

1 Depoe Bay Planning Commission  
2 Regular Meeting  
3 Wednesday, May 14, 2008 - 6:00 P.M.  
4 Depoe Bay City Hall  
5

6 PRESENT: President C. Connors, S. McGavock, B. Taunton, D. Goddard, E. Hough, R. Hageman, S.  
7 Scopelleti (arr. 6:51 P.M.)  
8

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

11 I. CALL MEETING TO ORDER

12 Connors called the Meeting to order and established a Quorum at 6:00 P.M.  
13

14 Connors welcomed the new Planning Commissioners.  
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16 II. APPROVAL OF MINUTES: April 9, 2008 Regular Meeting.  
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18 Motion: Goddard moved to approve the Minutes of the April 9, 2008 Regular Meeting as written.  
19 Taunton seconded the Motion.  
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21 Connors said it was moved and seconded, and called for discussion. There was none.  
22

23 Vote: Motion passed.

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

25 Abstain: Hageman  
26

27 III. ITEMS FROM THE AUDIENCE

28 There were no items from the Audience.  
29

30 IV. PUBLIC HEARING ITEMS  
31

32 Connors explained the Public Hearing procedure, noting that this procedure applies to all Public Hearing  
33 Items (Agenda Item A. and B.) that will be heard this evening. Connors said Testimony and evidence  
34 given 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-PAR-PC-08

4 Applicant: Northwest Homes

5 Application: Request for 3-Lot Partition

6 Map and Tax Lot: 09-11-08-DB #300 Location: Indian Trail Avenue

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8 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There  
9 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.  
10 There was no objection. Lewis summarized the Staff Report (copy attached to original of these  
11 Minutes). Connors asked if the Commissioners had any questions to address to the City Planner. A  
12 Commissioner asked Lewis to verify if Proposed Parcel 1 is required to access Indian Trail directly. He  
13 referred to Section 14.040, Item 5. Private Streets (f.) *Private Road Rights-of-Way may be approved of*  
14 *less than 50 ft. in width but in no instance shall the Road Right-of-Way be less than 30 ft., except that a*  
15 *Private Road to Two Lots may be 20 ft. in width. In instances where the Road Access to more than three*  
16 *Lots is less than 50 ft. in width, Utility/Slope Easements may be required.* Lewis replied yes. A  
17 Commissioner stated the Lot Size (as identified in the Staff Report) appears to include the Access  
18 Easements. He cited the DBZO which defines Lot Area as *The total Horizontal Area within the Lot*  
19 *Lines of a Lot, exclusive of Streets or Easements of Access to other Property. The Staff portion of a*  
20 *Flag Lot shall not be used in computing the size or area of the Lot for Zoning or Building purposes.*  
21 Taking that into consideration Proposed Parcel 3 would not meet the R-2 Minimum Lot Size Standard  
22 (5,000 sq. ft. for a Single-Family Dwelling). Discussion ensued regarding Parcel 3 and whether it  
23 provides Access to other Property (i.e. Turnaround for the Dead-End Street - primarily for Emergency  
24 but also Public). Lewis stated that the Fire Department generally allows a 150 ft. depth before they  
25 require a Turnaround. The Applicant was given an opportunity to testify and answer questions from  
26 Commissioners. Dan James, Northwest Homes, further explained that the Turnaround (28 ft. radius)  
27 illustrated on Proposed Parcel 3 benefits only Parcel 3 and was included to satisfy the Fire Department  
28 Regulations. Brief debate followed on the matter of the Access Easement and the Turnaround. Connors  
29 asked if the intent is to place Manufactured Homes on the Proposed Lots. James replied it is probable  
30 since that it his business and he plans to develop the Lots. A Commissioner asked about the buildable  
31 square footage of Proposed Parcel 3 minus the Easement. The Commission calculated the square  
32 footage and agreed that it is approximately 4,877. A Commissioner expressed his understanding that a  
33 Turnaround is a necessity at the end of a Dead-End Street (not only to serve the Fire Department but also  
34 the Public i.e. delivery trucks, cars, etc.) The Planning Commission consulted DBZO Section 14.040,  
35 Item 8. Cul-de-Sacs and Turnarounds (a.) *Dead-end (Cul-De-Sac) Streets in Partitions and Subdivisions*  
36 *shall terminate in a Turnaround with a minimum Property Line Radius of forty (40) feet, or other type of*  
37 *Turnaround approved by the City* and Section 14.040, Item 5. Private Streets (g.) *Private Road*  
38 *Standards shall be the same as those for Public Streets. No more than three Lots shall be exempt from*  
39 *Standards for Improvements.* There was no Testimony in favor or in opposition of the Application.  
40 There was no request to keep the Record Open. The Public Hearing was closed and deliberations began.  
41 A Commissioner suggested if the Property Line were adjusted on Proposed Parcel 3, all three Parcels  
42 would still conform to the DBZO minimum Lot Size Standard for a Single-Family Dwelling. After brief  
43 discussion the Commission concluded that Parcel 3 as proposed qualifies for exemption.

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2 Motion: Goddard moved towards Tentative Approval of Case File #1-PAR-PC-08 and adopt the  
3 Conditions of Approval, Items 1. thru 4. as recommended by the City Planner. McGavock seconded the  
4 Motion.

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6 Connors said it was moved and seconded, and called for discussion. Lewis recommended that the  
7 comments heard tonight be incorporated into the Findings. There was no objection.

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9 Vote: Motion passed.

10 Ayes: Taunton, Goddard, Connors, Hough, Hageman, McGavock

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12 B. Case File: #1-GEO-PC-08

13 Applicant: Ray & JoAnn Reichert

14 Application: Request for Geologic Hazards Permit

15 Map and Tax Lot: 09-11-05-CD #8300 Location: N.E. Bensell Pl. and Williams Ave.

16 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There  
17 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.  
18 There was no objection. Lewis summarized the Staff Report (copy attached to original of these  
19 Minutes). Connors asked if the Commissioners had any questions to address to the City Planner. A  
20 Commissioner asked Lewis to clarify if the Roadway Improvements and Maintenance Condition of  
21 Approval (Item 6.) includes Bensell Ave. (Bensell Pl. does not intersect with Williams Ave.). Lewis  
22 reiterated that it includes maintenance from Williams Ave. to their Driveway (which would encompass  
23 Bensell Ave.). The Applicant was given an opportunity to testify and answer questions from  
24 Commissioners. JoAnn Reichert expressed concern regarding maintenance of that portion of Bensell  
25 Ave. Ray Reichert further explained their understanding of the Roadway Improvements and  
26 Maintenance Condition of Bensell Pl. (approximately 150 ft.) and questioned the validity of having to  
27 maintain Bensell Ave. He asked Lewis if it is a City Road (other dwellings access off Bensell Ave. do  
28 they have maintenance responsibility?). Lewis clarified that it is Public Right-of-Way but it is not a City  
29 accepted Road. Lewis recalled that the Bensell St. Improvements Maintenance Condition originated  
30 from comments made by the City Superintendent and suggested a short recess to allow him to locate the  
31 Variance Application File (Case File #3-V-PC-06).

32  
33 Recess: 6:50 to 6:54 P.M.

34  
35 Lewis read Findings Item 2. Bensell Place and the Front Yard Setback Request (Second Paragraph) *The*  
36 *Depoe Bay City Field Superintendent supports the fill and driveway construction within the Bensell*  
37 *Place Right-of-Way as long as 1.) The Driveway is properly designed and approved by an Engineering*  
38 *Geologist and, 2.) The Applicant understands that if the Bensell Place Travel Lane is ever widened, this*  
39 *may alter the Driveway and approach to the Garage. Although Public Right-of-Way, Bensell Place is*  
40 *not improved to City Standards and is not maintained by the City. The Applicant will be responsible for*  
41 *maintaining Bensell Place to access the Subject Property, i.e. gravel, filling potholes, etc.* The  
42 Applicant portrayed Bensell Ave. (off Williams Ave.) as a very dangerous road and reiterated that they  
43 access their Property from Williams Ave., to Carson St., to Bensell Ave., to Bensell Pl. The

1 Commission and City Planner discussed the discrepancy between the Findings and the Conditions of  
2 Approval. Connors expressed her concern with requiring Property Owners to improve and maintain  
3 Public Right-of-Ways and setting a precedent. Connors asked if the Commission should consider  
4 postponement until the City Superintendent can resolve the inconsistency. After lengthy discussion the  
5 Commission agreed to proceed with the Public Hearing with the understanding that it is subject to  
6 approval by the City Field Superintendent. There was no Testimony in favor or in opposition of the  
7 Application. There was no request to keep the Record Open. The Public Hearing was closed and  
8 deliberations began. Lewis suggested amending Condition 6. Bensell Street Improvements (a.)  
9 *Roadway improvements and maintenance. The Applicant shall provide adequate access, i.e. gravel*  
10 *surface, on Bensell Place from Bensell Avenue ~~Williams Avenue~~ to the Driveway as approved by the*  
11 *City Field Superintendent. Although Public Right-of-Way, Bensell Place is not improved to City*  
12 *Standards and is not maintained by the City. The Applicant and Property Owners of future developed*  
13 *Properties on Bensell Place will be responsible for maintaining Bensell Place to access the Subject*  
14 *Properties, i.e. gravel, filling potholes, etc. The Applicant shall record a document in the Deed Records*  
15 *of Lincoln County acknowledging maintenance responsibilities of Bensell Place.* Connors asked what is  
16 the distance from Bensell Ave. to Bensell Pl. Reichert answered 170 to 200 ft. Connors asked if the  
17 Planning Commission has conditioned a Private Property Owner to Improve and Maintain Public Right-  
18 of-Way in prior Applications. Lewis answered it has occurred before and reiterated the different  
19 categories of Streets/Public Right-of-Way.

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21 Motion: Goddard moved to approve Case File #1-GEO-PC-08 and adopt the Conditions of Approval,  
22 Items 1. thru 8. as recommended and amended by the City Planner specifically Item 6. Bensell Street  
23 Improvements (a.) *Roadway improvements and maintenance. The Applicant shall provide adequate*  
24 *access, i.e. gravel surface, on Bensell Place from Bensell Avenue ~~Williams Avenue~~ to the Driveway as*  
25 *approved by the City Field Superintendent.* McGavock seconded the Motion.

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27 Connors said it was moved and seconded, and called for discussion. Lewis mentioned he will also  
28 revise the Findings Item 3. Bensell Street Improvements and correct Condition of Approval Item 1. ~~R-4~~  
29 *R-2 Standards and Variance Approval. Development shall be accomplished in conformance with the*  
30 *submitted Plan. The north Side Yard shall be a minimum 5'1 $\frac{3}{8}$ ". The south Side Yard shall be a*  
31 *minimum 5'9 $\frac{1}{4}$ ". The Building Height as viewed from the east (N.E. Bensell Place) shall be a maximum*  
32 *14'10 $\frac{7}{8}$ ".*

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34 Vote: Motion passed.  
35 Ayes: Goddard, Connors, Hough, Hageman, McGavock, Scopelleti, Taunton

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37 V. CITY COUNCIL LIAISON REPORT

38 Connors reported it was the consensus of the Council to table Proposed Ordinance No. 279 – Parking to  
39 the June 17, 2008 Meeting and in answer to ODOT's question to the City regarding issuing Permits for  
40 Residential Parking on Hwy 101, relating to the Proposed Four-Hour Time Limit the majority were  
41 opposed. The Request to Vacate Myrtle Avenue – Big Whale Cove, LLC, Whale Cove Planned  
42 Development (Case File #1-PD-PC-08) was approved.

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1 VI. PLANNER'S REPORT

2 Lewis reviewed his Report (copy attached to the original of these Minutes) Lewis distributed a Memo  
3 and flyer (copy attached to original of these Minutes) announcing a Land Use Planning Training Session  
4 presented by the Oregon Department of Land Conservation and Development (DLCD) on Thursday,  
5 June 26<sup>th</sup>, from 1:00 to 4:30 P.M.

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7 VII. PLANNING COMMISSION CONCERNS  
8 Taunton repeated her concern that it is difficult to hear and asked that everyone speak clearly into the  
9 microphones. Goddard welcomed the new Planning Commissioners and thanked Hageman for his  
10 comments. Connors reminded the Commission that she would like to continue reviewing the DBZO and  
11 directed Lewis to prepare a Memo identifying portions of the Code that need to be clarified and/or  
12 discrepancies. Lewis announced that there is a possibility that there could be two big Public Hearing  
13 items next month. Brief discussion followed.

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15 VIII. ADJOURN

16 There being no further business, the Meeting was adjourned at 7:30 P.M.

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Carol Connors, President

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Carla Duering, Recording Secretary