45 Application: Request for Coastal Shorelands and Geologic Hazards Permit

46 Map and Tax Lot: 09-11-08-CA #6801 Location: 155 S.W. Cliff St.

1 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
2 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.
3 There was no objection. Lewis summarized the Staff Report (copy attached to original of these
4 Minutes). Written Testimony was received after preparation of the Staff Report from Brett Harrison,
5 Jim and Helen McCoy, and Randy Noia (copies attached to original of these Minutes). Connors asked if
6 the Commissioners had any questions to address to the City Planner. There were none. The Applicant
7 was given an opportunity to testify and answer questions from Commissioners. Tim Dunkin, testified
8 that he and Dina Orlova have been very methodical and diligent throughout this process and believe they
9 have covered all the bases – Working within the constraints of the Lot; two (2) Geotechnical Engineer
10 Reviews; utilized Bob Sly of Willamette Earth Sciences; met the minimum Yard Setback Requirements;
11 and are asking for an Exception to the 40’ Area of Visual Concern. He identified the following:
12 Reducing the footprint to a depth of 25’ would be detrimental to the Home’s value and aesthetic appeal;
13 believes neither one of the surrounding Properties are 40’ landward from the Top of the Coastal Bluff;
14 proposing to construct a very attractive and valuable Home, meets the Engineering Criteria (overbuilt on
15 the Foundation); not aware of any Geological Concerns on adjacent Properties. A Commissioner asked
16 if he is the Builder or the Owner. He replied both. A Commissioner referred to Written Testimony that
17 stated witnessing extensive Erosion (over the last 18 years) and commented that she has as well. Dunkin
18 stated in his opinion any Ocean Front Lot has a certain amount of risk. He assured the Commission that
19 they have taken precautions i.e. Pilings; 50-Year Design Life; and both Geotechnical Engineers reviewed
20 data over the last 30-40 years and compared it to the Lot today. A Commissioner asked what are the
21 Footprint dimensions and total sq. footage of the proposed Home. Dunkin replied approximately
22 28’x42’ and 3,000 sq. ft. Connors asked the Applicant if he was willing to revise the design and
23 construction of the back Deck so that no Concrete Pier or Pilings would extend closer than 25 feet from
24 the Top of the Coastal Bluff. Dunkin answered absolutely. Connors asked the Applicant if he had
25 considered utilizing more of the sides versus extending into the Area of Visual Concern. Dunkin
26 responded to mitigate visual impact concerns from the Neighbors from the south side of Cliff Street they
27 chose to keep the design narrow. Connors called for Testimony in support of the Application. There
28 was none. Connors called for Testimony in opposition to the Application. Brett Harrison, 170 Cliff St.,
29 noted that he submitted Written Testimony addressing his concerns regarding Erosion and the Area of
30 Visual Concern. He acknowledged that this is an extremely small Lot and the Applicant is attempting to
31 maximize its potential; after investigation, research, and perusing of documents he doesn’t believe there
32 is adequate reason to allow an Exception to the Area of Visual Concern. Connors asked what are your
33 feelings regarding the Applicant’s comments on submitting a narrow versus a wider design. He shared
34 his personal experience of a major catastrophe on Bainbridge Island, Washington. He reiterated his
35 concern for safety; for a variety of reasons as stated in his Letter the exception request should be denied;
36 in terms of someone maximizing width according to Code, so be it. There was no further Testimony in
37 opposition to the Application. Dunkin disagreed that the Subject Lot (pie-shaped, 43’ wide at the front
38 and 90’ wide along the Bluff) is small (a number of Lots in the Coastal Region are 50’x75’, etc.). He
39 restated: the 15’ exception into the Area of Visual Concern is minimal (may adversely affect 3-5 degrees
40 of the View Corridor at 145 Cliff St. but does not seem to impact Mr. Harrison); restated the
41 precautionary measures they have taken; paid a substantial amount of money for the Subject Lot with the
42 intent to build a reasonably sized Home on a small Footprint (only 1 corner of the Home is projected
43 substantially into the Area of Visual Concern). The Commission and Applicant ensued in a lengthy
44 discussion regarding: Reconfiguring the Footprint (maximizing the width; increase the Coastal Setback
45 - Area of Coastal Erosion, and eliminating the Encroachment in the Area of Visual Concern);
46 Applicant’s desire to maintain the aesthetics of the Home and retaining his investment. There was no

1 request to keep the Record Open. The Public Hearing was closed and Deliberations began. A
2 Commissioner asked Lewis to define FS in the Geologic Hazards and Geotechnical Evaluation (page 20)
3 *The 25 foot Setback includes a 1.5 FS, a 5 foot buffer, and five feet to account for the overhang in the*
4 *edge of the Cliff.* Lewis answered Factor of Safety.

5
6 Motion: Sovern moved to deny Case File #2-CS-PC-07 Request for Coastal Shorelands and Geologic
7 Hazards Permit. Goddard seconded the Motion.

8
9 Connors said it was moved and seconded, and called for discussion. A Commissioner voiced extreme
10 concern regarding the sloping off of the Bluff and undercut, (having witnessed it over the past 6-7 years).
11 Connors asked Lewis what are the alternatives to denying the Application (Applicant would have to
12 reapply and pay fees again). Lewis listed the following options: Deny the Application; reopen the
13 Public Hearing and advise the Applicant to submit a revised Site Plan (recommend at least 2 weeks prior
14 to the August 8, 2007 Planning Commission Meeting) specifying the parameters for the Minimum
15 Setbacks; or approve the Application with an amended Condition of Approval identifying the Minimum
16 Setbacks.

17
18 Motion Withdrawn: Sovern withdrew her Motion.

19
20 The Applicant asked the Commission if he could submit a revised Footprint and Site Plan rather than
21 Engineered Plans and what is their recommendation in regards to Setbacks. The Commission and
22 Applicant continued to discuss the matter. An Audience Member cautioned the Commission concerning
23 advising the Applicant. It was the consensus of the Commission to continue the Public Hearing (reopen
24 Testimony) and to direct the Applicant to submit a revised Footprint and Site Plan offering the following
25 guidelines: Illustrate a minimum 7' Sideyard Setback; increase the Coastal Setback – Area of Coastal
26 Erosion; maximize the width i.e. move bulk of the square footage to the side rather than the back, extend
27 the left portion of the Home forward approximately 5' to align with Garage. Dunkin thanked the
28 Commission for their cooperation.

29
30 B. Case File: #2-PD-PC-07

31 Applicant: Carl Taylor, Pacific Coast Venture Group, Inc.

32 Application: Planned Development, Geologic Hazards, Variance, and Zone Change

33 Map and Tax Lot: 09-11-08 #500 and #600

34 Location: East side of Highway 101, South of South Point Street

35
36 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
37 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.
38 There was no objection. Lewis summarized the Staff Report (copy attached to original of these
39 Minutes). Written Testimony was received from Meriwether Northwest Oregon Land & Timber, L.L.C.
40 and Patricia Neal. Written Testimony was received after preparation of the Staff Report from the State of
41 Oregon Department of Transportation, Patricia Neal (an addendum to Letter of June 25, 2007 and a copy
42 of June 25, 2007 Letter (addressed to the State of Oregon Department of Transportation), and Katherine
43 Pyle. Lewis noted a conflict in the Staff Report regarding the Street Stubs to the adjacent east and south
44 (if feasible) Property Lines for future street extension – He clarified that they would be Public Streets
45 subject to the Public Street Standards (i.e. minimum 40' Right-Of-Way width, minimum 28' pavement)
46 maintained by the City rather than the Developer or Homeowners Association. Connors asked if the

1 Commissioners had any questions to address to the City Planner. Connors asked Lewis to identify the
2 property adjacent to the proposed Emergency Access. Lewis answered it is City of Depoe Bay Property
3 that accesses the existing Water Reservoir and should be subject to approval by the Depoe Bay Rural
4 Fire Protection District and the City Field Superintendent (assure that it will be gated emergency vehicle
5 access only, in order to maintain security). A Commissioner asked Lewis to verify the number of Storm
6 Water Retention Ponds and their locations. Lewis deferred to the Applicant. A Commissioner
7 questioned if the proposed Development's Entrance (off Hwy. 101) is currently marked with an orange
8 flag. Lewis deferred to the Applicant. The Applicant was given an opportunity to testify and answer
9 questions from Commissioners. Carl Taylor, Pacific Coast Venture Group, Inc., 807 Hazeltine Ave.,
10 S.E., Salem stated this has been an interesting process. He is continually impressed that the DBZO
11 (Depoe Bay Zoning Ordinance) works and expressed his appreciation. He has been working with
12 Katherine Pyle (current owner) for a couple of years gaining her confidence. She is the most
13 knowledgeable Seller he has ever encountered and that has been extremely helpful. He is excited about
14 the opportunity to present their Proposal and its contribution to Depoe Bay. He introduced Troy Plum,
15 P.E., PacWest Engineering, and indicated he will be addressing the Commission this evening. A
16 Commissioner commended him on proposing Housing that existing Residents might be able to afford,
17 appears to be good use of the Property, and appreciated his ability to design a Planned Development
18 without a Request for Variance. Carl Taylor reiterated that the Code works. Troy Plum, Civil Engineer,
19 1530 Ninth Avenue S.E., Albany, gave a brief Presentation of the proposed maximum 146-Lot (138
20 Attached Dwellings and 8 Detached) Planned Development. He indicated that several items have come
21 up since that will require re-configuration (i.e. Stub-Outs to the east and the south). He illustrated (using
22 the proposed Site Plan) the location of the Open Space, Pedestrian Path, and several Retaining Walls
23 (reduce the slopes on most Lots to less than 20% finished grade). He acknowledged that the Applicant
24 would apply for a Geological Hazards Permit on Lots where applicable; stressed intention to comply
25 with State Agency (i.e. Oregon Department of Transportation, Department of Environmental Quality,
26 etc.) and City Regulations; assured the Commission that the Post Development Storm Water Run-Off
27 will be detained in Ponds so that it is released at a rate less than Pre-Development (Catch Basins and
28 Storm Drains will be in the middle of the Road); in response to Oregon Department of Transportation's
29 recent Letter Applicant is coordinating with a Traffic Engineer to do a Traffic Impact Analysis
30 (anticipate Hwy. 101 access may be relocated and the necessity for Left and Right Turn Lanes). A
31 Commissioner readdressed the location of the Retention Ponds. Plum responded the general vicinity
32 will be at the low end of the Access Road (southwest portion of the Property) and at the lowest
33 topography point (northwest portion of the Property). Connors asked if the Applicant is the
34 Developer/Builder and how do they propose selling the Lots. Plum responded a Buyer/Contractor will
35 purchase 2 or more Lots and construct per CC&R Standards 2 attached (0 Lot Line) Single-Family
36 Dwellings or there is the possibility that someone may purchase and consolidate the 2 Lots and build a
37 Single-Family Dwelling. The Commission and Applicant discussed minor modifications to the rough
38 draft CC&Rs (Covenants, Conditions and Restrictions of Majestic Pacific Vistas Subdivision
39 Homeowners' Association); designating a Lot for RV Storage; Open Space provision for Park and/or
40 Gazebo View Point; Water Reservoir location, capacity (approximately 200,000 gal. minimum - driven
41 by Fire Flow, determined by Fire Marshall), and Developer's responsibility for design and construction
42 and the City's responsibility for maintenance upon completion; some Homes may require a Water Pump
43 to increase water pressure; identified the Lots proposed for Detached Single-Family Dwellings; goal to
44 preserve Ocean Views; terrain does not permit a 2nd access to Hwy. 101 and improbable to receive
45 O.D.O.T. approval if requested; additional access feasibility if shorter cul-de-sac were extended into the
46 property to the south; access to Hwy. 101 is approximately 500' from Little Whale Cove Hwy. 101

1 Entrance; clarified 30' Easement for Emergency Vehicle Access. Plum requested the Commission to
2 consider amending the Conditions of Approval should they move to Preliminary Plan Approval to clarify
3 who will be responsible for Street and Pedestrian Trail Maintenance (Private versus Public). Connors
4 called for Testimony in favor of the Application. Rick Davilla, 35 Southpoint, testified that he is a firm
5 believer in allowing a Property Owner to develop their property as long as they fall within the
6 requirements of the State and Local Jurisdictions. He noted he wanted to state for the Record his
7 concern regarding Storm Water Drainage (does not want to see an increased impact into the system that
8 extends across Southpoint to the Ocean; existing Culvert has reached its maximum capacity and
9 probably should be enlarged); adherence to Architectural Committee and CC&Rs Standards (preserves
10 the value and protects the Homeowners). Patricia Neal, 1075 Walking Wood (Little Whale Cove),
11 reiterated that the Applicant has addressed the Street Storm Drainage System and indicated the potential
12 for numerous Builders. She is extremely concerned with Storm Drainage considering the Halvorson
13 Mason Tract "D" (6 Duplexes currently under construction) and the proposed 146-Lot Development; the
14 impact on Little Whale Cove Homeowners (several low points, Water Table on her Property is 12"
15 underground), the Creek, and Culvert on Southpoint; a significant amount of Water Runoff (Roofs &
16 Property) will be flowing into the Little Whale Cove Development Storm Drainage System (poorly
17 placed Ditches); stressed that the Proposed Development needs to specifically address Storm Water in
18 the Architectural Standards and CC&Rs (may be more difficult to enforce with numerous Builders as
19 opposed to one). She is not sure how effective the Catch Basins and Storm Water Retention Ponds
20 will be and requested the Commission to include explicit requirements concerning Water in the
21 Conditions of Approval. Troy Plum testified that Storm Water is a huge issue consequently the
22 Standards have become more stringent; any impervious surface (i.e. Driveways, Roads, Roof-Tops)
23 created will be dealt with, reviewed by Professional Engineers and subject to approval by O.D.O.T. and
24 the City; Retention Ponds are designed with a Factor of Safety but are not flawless (typical problem is
25 clogged discharge orifices which can be resolved by proper maintenance by Homeowners Association
26 per CC&R Regulation); Storm Drain Infrastructure will be in place prior to Home Construction
27 (Contractors will be made aware of Tie-Ins); recognizes Storm Water Analysis is difficult to understand
28 (a lot of variables) and he intends to be conservative. Connors asked Lewis to verify if the Building
29 Permit Application process requires the Storm Water Drainage Plan be approved by the City Field
30 Superintendent. Lewis responded the City Field Superintendent reviews all Building Permit
31 Applications. Connors suggested that perhaps a Condition of Approval could be added to ensure that
32 each Building Permit Application includes a Storm Drainage Plan Review. Lewis assured Connors that
33 the City Superintendent already evaluates each Application. Plum added that O.D.O.T. Regulations
34 supercedes the City of Depoe Bay Standards. There was no further Testimony in support and no
35 Testimony in opposition. The Public Hearing was closed and deliberations began. A Commissioner felt
36 the Applicant has addressed all of the concerns and is in favor of granting Preliminary Plan Approval.

37
38 Motion: Sovern moved to grant Preliminary Plan Approval for Case File #2-PD-PC-07, Planned
39 Development, Geologic Hazards Permit, and Zone Change and adopt the Conditions of Approval, Items
40 1. thru 13. as recommended by the City Planner and including the additional Recommended
41 Amendments. She asked Lewis to restate the amended Conditions. Lewis identified the following:
42 Item 6. Pedestrian Trails. Insert *Pedestrian Trails will be in Public Right-Of-Way, maintained by the*
43 *Homeowners Association*. Revise Item 9. Geotechnical Recommendations for Infrastructure. *Design*
44 *and construction of Streets, Utilities, and Retaining Walls shall be in accordance with the (attached) 23*
45 *Recommendations described in the June 4, 2007 Geotechnical Investigation*. He believes that Item 11.
46 Storm Drainage System is sufficient, could insert language *There will not be any increased Storm Water*

1 *Run-Off Off-Site* but between the City, O.D.O.T. and D.E.Q., all three agencies require that. Item 8.
2 Streets and Stub-Outs. Insert *Preliminary Plan Approval is granted and Final Approval is contingent*
3 *upon the Applicant demonstrating authorization from O.D.O.T. Streets within the Planned*
4 *Development that do not stub to Property Lines (i.e. cul-de-sac) may be Private Streets. Private Streets*
5 *shall have a minimum Right-Of-Way width of 40 feet with a minimum pavement width of 22 feet subject*
6 *to approval from the City Field Superintendent and Depoe Bay Rural Fire Protection District. Hough*
7 seconded the Motion.

8
9 Connors said it was moved and seconded, and called for discussion. Connors repeated her desire for the
10 Applicant to make provisions for a Park and/or Amenities on the south or north side prior to Final
11 Approval; Applicant to submit modified CC&Rs. Plum (from the Audience) clarified that Public Streets
12 are maintained by the Public and Private Streets by the Homeowners Association.

13
14 Vote: Motion passed.

15 Ayes: Goddard, Connors, Hough, Sovern
16

17 It was the consensus of the Commission to direct Lewis to prepare the revised Findings, Conclusions and
18 Final Order for Planning Commission Review at the next Meeting (August 8, 2007). A Commissioner
19 acknowledged that ultimately a Development of this size will provide funds through SDCs (System
20 Development Charges) for Park expansion and improvements i.e. Baseball Field.

21
22 VI. CITY COUNCIL LIAISON REPORT

23 Connors reported the City Council moved to direct Staff to draft the Proposed Depoe Bay Zoning
24 Ordinance Text Amendments Regarding Parking Regulations Parking Amendments in Ordinance form,
25 and directed Staff to add "*or when the use is changed*" to Section 19.b. and to create a provision to
26 exempt Residents of Single Family Dwellings located on Hwy 101 from Parking Restrictions.

27
28 VII. PLANNER'S REPORT

29 Lewis reviewed his Report (copy attached to the original of these Minutes).
30

31 VIII. PLANNING COMMISSION CONCERNS

32 Goddard expressed her concern regarding the capability of the City's Infrastructure (specifically the
33 pipes) to withstand the increased demand on the System as Development occurs. Lewis stated the Fiscal
34 Year 2007-2008 Budget has allotted funds to update the City Master Plan (an Engineering Firm will
35 address the overall capacity of Sewer, Water, and Storm Drainage Systems taking into consideration
36 Existing and Proposed Development). Sovern excused herself.

37
38 IX. ADJOURN

39 There being no further business, the meeting was adjourned at 8:43 PM.
40
41

42
43 _____
44 Carol Connors, President

45
46 _____
Carla Duering, Recording Secretary