

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, February 13, 2008 - 6:00 PM
4 Depoe Bay City Hall
5

6 PRESENT: President C. Connors, S. McGavock, V. Sovern, B. Taunton, D. Goddard, E. Hough
7

8 ABSENT: 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: January 9, 2008 Regular Meeting.
16

17 Motion: Sovern moved to approve the Minutes of the January 9, 2008 Regular Meeting as written.
18 McGavock 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: McGavock, Sovern, Taunton, Goddard

24 Abstain: Connors, Hough
25

26 III. ITEMS FROM THE AUDIENCE

27 There were no items from the Audience.
28

29 IV. NEW BUSINESS
30

31 V. PUBLIC HEARING ITEMS

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

1 having the opportunity for rebuttal. Unless there is a request to hold the Record Open, Testimony will
2 be closed and the Commission will enter into Deliberations on the Application.

3 A. Case File: #1-PD-PC-08

4 Applicant: Big Whale Cove, L.L.C.

5 Application: Request for Planned Development, Zone Change, and Street Vacation

6 Map and Tax Lot: 09-11-17-BC #100, 200, 300, 400, 500, 600, 700, and 800

7 Location: South end of Depoe Bay, west of Highway 101 and south of Oceana St.

8
9 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
10 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.
11 There was no objection. Lewis demonstrated the Plan Design using large Renderings provided by the
12 Applicant (eight of the ten Lots are proposed to be Two-Family Attached Dwellings and the remaining
13 two Lots are proposed to be Single-Family Detached Dwellings); noted that the Applicant owns ten
14 adjacent existing Platted Lots to the west (not included in the Planned Development); briefly described
15 the Myrtle Street Vacation Proposal and Process; illustrated the location of the Open Space (41% -
16 includes Preservation of the Designated Forest Corridor and Wetlands); and mentioned that he will be
17 meeting with O.D.O.T. regarding their requirement for Sidewalks along Highway 101. He summarized
18 the Staff Report and updated (February 13, 2008) Recommended Conditions of Approval (copies
19 attached to original of these Minutes). He corrected the Staff Analysis Item 16. *Planned Developments*
20 *require a Zone Change. Zoning if approved the proposed Development would change Zoning from R2-*
21 *to R-2PD R-1 to R-1PD. A Zone Change requires a Recommendation from the Planning Commission*
22 *and Approval by the City Council.* Written Testimony was received after preparation of the Staff Report
23 from Danny Deaver (copy attached to original of these Minutes). Connors asked if the Commissioners
24 had any questions to address to the City Planner. A Commissioner asked Lewis to verify if the Lot Size
25 of the Subject Property (as mentioned in the Staff Report *approximately 2.06 acres, 89,600 square ft.*)
26 includes or excludes Myrtle Street Right-of-Way as the DBZO *requires that a Planned Development*
27 *shall have a minimum of two (2) contiguous Acres, exclusive of Street Right-of-Way.* Jim Leavitt
28 responded he was fairly certain it excludes Myrtle Street but will validate. A Commissioner asked if the
29 Applicant still met the Street Vacation Requirements given the Written Testimony retracting approval of
30 the Street Vacation. Lewis answered yes (well exceeds 2/3). The Applicant was given an opportunity to
31 testify and answer questions from Commissioners. Jim Leavitt, Architect, 631 Ash Street, Forest Grove,
32 testified that Formal Meetings were held with the surrounding Property Owners to make sure they were
33 aware of the Planned Development and allow them the opportunity to comment (several changes were
34 made to the original Plan). He acknowledged the Developer's responsibility for Water, Sewer, Storm
35 Drainage, and Street Improvements; discussion and cooperation with other Developers to share some of
36 the Infrastructure expenses; intention to include a Center Turn Lane at Highway 101 and Oceana Street
37 (suggested but not required by O.D.O.T.); Wetland Specialist and Engineers are discussing underground
38 streams that go beneath the Highway (a revised Wetland and Waters Delineation Report will be
39 submitted); their original goal was to maintain as many Trees as possible, unfortunately they anticipate
40 due to the soil conditions more Trees may have to be removed (Property and Life Safety Risks -
41 determined by a Local Arborist); he reiterated the request for an exception to the DBZO Rear Yard
42 Setback Standard (Covered Decks may extend 4 ft. into the required 10 ft. Rear Yard Setback, i.e. no
43 more than 6 ft. from the Property Line). The Planning Commission and Applicant ensued in a

1 discussion regarding: length of the Turn Lane; location and Entry Signage materials; knowledge of
2 Whale Cove Property Owners of the City Sewer Service availability and the financial impact to them;
3 objective to design and build Custom Homes and Townhomes with own Construction Company;
4 Covered Decks are Upper-Story only; and the Timeline of the Two-Phase Project (Real Estate Trend is a
5 factor). Connors called for Testimony in favor of the Application. Dick Johnson, 1915 McDonald,
6 briefly reiterated that there have been several Meetings and a lot of interaction with Jim Leavitt and the
7 Property Owners of Whale Cove, who are to his knowledge in favor of the proposed Planned
8 Development (as modified - a result of the Developer's consideration and implementation of their
9 suggestions). He shared his understanding of the shared costs of the Sanitary Sewer Improvements.
10 Connors asked if McDonald Street is currently paved. Johnson answered it is chip sealed. Leavitt
11 assured Connors that Stub-Outs to each Property would be placed prior to paving McDonald Street
12 (avoid cutting into the new pavement). Connors called for Testimony in opposition to the Application.
13 Bob Ward, 525 N.W. 57th Street, Newport (former Depoe Bay Resident and Business Owner) testified he
14 has 20 years intimate involvement with Whale Cove (primarily with its potential historic value as the
15 site where Sir Francis Drake spent the summer of 1579) and hopes to purchase a home in Whale Cove in
16 the future. He hasn't found Mr. Leavitt to be accessible. Ward stressed that he has a number of genuine
17 concerns: Intention of the company in regards to Ownership (Single Family versus Fractional);
18 Developer(s)/Investor(s) financial capacity and desire to start and finish the Project; aspiration for
19 preservation of Whale Cove – spent many years working towards that goal (at one time with State Parks
20 – Measure 66) and intends to continue his pursuit; failure to meet Section 3.410 Planned Development
21 Zone, c. Preliminary Plan Approval Criteria, (5.) *The proposed Development is in substantial harmony*
22 *with the area at least 250 ft. outside the boundary of the Proposed Development*; not consistent with the
23 principle and purpose of the Planned Development Procedure. He encouraged the Commission to deny
24 the Application. Jim Leavitt did not feel he had neglected Mr. Ward (responded to several e-mails) and
25 acknowledged his sincere and heartfelt Testimony. He recapped: Owners have a vested interest in the
26 Community (currently reside in Miroco) and believe the Whale Cove Property is one of the most
27 beautiful on the west Coast and are very excited about the proposed Planned Development; Property has
28 great potential for development; viable and fundamental option to exchange Wetland and Natural Open
29 Space (exceeding the 35% Open Space Regulation) for the exception to the R-1 Standard (*Eight of the*
30 *Ten Dwellings may be a Two-Family Attached Dwelling i.e. Four Buildings with Two Dwellings per*
31 *Building*); design Townhomes that are aesthetically pleasing (appear like Single-Family Homes);
32 construct Sustainable Green Homes; objective is to gain LEED Certification (Leadership in Energy and
33 Environmental Design) for a Residential Development; market as Single-Family Homes (not
34 Condominiums, Rentals, or Percentage of Ownership). Lengthy discussion followed regarding
35 Fractional Ownership, Tree Preservation/Re-Vegetation; and 16-Units versus 20-Units Layout; meeting
36 the minimum two acre criteria for a Planned Development; Pedestrian Access if required by O.D.O.T.
37 along Highway 101 (City prefers a Natural Trail System rather than a Concrete Sidewalk); S.W. Oceana
38 St. and S.W. McDonald Ave. 50' Right-of-Way (Improvements: 22' Pavement; 8' Grassy Drainage
39 Swale on one side; 8' Graveled Parking on the other side). There was no request to keep the Record
40 Open. The Public Hearing was closed and Deliberations began. Connors believes that since the
41 Townhomes are being proposed to appear like Single-Family Dwellings the Project meets the DBZO
42 Planned Development Criteria. A Commissioner noted that the outreach effort has been substantial and
43 only one Letter of opposition was received. The Commission talked extensively about the Myrtle Street

1 Vacation/Relocation and the Proposed Sanitary Sewer Service Improvement Procedures; and preference
2 for a Natural Trail System versus a Concrete Sidewalk along Highway 101 (aesthetic value and safety
3 issue). It was the consensus of the Commission to Amend the Conditions of Approval Item 7. Open
4 Space, Forest Corridor and Wetlands, 2nd Paragraph, *The entire Forest Corridor (40' depth along the*
5 *Highway 101 Frontage) shall be within the Dedicated Open Space Area. No Development Activity or*
6 *disturbance shall occur in the Forest Corridor except for limited Street, Utility, Trail and Park*
7 *Development, removal of diseased or hazardous Trees, removal of non-native ground cover or shrubs,*
8 *re-vegetation, landscaping, and placement of one low profile, unlit Entry Sign made of indigenous stone*
9 *and cedar; insert Item 4. Final Plan Approval g. Townhomes are to be designed to appear like Single-*
10 *Family Dwellings. Modify the Findings: Item 6., Table, Rear Yard Setback, Second-Story Covered*
11 *Decks may extend 4 ft. into the required 10 ft. Rear Yard Setback, i.e. no more than 6 ft. from the*
12 *Property Line; and mention the Planning Commissions preference for a Natural Trail through the Forest*
13 *Corridor along Highway 101 in lieu of a Concrete Sidewalk (if required by O.D.O.T.).*
14

15 Motion: Sovern moved towards Preliminary Plan Approval of Case File #1-PD-PC-08 (Whale Cove
16 Planned Development) and adopt the Updated Conditions of Approval Items 1. thru 14. as recommended
17 by the City Planner and amended as follows: Item 4. g. *Two-Family Structures shall be individually and*
18 *uniquely designed and appear as Single-Family Structures; Item 6., Table, Rear Yard Setback, Only*
19 *Second-Story Covered Decks may extend 4 ft. into the required 10 ft. Rear Yard Setback, i.e. no more*
20 *than 6 ft. from the Property Line; and Item 7., second paragraph, The entire Forest Corridor (40' depth*
21 *along the Highway 101 Frontage) shall be within the Dedicated Open Space Area. No Development*
22 *Activity or disturbance shall occur in the Forest Corridor except for limited Street, Utility, Trail and*
23 *Park Development, removal of diseased or hazardous Trees, removal of non-native ground cover or*
24 *shrubs, re-vegetation, landscaping, and placement of one low profile, unlit Entry Sign made of*
25 *indigenous stone and cedar. McGavock seconded the Motion.*
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27 Connors said it was moved and seconded, and called for discussion. Discussion followed concerning the
28 Myrtle Street Vacation sequence of events and how it affects the Preliminary Plan Approval.
29

30 Vote: Motion passed.

31 Ayes: Taunton, Goddard, Connors, Hough, McGavock, Sovern
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33 The Commission agreed to direct Lewis to prepare the Findings, Conclusions and Final Order for
34 Planning Commission Review at the next Meeting (March 12, 2008).
35

36 VI. UNFINISHED BUSINESS

37 A. 2008 City Council Liaison Memorandum

38 Lewis prepared a Memo proposing a 2008 City Council Liaison Rotation Schedule (copy attached to
39 original of these Minutes). Connors stated if anyone has a conflict to make arrangements with another
40 Member to attend the City Council Meeting on their behalf.
41
42

1 B. City Council Authorization for Planning Commission to Proceed with Proposed Zoning
2 Ordinance Amendments
3 Connors announced that the City Council scheduled a Joint Workshop (Proposed 4-Hour Parking Time
4 Limit) between the Council and the Planning Commission for Thursday, March 6, 2008 at 7:00 P.M.
5

1 VII. CITY COUNCIL LIAISON REPORT

2 Connors reported the Urban Renewal Plan Preparation Committee will be meeting with the Consultant
3 in March.

4

5 VIII. PLANNER'S REPORT

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

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8 IX. PLANNING COMMISSION CONCERNS

9 There was none.

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11 X. ADJOURN

12 There being no further business, the meeting was adjourned at 8:20 PM.

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Carol Connors, President

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Carla Duering, Recording Secretary