

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

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

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10 I. CALL MEETING TO ORDER

11 Hageman called the Meeting to order and established a Quorum at 6:02 P.M.

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13 II. APPROVAL OF MINUTES: June 17, 2009 Regular Meeting.

14
15 Motion: McGavock moved to approve the Minutes of the June 17, 2009 Regular Meeting as written.
16 Scopelleti seconded the Motion.

17
18 Hageman said it was moved and seconded, and called for discussion. There was none.

19
20 Vote: Motion passed.

21 Ayes: McGavock, Scopelleti, Hageman, Leoni

22
23 III. ITEMS FROM THE AUDIENCE

24 There were no Items from the Audience.

25
26 IV. NEW BUSINESS

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28 V. PUBLIC HEARING ITEMS

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30 A. Case File: #1-GEO-PC-09 (Continued)

31 Applicant: Douglas McCauley

32 Application: Request for Geologic Hazards Permit

33 Map and Tax Lot: 09-11-17-BC #03700

34 Location: 420 S.W. Forest Park - Little Whale Cove Planned Development

35
36 Lewis reminded the Audience that this is a continued Public Hearing and an opportunity for additional
37 Public Testimony will follow the Staff Report. Lewis summarized the Updated Staff Report (copy
38 attached to original of these Minutes). He commented that the Applicant has submitted a revised Site
39 Plan and Building Elevations. Written Testimony was received after preparation of the Staff Report
40 from Patricia A. Neal and the Hartcourt Living Trust (copies attached to original of these Minutes).
41 Lewis addressed concerns raised in the Written Testimony: Clarified that when a Geologist does a
42 Report they do not do an actual Topographic Survey (pick an arbitrary Elevation – in this Case the
43 Engineer purposely chose 500’); City Field Superintendent does not have any immediate concerns with
44 the location and length of the Street, however he does request that prior to issuance of a Building Permit,
45 the Applicant submit Engineered Drawings of the proposed Road and Rock Wall for his review and
46 approval. Hageman asked if the Commissioners had any questions to address to the City Planner. A
47 Commissioner asked if we had determined the location of the Front Yard. Lewis cited the DBZO

1 definition of the Front Lot Line *The Property Line separating the Lot from the Street, other than an*
2 *Alley. In the Case of a Corner Lot, the shortest Property Line along a Street, other than an Alley, or, in*
3 *a Case where the Lot does not Front directly upon a Public Street, that Lot Line toward which most*
4 *Houses in the immediate area face and the Front Yard A Yard between Side Lot Lines and measured*
5 *horizontally at right angles to the Front Lot Line from the Front Lot Line to the nearest point of a*
6 *Building. Any Yard meeting this Definition and abutting on a Street other than an Alley, shall be*
7 *considered a Front Yard.* Lewis noted that the Planning Commission should not be determining the
8 Front Yard Setback by where the Front Door is located. Hageman cited the definition of Lot Frontage
9 *The Front of a Lot shall be construed to be the portion nearest the Street. For the purposes of*
10 *determining Yard Requirements on Corner Lots and Through Lots, all Sides of a Lot adjacent to a Street*
11 *other than an Alley shall be considered Frontage, and Yards shall be provided as indicated under Yards*
12 *in this Section.* A Commissioner asked if Little Whale Cove has accepted the revised Plan. Lewis
13 responded it was his understanding that they have approved the alignment of the Street and reminded the
14 Planning Commission that they need to adhere to the DBZO rather than the decisions of the Little Whale
15 Cove Architectural Committee and the Little Whale Cove Homeowner's Association. A Commissioner
16 asked Lewis to verify that Forest Park ends at the Subject Lot. Lewis answered yes. A Commissioner
17 noted that the adjacent Home/Carport appears to be setback approximately 5' from Forest Park. Pat
18 Neal spoke from the Audience that she has done some research and did not find a Variance Application
19 or a Recorded Easement associated with Tax Lot 09-11-17-BC #03600.

20
21 Hageman explained the Public Hearing procedure, noting that this procedure applies to all Public
22 Hearing Items (Agenda Item A.) that will be heard this evening. Hageman said Testimony and evidence
23 given must be directed toward criteria described by the City Planner, or other criteria in the Code that
24 the Testifier believes apply to the request. Failure to raise an issue, accompanied by statements or
25 evidence sufficient to afford the Commission and the parties an opportunity to respond to the issue
26 precludes appeal to the State Land Use Board of Appeals on that issue. Application materials or other
27 evidence relied upon by the Applicant had been provided to the City and made available to the Public.
28 Commissioners will be asked for any declaration of ex-parte contact, conflict of interest, or bias to
29 declare. The Public will have the opportunity to state objection to any Planning Commissioner hearing
30 the Case. Applicants will have the opportunity to present information relevant to their Application,
31 followed by Testimony in support of the Application, then Testimony in opposition, with the Applicant
32 having the opportunity for rebuttal. Unless there is a request to hold the Record Open, Testimony will
33 be closed and the Commission will enter into Deliberations on the Application.

34
35 Hageman asked if there was exparte contact. There was none. Hageman asked if there was any
36 opposition. There was none. The Applicant was given an opportunity to testify and answer questions
37 from Commissioners. Douglas McCauley, 186 The Pines, in Little Whale Cove (also owns a Home in
38 Missouri). He and his wife are planning on relocating to Depoe Bay and hope to break ground this fall.
39 He gave a synopsis of his discussions with the Little Whale Cove Architectural Committee and the
40 adjacent Property Owners (Somers) which began in October 2008. He acknowledged the difficulty of
41 working within the constraints of the Subject Lot due to the Geological Setbacks. He expressed his
42 desire to maintain the square footage and aesthetics of the Home (elderly father will be living with them
43 and he and his wife plan on starting a family) and retaining his investment. There was brief discussion
44 regarding the illustrated Front and Rear Yards on the Drawings submitted by the Applicant. Hageman
45 called for Testimony in favor of the Application. There was none. Hageman called for Testimony in
46 opposition to the Application. Marie Gargano, 530 S.W. Cove Point, Chair of the Little Whale Cove
47 Architectural Committee, stated she was there to provide additional information. She apologized for not

1 having read the DBZO definition of Lot Frontage prior to the last Public Hearing and acknowledged that
2 by default Forest Park would be the Street, making the east side of the Subject Lot the Front Yard. She
3 clarified how the topography of the adjacent Lot (Owned by the Somers) adversely affected their
4 building envelope. She stated that the Footprint of the McCauley Home has always been right up
5 against the recommended Geologic Setback (she has all four Drawings submitted to the Little Whale
6 Cove Architectural Committee). The Setback on the east side however has varied from 10' to 15' to
7 20'. The Owner has demonstrated that they can fit the Home (originally proposed the 2nd Floor as 2,094
8 and now 2,731 sq. ft. – assume 1st Floor will be of similar size) on the Subject Lot. She does not oppose
9 the size of the Home as long as they are able to meet the required Setback Standards. She noted that as
10 Chair of the Little Whale Cove Architectural Committee she has received comments from seven
11 Homeowners stating their objection to any deviation from the DBZO. She read an e-mail from James
12 Shaules and Nancy Engard sent to the LWCHA Architectural Committee and an e-mail from James
13 Shaules and Nancy Engard sent to LWCHA Board of Directors (submitted into the Record – copies
14 attached to original of these Minutes). Hageman asked is there anyone associated with Little Whale
15 Cove willing to state their objection to the 15' Setback on the east side (to date none has been stated for
16 the Record). She answered that will be an issue that will be discussed at the Little Whale Cove
17 Homeowner's Association Meeting being held tomorrow. Patricia Neal, 1075 Walking Wood, a
18 Member of the Little Whale Cove Board of Directors, clarified that the Subject Property's Driveway is
19 literally a continuation of Forest Park (other two Homes on the street face north). She reiterated that
20 safety of the Access Road is vitally important (as expressed in her Written Testimony). She briefly
21 talked about impacting the View Corridor of other LWC Property Owners. Marie Gargano (provided
22 additional Testimony) She submitted into the Record a Site Plan dated June 18, 2009 illustrating a 20'
23 Setback from the east side of Forest Park and a Site Plan dated June 29, 2009 illustrating a 15' Setback
24 (Driveway Length and Parking Pad are identical, what has been revised is the size of the Garage - 5'
25 wider and closer to the east Property Line) (copies attached to original of these Minutes). She
26 mentioned the Architectural Committee met with Larry Lewis, City Planner, and one of the issues that
27 was discussed was Safety however primarily the Architectural Committee focuses on the aesthetics of a
28 Home (colors, texture, placement of windows, etc.); Little Whale Cove does not have a budget to hire
29 professionals (i.e. Engineers). Diane Somers, 420 Forest Park, testified that they purchased their Home
30 (built in 1979) in 1991 and had no knowledge of the non-conformance to the DBZO Setback Standards
31 and confirmed that their Home is approximately 5' from the Property Line. She expressed her concerns
32 regarding the proposed drop-off and the Driveway's proximity to her Front Door (safety for her children
33 and pets, ability to turn-around from her Carport may be an issue). She understands Little Whale Cove's
34 need to modify the Wall and fundamentally she is in support (it will result in several large Trees being
35 cut); the closer to the Cove the proposed House is the more it affects her View (proposed House has
36 always been situated against the Geological Setback. She recognizes if the east Setback is increased
37 then the Applicant would be required to reduce the Footprint versus moving the Home further towards
38 the Cove. She appealed to Planning Commission to consider denying any Variance in terms of fairness
39 (Believes the McCauley's have been given concessions - use of Common/Public Property, Access Road
40 5' from her Front Door). Patricia Neal (provided additional Testimony) stated she thinks the Driveway
41 Length does vary on the Applicant's Drawings (suggested further review). In regards to Testimony
42 provided by Somers the drop-off issue has been addressed (not to occur until adequate level space is
43 provided for them to turn-around). The Little Whale Cove Streets are not constructed to the width of the
44 platted 40' Right-of-Way (all of the Property Owner's Driveways are in the Right-of-Way). She
45 clarified that Forest Park will be extended to the McCauley's Property Line and then evolves into their
46 Driveway. She explained the reasoning behind the relocation of the Access Road. She sympathized
47 with the Somer's situation and reiterated the expectation that the Road will be level at their Carport.

1 Hageman reminded the Audience of the DBZO Off-Street Parking Requirements (*Any Single or Multi-*
2 *Family Residential Use including Condominium or Time Share: Two (2) Spaces per Unit*). Patricia
3 Neal believes they will be able to meet the Requirement (undeveloped portion of their Lot). There was no
4 further Testimony in opposition. Douglas McCauley stated the initial Plan designed by Tom Golden
5 provided for: Adequate space between the Somer's Home, an aesthetically pleasing Natural Rock 4'
6 Wall which eventually would be covered with foliage (questioned the relevance of the Written
7 Testimony regarding the Wall); awareness of the City Sewer Pump Station and Lines. He stressed: his
8 desire to be a good Neighbor and apologized for the necessity of relocating the Access to his Property
9 (per Little Whale Cove Homeowner's Association); paid a substantial amount of money for the Subject
10 Lot with the intent to build a reasonably sized Home on a challenging Lot; willingness to cooperate; and
11 would like the Board to reconsider the relocation of the Driveway. Patricia Neal clarified using the
12 Site Plan provided by the Applicant (Sheet A-1) the location of two City Sewer Lines (one downhill and
13 one high pressure uphill – only one illustrated on the Plan) and the Sewer Pump Station. She repeated
14 concern for safety was the motivation for redesigning the Access Road. Hageman identified the
15 following options for consideration: Determine west is the Rear so east is the Front and request the
16 Applicant to apply for a Variance or Applicant accepts the 20' Setback on the East; alignment of the
17 Access Road/Driveway is a Little Whale Cove matter and the City Superintendent reviews the
18 Engineered Drawings for final approval. There was no request to keep the Record Open. The Public
19 Hearing was closed and deliberations began. Hageman asked the Applicant if he would agree to the 20'
20 Front Yard Setback. McCauley agreed. A Commissioner suggested that the Applicant could redesign
21 the width (estimate over 20') of the Garage in order to comply with the 20' Setback. McCauley
22 conceded.

23
24 MOTION: Hageman moved to approve the Request for Geologic Hazards Permit (Case File #1-GEO-
25 PC-09) with the provision that the east Property Line is the Front which then requires a 20' Setback and
26 the existing Footprint submitted by the Applicant will not be modified (enlarged or realigned). Lewis
27 recapped if the east is the Front (20' Setback) the north side Setback Standard allows for 1' for every 3'
28 of Building Height so he could construct closer if topography permitted. Douglas McCauley said he
29 would like to know his parameters. There was lengthy discussion regarding the matter of requiring an
30 Applicant to maintain a Side Yard Setback beyond the DBZO and the Geologist's recommendations.
31 McGavock seconded the motion

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33 Hageman said it was moved and seconded, and called for discussion. Lewis specified that the Motion
34 should include and adopt the Conditions of Approval Items 1. thru 7. as recommended and amending
35 Item 1. *R-4 Standards. The Applicant shall obtain a valid Building Permit prior to commencement of*
36 *construction. Development shall be accomplished in conformance with the submitted Plan. This*
37 *includes a minimum 20' north Side ~~Front~~ Yard, 20' south rear Yard, 20' ~~15'~~ east Side Front Yard,*
38 *20'9" west Side Yard for the House and 8'0" for the Deck. The average Building Height shall be a*
39 *maximum 24'9".* Item 3. *Insert Street Improvements shall maintain an adequate Grade so that*
40 *Owners of the adjacent Property to the east will be able to easily back out of their Carport.* There was
41 further consideration and discussion regarding restricting an Applicant beyond the DBZO. Lewis gave a
42 brief synopsis of the Land Use Decision Procedure. The Applicant and Planning Commission ensued in
43 a short discussion regarding resizing the Garage. Lewis restated the amended Conditions of Approval.

44
45 Hageman and McGavock agreed to the amended Motion.

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47 Vote: Motion passed.

1 Ayes: Hageman, Leoni, McGavock, Scopelleti

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4 VI. UNFINISHED BUSINESS

5 A. Discuss Possible Zoning Ordinance Amendments

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7 Lewis reviewed his Memo dated July 2, 2009 (copy attached to original of these Minutes) identifying
8 the four remaining Items for their review and consideration. The Commission reviewed and discussed
9 each itemized Amendment (Items A., B., C., and D.). No modifications were made to the Draft Text
10 Amendments as prepared by the City Planner. Lewis will prepare the Flood Hazard Overlay Zone
11 Amendment for their next meeting, August 12, 2009. Discussion ensued concerning the Memo dated
12 July 2, 2009 prepared by Lewis (copy attached to original of these Minutes) regarding the Depoe Bay
13 Zoning Code Amendments – Proposed Schedule. Lewis specifically noted that the Federal Emergency
14 Management Agency (FEMA) requires adoption of the Flood Hazard Overlay Zone Amendments prior
15 to December 18, 2009.

16
17 VII. CITY COUNCIL LIAISON REPORT

18 Hageman reported City Council is reviewing the Water System, Waste Water, and Storm Water System
19 updated Master Plans; and the City of Newport and the City of Lincoln City are raising their
20 Water/Sewer Rates.

21
22 VIII. PLANNER'S REPORT

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

24
25 IX. PLANNING COMMISSION CONCERNS

26 McGavock asked if the City has received any Applications for the Vacant Position on the Planning
27 Commission. Duering stated none have been received to date (deadline is July 29, 2009, interviews
28 August 5, 2009). The Commissioners expressed some concern regarding attendance and the importance
29 of maintaining a Quorum. The Commission and Lewis briefly talked about the order of the Meeting and
30 allowing the Applicant and/or Audience to provide additional input throughout the Meeting.

31
32 X. ADJOURN

33 There being no further business, the Meeting was adjourned at 7:58 P.M.

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38 _____
39 Roy Hageman, Vice-President

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42 _____
43 Carla Duering, Recording Secretary