

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, April 8, 2009 - 6:00 P.M.
4 Depoe Bay City Hall

5
6 PRESENT: S. McGavock, S. Scopelleti, B. Taunton, R. Hageman, D. Goddard, P. Leoni
7 ABSENT: E. Hough
8 STAFF: City Planner L. Lewis, Recording Secretary C. Duering

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10 I. CALL MEETING TO ORDER

11 Goddard called the Meeting to order and established a Quorum at 6:00 P.M.

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13 II. APPROVAL OF MINUTES: March 11, 2009 Regular Meeting.

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15 Motion: McGavock moved to approve the Minutes of the March 11, 2009 Regular Meeting as written.
16 Hageman seconded the Motion.

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18 Goddard said it was moved and seconded, and called for discussion. There was none.

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20 Vote: Motion passed.

21 Ayes: McGavock, Taunton, Hageman, Goddard, Leoni

22 Abstain: Scopelleti

23

24 III. ITEMS FROM THE AUDIENCE

25 There were no Items from the Audience.

26

27 IV. NEW BUSINESS

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29 V. PUBLIC HEARING ITEMS

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

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44 A. Case File: #1-CS-PC-09

45 Applicant: John & Cecilia Kennedy

46 Application: Request for Development in the Coastal Shorelands,
47 Geologic Hazards, and Variance

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1 Map and Tax Lot: 09-11-08-BD #06200

2 Location: 465 S.W. Coast Avenue

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4 Goddard asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
5 was none. Goddard 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
7 Minutes). He encouraged the Planning Commission to look at the five circumstances for granting a
8 Variance (ensure that all the circumstances are being met as specified in the DBZO). Goddard asked if
9 the Commissioners had any questions to address to the City Planner. There was none. The Applicant
10 was given an opportunity to testify and answer questions from Commissioners. John Kennedy, 465
11 S.W. Coast Avenue, introduced his wife, Cecilia Kennedy. A Commissioner stated his struggle with the
12 Applicant's Hardship response (*Lot Development to the south has compromised privacy and solar gain*
13 *on the southwest portion of the Home*) as they are proposing an Addition (with a window) closer to the
14 Home that causes the loss of light and privacy. Kennedy explained further: his Home's original layout
15 and design (windows placed to optimize the Ocean and Forest View) and the aesthetic tragedy that
16 exists today with the construction of the adjacent Home; the purpose of the Addition is to move his
17 audio/recording equipment out of the Kitchen and allow them to regain some sort of quality of life. A
18 Commissioner asked why they weren't able to meet the Side Yard Setback Standard. He answered due
19 to the nature and size of the technical equipment (transitioning from audio to digital) and the minimal
20 interior depth of the Proposed Addition. The Planning Commission, Lewis, and the Applicant ensued in
21 a discussion regarding the adjacent Property (to the south) Final Building Plan's adherence to the DBZO
22 Building Height Standard and Variance Approval; the proximity of the two Building's Roof Lines;
23 maximizing the existing Footprint (Interior Remodel versus Addition); consider extending west side of
24 the Addition (issue with Engineering). Goddard called for Testimony in favor of the Application. There
25 was none. Goddard called for Testimony in opposition to the Application. Jim Hayes, 30 S.W. Heiberg
26 Street asked at what point in time are Safety Issues (i.e. firefighters capability to place ladders between
27 Dwellings) taken into consideration in determining the maximum exception allowance to the Setback
28 Standard; is the Fire Chief required to review a Variance Request and if not why not; shared his
29 knowledge of the Edwardson Application (Case File #2-CS-PC-06); testified that the three Properties
30 (Tax Lot #06200, #06300, and #06400) now share a Rock Wall, Decks, and Sidewalks (giving the
31 appearance of a compound and similar characteristics of the California Coast Line – no View Corridors
32 between the Homes); believes all Property Owners have the right to build within the limitations of both
33 City and County Regulations whether or not they impede adjacent Property Owner's Views, however
34 granting a Variance that does obstruct Views is not right; suggested the Planning Commissioners prior to
35 making a decision visit the Subject Property (visualize the effects of the Proposal); reiterated his concern
36 for Safety and that the Proposed Addition does not negatively impact any Ocean Views. Kennedy was
37 given an opportunity for rebuttal. Cecilia Kennedy testified that the Variance will allow a portion of the
38 existing Upper Floor Deck (2' from the Property Line) to be covered which will help maintain the
39 structural integrity of the Deck damaged by exposure to wind and rain (deteriorating condition has
40 accelerated since the House to the south was constructed – previously protected by the tall trees). A
41 Commissioner repeated his concern with the light and privacy matter as well as the inadequate space
42 issue, and setting precedence. He identified what he considers to be a legitimate Hardship. There was
43 no request to keep the Record Open. The Public Hearing was closed and Deliberations began. A
44 Commissioner asked if all options had been considered (north and east side appear to have ample room
45 for the proposed Addition). The Applicant replied they intend to build a larger Garage in the future. A
46 Commissioner stated that the Edwardson Case seems to be correlated to the problem the Kennedys now
47 face. Lewis responded he is not aware of any violations and defined Building Height on Residential

1 Lots with 20% slope or greater. A Commissioner asked Lewis to clarify the involvement of the Fire
2 Department in cases such as this. Lewis answered the DBZO does not require the Fire Chief to review
3 Variance Request Applications or Single Family Detached Dwellings but the Planning Commission
4 could make that stipulation in the Conditions of Approval. He reminded the Commissioners that
5 Lincoln County Building Officials review Building Permit Applications for compliance to the Structural
6 Building Code Specifications (i.e. Neighbors for Kids was required to have 3' of clear space between
7 Buildings). There was lengthy discussion: the subject of Fire and Street Safety; determining if the
8 Application meets the Variance Criteria specifically Item 1. and Item 2.; Applicant shared his
9 comprehension of the adjacent Property Owners intentions when the Edwardson Public Hearing was
10 being held and what is being constructed (Goddard closed Public Testimony); recollection of the
11 Edwardson Case (Planning Commission initiated the relocation of the proposed House to the north to
12 align with the existing Garage); responsibility for ensuring that the Conditions of Approval are adhered
13 to; (Goddard allowed additional Public Testimony - Reasoning very confusing, very involved process
14 and would like to consider all potential information) Hayes restated the circumstances surrounding the
15 Edwardson Case i.e. proposed Building Height and the topography of the Lot, letter mailed to John and
16 Ceclia Kennedy to make them aware of the potential decision and giving them an opportunity for
17 comment prior to a decision by the Planning Commission (Goddard closed Public Testimony);
18 acknowledgement of three options – deny the Application; request the Applicant to revise the Hardship
19 to be related to maintaining construction integrity (Addition would be flush with the existing Building -
20 18” less than requested) or Hardship was created because the adjacent Home was not as the Applicant
21 anticipated; Lewis reminded the Commissioners of the procedural process i.e. Staff would prepare
22 Findings (based on Public Testimony and Planning Commission discussion) that support the decision of
23 the Planning Commission versus the Planning Commission requesting the Applicant to modify their
24 response to the Variance Criteria; Fire Department Review of the Variance Request portion of the
25 Application. Lewis recommended if approved that the Findings, Conclusions, and Final Order be
26 drafted for Planning Commission Review at the next Meeting (May 13, 2009).

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28 MOTION: McGavock moved to recommend a change in the Variance Request and as recommended by
29 Lewis review the Findings, Conclusions and Final Order at the next Meeting.

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31 Lewis summarized: Relevant Criteria D. Findings First Circumstance - Rather than compromised
32 privacy and solar it would address the Hardship is needed for the construction, covering a portion of the
33 Deck for the structural integrity of the Deck, and protection from the elements, and the privacy from the
34 adjacent Property. Approval includes Conditions of Approval Items 1. thru 10. as recommended and
35 adding Approval by the Depoe Bay Fire District prior to issuance of a Building Permit. Lewis verified
36 the Variance Approval is for a 4' 6" Setback as requested by the Applicant as opposed to other options
37 discussed by the Planning Commission. McGavock agreed.

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39 Leoni seconded the motion.

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41 Goddard said it was moved and seconded, and called for discussion. Lewis suggested that the Approval
42 specify 4½ ft. is the minimum south Side Yard Setback (possibility the Fire Chief may require 6' and
43 flush with the Existing Building – eliminate the Applicant from having to submit a Revised
44 Application). The Commissioners made the following comments: cautioned fellow members that they
45 need to remember we are a Tourist Community and we need to be conscious of the ramifications of
46 eliminating View Corridors; reiterated this situation is in a Residential Zone; nice to have cooperation

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3 DBPC 4/8/09

1 between the Planning Commission and Property Owners; restated a concern for Fire Safety (Fire Chief
2 may require Fire Sprinklers and/or Firewall Construction).

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4 Vote: Motion passed.

5 Ayes: Scopelleti, Goddard, Leoni, McGavock

6 Noes: Taunton, Hageman

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8 John and Cecilia thanked the Planning Commission and stated that the adjacent neighbors were in
9 support of their Application.

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11 A Commissioner asked Lewis the history of Tax Lot #06300 and Tax Lot #06400. Lewis gave a brief
12 synopsis.

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14 Recess: 7:25 P.M. – 7:30 P.M.

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16 VI. UNFINISHED BUSINESS

17 A. Discuss Possible Zoning Ordinance Amendments

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19 Lewis reviewed the Draft DBZO Text Amendments (copy attached to original of these Minutes) and
20 emphasized it is a rough draft (comprised of modifications the Planning Commission had recommended
21 during discussions and some additional language they suggested at the previous Meeting) for their
22 review and consideration. The Commission reviewed and discussed each itemized Amendment (Items
23 1. thru 14.) and made the following modifications/suggestions: *Item 2. Fractional Ownership Definition*
24 - Lewis was directed to obtain Oregon Department of Land Conservation and Development's and the
25 City Attorney's opinion (prior to pursuing further discussion on this issue); *Item 3. Manufactured*
26 *Dwelling Definition* – agreed that the definition of Manufactured Home precludes construction prior to
27 June 15, 1976; *Item 4. Supplemental Regulations* The Planning Commission will continue to research
28 other Oregon Coast Communities (i.e. Subdivision in Pacific City) that currently enforce Building
29 Height Restrictions in order to maintain View Corridors for Non Ocean Front Properties and the
30 possibility of implementing the Regulation into future Planned Developments and as Homes are
31 demolished and replaced with New Construction (how to retro fit the concept into an existing
32 Neighborhood). Lewis suggested the Planning Commission may want to consider a Maximum Lot
33 Coverage Standard (i.e. City of Yachats – R-1 Residential Zone - Building Footprint including Decks
34 shall not exceed 30% of the Subject Lot, R-2 - 35%, R-3 - 40%, R-4 - 45%; City of Waldport all
35 Residential Zones - 45%). Brief discussion ensued. Goddard asked Lewis to provide the Planning
36 Commission with the Findings, Conclusions and Final Order for Edwardson Application (Case File #2-
37 CS-PC-06); *Item 9. Notice of Public Hearing* – A Commissioner recommended that the Notice be
38 posted on the City of Depoe Bay Website also; *Item 13. General Requirements and Minimum Standards*
39 *of Development Design* – The Access shall be provided via a Flag Lot or through a Private or Public
40 Street that is not part of another Parcel.

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42 VII. CITY COUNCIL LIAISON REPORT

43 There was none.

44 VIII. PLANNER'S REPORT

45 Lewis reviewed his Report (copy attached to the original of these Minutes). He specifically noted that
46 Vintage Coastal Homes (Case File #2-PD-PC-08) and Depoe Bay, L.L.C. (Case File #3-PAR-PC-08)

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3 DBPC 4/8/09

1 have withdrawn their Applications (Extensions may not exceed 245 days). He anticipates receiving a
2 new 3-Lot Partition Application from Depoe Bay, L.L.C. in the near future.

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4 IX. PLANNING COMMISSION CONCERNS

5 Hageman believes the Fire Department needs to be involved in the Application Approval Process versus
6 the Veto Process. He advised the Planning Commissioners to do a Site Visit to Coast Avenue (Tax Lot
7 #06300 and Tax Lot #06400) and see the travesty that is occurring (agreed with Hayes' earlier
8 statements). Goddard concurred. There was a lengthy discussion regarding the Fire Department's
9 participation and the Planning Commission being more pro-active by visiting Subject Sites and
10 declaring ex-parte contact.

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12 X. ADJOURN

13 There being no further business, the Meeting was adjourned at 8:35 P.M.

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Dorinda Goddard, President

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Carla Duering, Recording Secretary