

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, August 8, 2007 - 6:01 PM
4 Depoe Bay City Hall

5

6 PRESENT: President C. Connors, S. McGavock, V. Sovern, B. Taunton, B. Bruce, E. Hough

7

8 ABSENT: D. Goddard

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: July 5, 2007 Regular Meeting.

16

17 Motion: Hough moved to approve the Minutes of the July 5, 2007 Regular Meeting as written. Sovern
18 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, Connors, Hough

24 Abstain: McGavock, Taunton, Bruce

25

26 III ITEMS FROM THE AUDIENCE

27 There were no items from the Audience.

28

29 IV. PUBLIC HEARING ITEMS

30

31 A. Case File: #2-PD-PC-07 (Continued)

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

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

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

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

36

37 Connors reminded the Commissioners that this is a continued Public Hearing although the Public
38 Testimony is closed (July 5, 2007 Meeting). Connors asked if any Commissioner had ex-parte contact,
39 conflict of interest, or bias to declare. There was none. Connors then asked if anyone had objection to
40 any Planning Commissioner hearing the Case. There was no objection. Lewis summarized his Memo
41 and the Findings, Conclusions, and Final Order (copies attached to original of these Minutes). Lewis
42 suggested inserting the following clarifications in the Applicant's Narrative (Page 5 of 14): (Paragraph
43 1) *138 Lots are designated to have a One-Family attached, i.e. attached to an adjacent One-Family*

1 *Dwelling with a Zero Lot Side Yard. If these 138 designated Lots are developed as Attached Dwellings*
2 *there will be a total of 77 Buildings, i.e. 69 Attached Dwellings and 8 Single-Family Detached*
3 *Dwellings. The 138 Lots designated as Attached Dwellings are also able to be developed as Detached*
4 *Single-Family Dwellings by consolidating two Lots. (Paragraph 5) O.D.O.T. later provided a Letter*
5 *stating a Traffic Impact Analysis is required. Connors asked if the Commissioners had any questions to*
6 *address to the City Planner. Connors noted that she didn't recall any discussion regarding the*
7 *Applicant's request for the Single-Family Detached Dwellings to have one Zero Lot Line Side Yard,*
8 *similar to the Two-Family Attached Dwellings. She asked if two Lots were to be consolidated to*
9 *accommodate a Single-Family Detached Dwelling why would the Commission allow a Zero Lot Line on*
10 *a Lot that could potentially be 70' wide. Connors asked if anyone objected to her asking the Applicant*
11 *for an explanation. There was none. Carl Taylor, 807 Hazeltine Ave., S.E., Salem, stated the thought*
12 *was to create unobstructed Ocean Views (Constructing Homes that face the Ocean with a larger Side*
13 *Yard accommodates the Patio Furniture, etc.). He indicated his willingness to withdraw the Request if*
14 *the Commission preferred (not crucial to the Planned Development). The Commission and Applicant*
15 *ensued in a lengthy discussion regarding the matter, specifically how it would be implemented and*
16 *regulated (i.e. Architectural Committee Standards, CC&Rs, Conditions of Approval). The Applicant*
17 *withdrew the Request stating it was not essential to the Planned Development and acknowledged the*
18 *drawbacks to the idea. Lewis and a Commissioner noted their fondness for the concept. Connors*
19 *advised Taylor that at the time of construction a Property Owner could submit a Side-Yard Variance*
20 *Request (a Public Hearing Process that would allow surrounding Property Owners the opportunity to*
21 *provide Testimony). Connors repeated her desire for the Applicant to make provisions for a Park and/or*
22 *Amenities (Recreational Facility, Park Benches, Gazebo, etc.) on the south or north side prior to Final*
23 *Approval. After brief discussion the Commission agreed to insert *The Majestic Pacific Vistas PD shall**
24 *also include Development and Maintenance of Recreational Facilities and Viewing Overlooks. Carl*
25 *Taylor recalled his understanding from the prior Meeting was to require the Development to include in*
26 *the Final Design one or the other. Lewis reiterated the consensus of the Commission to amend the*
27 *Findings, Conclusions and Final Order to the following: (Applicant's Narrative, Page 5 of 14 –*
28 *Paragraph 1) *138 Lots are designated to have a One-Family attached, i.e. attached to an adjacent One-**
29 **Family Dwelling with a Zero Lot Side Yard. If these 138 designated Lots are developed as Attached**
30 **Dwellings there will be a total of 77 Buildings, i.e. 69 Attached Dwellings and 8 Single-Family**
31 **Detached Dwellings. The 138 Lots designated as Attached Dwellings are also able to be developed as**
32 **Detached Single-Family Dwellings by consolidating two Lots.; (Applicant's Narrative, Page 5 of 14 –**
33 **Paragraph 5) *ODOT later provided a letter stating a Traffic Impact Analysis is required.;**
34 **(Conditions and Requirements for Final Approval, Item 5. Open Space, Page 13 of 14) *The Majestic Pacific Vistas***
35 **PD shall also include Development and Maintenance of Recreational Facilities and/or Viewing**
36 **Overlooks.;**
37 **(Conditions and Requirements for Final Approval, Item 4., Modifications to DBZO**
38 **Standards, Page 12 of 14) *Exceptions to DBZO Standards shall be limited to Lot Area, Lot Width, Side***
39 **Yard Setbacks, and Street Frontage Width in accordance with the May 14, 2007 Preliminary Plan.**
40 **Minimum Yards (Building Setbacks) for Lots shall be a 20' Front Yard, 10' Rear Yard, One Side Yard**
41 **with a minimum 5 feet or 1 foot for every 3 feet of Building Height whichever is greater, and one Zero**
42 **Foot Side Yard Setback where a Dwelling is attached to the Dwelling on the Adjacent Lot. (Findings,**
*Item 4. Parks, Open Space, and Recreation, Page 8 of 14 – New Paragraph) *The Majestic Pacific Vistas***

1 *PD shall also include Development and Maintenance of Recreational Facilities and/or Viewing*
2 *Overlooks.*

3
4 Motion: Sovern moved to approve the Findings, Conclusions and Final Order for Case File #2-PD-PC-
5 07 (Majestic Pacific Vistas Planned Development) and adopt the Conditions and Requirements for Final
6 Approval Items. 1. thru 12. as recommended by the City Planner and as amended by the Planning
7 Commission and summarized by Lewis. Hough seconded the motion.

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

10
11 Vote: Motion passed.
12 Ayes: Sovern, Connors, Bruce, Hough, McGavock
13 Abstain: Taunton (Unless vote is needed, then it would be yes)

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15 It was the consensus of the Commission to direct Lewis to prepare the revised Findings, Conclusions,
16 and Final Order for Connors signature. Connors thanked the Applicant for his cooperation.

17
18 B. Case File: #2-CS-PC-07 (Continued)
19 Applicant: Dina Orlova
20 Application: Request for Coastal Shorelands and Geologic Hazards Permit and Variance
21 Map and Tax Lot: 09-11-08-CA #6801 Location: 155 S.W. Cliff St.

22
23 Connors noted that this is a Continued Public Hearing but would proceed with explaining the Public
24 Hearing Procedure. Connors said Testimony and evidence given must be directed toward criteria
25 described by the City Planner, or other criteria in the code that the Testifier believes applies to the
26 request. Failure to raise an issue, accompanied by statements or evidence sufficient to afford the
27 Commission and the parties an opportunity to respond to the issue precludes appeal to the State Land
28 Use Board of Appeals on that issue. Application materials or other evidence relied upon by the
29 Applicant had been provided to the City and made available to the Public. Commissioners will be asked
30 for any declaration of ex-parte contact, conflict of interest, or bias to declare. The Public will have the
31 opportunity to state objection to any Planning Commissioner hearing the Case. Applicants will have the
32 opportunity to present information relevant to their Application, followed by Testimony in support of the
33 Application, then Testimony in opposition, with the Applicant having the opportunity for rebuttal.
34 Unless there is a request to hold the Record Open, Testimony will be closed and the Commission will
35 enter into Deliberations on the Application. Connors asked if any Commissioner had ex-parte contact,
36 conflict of interest, or bias to declare. There was none. Connors then asked if anyone had objection to
37 any Planning Commissioner hearing the Case. There was no objection. Lewis summarized the Updated
38 Staff Report (copy attached to original of these Minutes). Written Testimony was received from P.R.
39 Gurney. Written Testimony was received after preparation of the Staff Report from Randy Noia and
40 Brett Harrison. Connors asked if the Commissioners had any questions to address to the City Planner.
41 There was none. The Applicant was given an opportunity to testify and answer questions from
42 Commissioners. Tim Dunkin testified that he and Dina just returned from being out-of-town and picked
43 up a copy of the revised Plot Plan (based on recent Survey to further define the Top-of-the-Bluff) from

1 the Architect on their way to attend the Meeting. He gave Larry the Plan and apologized that he did not
2 have the opportunity to make additional copies for distribution to the Planning Commission for their
3 review. Lewis illustrated the Encroachment into the Area of Visual Concern and the Front Yard Setback
4 to the Planning Commissioners (using the Plan provided by the Applicant). A Commissioner asked the
5 Applicant if he had considered not covering the Front Porch. He responded that they had been out of the
6 U.S. and hadn't given it any thought. Connors stressed that if he were willing to construct an uncovered
7 Front Porch it would eliminate the need for a 5' Front Yard Variance and satisfy some of the objections
8 stated in the Public Testimony. A Commissioner expressed concern that the Applicant had not followed
9 the Planning Commission's guidelines presented at July 5, 2007 Meeting. She repeated the
10 recommendation to have the Applicant Reconfigure the Footprint (maximizing the width; increase the
11 Coastal Setback - Area of Coastal Erosion, and eliminating the Encroachment in the Area of Visual
12 Concern). She reiterated in particular the concern the Commission had expressed regarding Coastal
13 Erosion. The Applicant restated the precautionary measures they have taken two (2) Geotechnical
14 Engineer Reviews and neither Certified Engineer had any concerns; House Design meets the
15 Engineering Criteria. A Commissioner asked if he would be willing to revise the design in order to
16 comply with the Area of Visual Concern Standard (40' Landward from the Top of the Coastal Bluff).
17 Dunkin emphasized that it would be difficult (already has revised Plans three times) reducing the
18 footprint would be detrimental to the Home's aesthetic appeal and value. He understood that the intent
19 of the 40' Area of Visual Concern is to protect and maintain the existing visual character of the Coastal
20 Headlands as you approach from the Ocean. They are proposing to construct a very attractive Home.
21 He believes neither one of the surrounding Properties are 40' landward from the Top of the Coastal
22 Bluff. He anticipated opposition from the Residents at 170 S.W. Cliff St. He recapped his
23 understanding of a prior Coastal Shorelands Application on the Subject Lot. Adjacent Properties (east
24 and the west) View Corridors will not be adversely affected. Connors called for Testimony in favor of
25 the Application. There was none. Connors called for Testimony in opposition to the Application. Brett
26 Harrison, 170 S.W. Cliff St., stated that he had attended and provided Testimony at the prior Public
27 Hearing on the Subject Property and gave a brief synopsis. He acknowledged receipt of the Notice of
28 Public Hearing (Case File #2-CS-PC-07), which appeared to be a Variance Request to the Side Yard and
29 Front Yard Standards. He met with Mr. Lewis to discuss the Application and left feeling confident that
30 he understood the Application to be a Variance Request to the Side Yard and Front Yard Minimum
31 Requirements and eliminating the encroachment into the Area of Visual Concern. He asked if there was
32 a revision that he is not aware of. Connors answered yes. He questioned, essentially he wasn't entitled
33 to see the information prior to this Meeting and was not made aware of the modified Plot Plan. He feels
34 that he has addressed issues in his Written Testimony that have since been revised. Lewis summarized:
35 Initially the Variance Request (received July 19, 2007) was for a 7' and 7½' Side Yard (Requirement –
36 10' Setback) and a 14'6" Front Yard (Requirement – 20' Setback); Revision (received July 25, 2007)
37 was for a 15' Front Yard (Requirement – 20' Setback) and withdrew the Side Yard Variance Request.
38 Harrison read excerpts from the Applicant's original Proposal (Received June 15, 2007): *The Lot is*
39 *narrow and does not allow for a sprawling Footprint of the Dwelling. The Lot is located on Cliff Street*
40 *which is very narrow at the front of this Lot and turns into or near another Home of which the Street*
41 *passes narrowly.; The Design was not able to meet the 40' Area of Visual Concern due to the inability*
42 *to move it closer to Cliff St. This is not possible because it would only allow for a 5' Driveway and any*
43 *Vehicles would be parked blocking Cliff St., which is already very narrow.* He stated that Cliff St. dead-

1 ends into essentially a Private Drive, is extremely narrow (13' wide) with no sidewalks. He mentioned
2 the Photographs (attached to his Written Testimony) which demonstrates the character of the
3 Neighborhood. A Home built 30' high and built very near the street on a narrow, little Lot seems
4 inappropriate given the considerations and concerns. He acknowledged the Applicant's response to the
5 geotechnical concerns and he recalled from the last meeting the Geologist's Recommendation is for a
6 *Minimum Setback of approximately 25' from the Top-of-the-Bluff*. He concluded: This is a very special,
7 little Lot with specific concerns; things inherent to it that are not a typical suburban street; he was fully
8 aware at the time he purchased his Home that the Subject Lot would eventually be developed. He
9 believes what needs to be respected is the idea of something being built that is appropriate to the Lot
10 taking into consideration the concerns and limitations. There was no further Testimony in opposition.
11 Tim Dunkin reminded the Commission that this is an expensive Lot and to build a 1,000 sq. ft. Home
12 would not be economical. He believes they have respected the Setback Standards. He still disagrees
13 that this is a small Lot (the Footprint is small because they are forced to design within the front wedge of
14 the Lot) the overall size of the Lot is substantial (43' wide in Front, 90' wide in Back, and an average of
15 100' Deep) compared to the average Lot size (50'x100'). He asked the Commission to consider the
16 reports of a qualified, professional Engineer over the Testimony of a concerned Neighbor. He
17 understands this is a difficult situation (when someone constructs a Home on a Lot that has been vacant
18 for sometime) for surrounding Property Owners, however he believes he has the right to build on the
19 Subject Lot. He stressed their effort to design and build a reasonably sized Home on a small Footprint
20 (working within the constraints of the Lot, Fairfield Design, a local Architectural Firm, has been diligent
21 – revised the Plans three times); the intent of the Area of Visual Concern is to maintain uniformity and
22 conformity (surrounding Homes are already within the 40' Area of Visual Concern) not based on
23 geotechnical matters or neighbor complaints; feels they are in compliance. There was no request to keep
24 the Record Open. The Public Hearing was closed and deliberations began. Connors noted if the
25 Applicant is willing to construct the Porch uncovered then that would void the Front Yard Variance; the
26 Code is clear that we have to take the advice of Professional Engineers with regards to Erosion and the
27 Recommendation is 25' from the Top-of-the-Bluff; if the Applicant is willing to withdraw the Variance
28 Request then the issue is developing in the Area of Visual Concern. A Commissioner asked is it
29 appropriate to deny the Variance Request. The Commission briefly discussed the matter.

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31 Motion: McGavock moved to Approve Case File #2-CS-PC-07 and adopt the Conditions of Approval,
32 Items 1. thru 5. as recommended by the City Planner and inserting a Condition stipulating *the covered*
33 *Front Porch will be removed*. Bruce seconded the Motion.

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35 Connors said it was moved and seconded, and called for discussion. A Commissioner voiced her
36 inability to support the Motion and her desire for the Applicant to submit a revised Footprint and Site
37 Plan implementing the guidelines established at the last Planning Commission Meeting. Brief
38 discussion occurred regarding the Variance Request Procedure, the duties of the Planning Commission,
39 and the Applicant's effort to minimize the impact into the Area of Visual Concern.

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41 Vote: Motion passed.
42 Ayes: Taunton, Connors, Bruce, Hough, McGavock
43 Noes: Sovern

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2 VI. CITY COUNCIL LIAISON REPORT
3 There was none.
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5 VII. PLANNER'S REPORT
6 Lewis reviewed his Report (copy attached to the original of these Minutes).
7 VIII. PLANNING COMMISSION CONCERNS
8 Bruce announced that the Economic Business Development Committee has been disbanded. Hough
9 asked for an update on the status of the Depoe Bay Zoning Ordinance Text Amendments Regarding
10 Parking Regulations. Lewis replied the City Council moved to direct Staff to draft the Text
11 Amendments in Ordinance Form for Final Review and Final Opportunity for Public Input.
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13 IX. ADJOURN
14 There being no further business, the meeting was adjourned at 7:20 PM.
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Carol Connors, President
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Carla Duering, Recording Secretary