

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

5
6 PRESENT: S. Scopelleti, B. Taunton, R. Hageman, D. Goddard, J. Hayes
7 ABSENT: G. Steinke (in Audience – Swearing-In Oath of Office to be scheduled), P. Leoni
8 STAFF: City Planner L. Lewis, Recording Secretary C. Duering

9
10 I. CALL MEETING TO ORDER

11 Goddard called the Meeting to order and established a Quorum at 6:01 P.M.

12
13 II. APPROVAL OF MINUTES: October 14, 2009 Regular Meeting.

14
15 Motion: Hageman moved to approve the Minutes of the October 14, 2009 Regular Meeting as written.
16 Hayes seconded the Motion.

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

19
20 Vote: Motion passed.

21 Ayes: Scopelleti, Taunton, Hageman, Hayes

22 Abstain: Goddard

23
24 III. ITEMS FROM THE AUDIENCE

25 There were no Items from the Audience.

26
27 IV. NEW BUSINESS

28
29 V. PUBLIC HEARING ITEMS

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

44
45 A. Case File: #4-CS-PC-09

46 Applicant: Ruth Moreland

47 Application: Request for Development in the Coastal Shorelands

1 Map and Tax Lot: 09-11-08-BD #06101

2 Location: 445 S.W. Coast Avenue

3
4 Goddard asked if there was exparte contact, conflict of interest, or bias to declare. Hageman declared
5 exparte contact (lives approximately one block from the Subject Site and has walked by and looked at
6 the Property prior to the Application for Development). Goddard then asked if anyone had objection to
7 any Planning Commissioner Hearing the Case. There was no objection. Lewis summarized the Staff
8 Report (copy attached to original of these Minutes). Goddard asked if the Commissioners had any
9 questions to address to the City Planner. There was brief discussion regarding the location of the Stairs
10 (3' from the Property Line) – below 30" (Lincoln County does not require a Building Permit) and the
11 DBZO Article 5. Exceptions, Section 5.010 Item 3. *An Access Landing no more than 3 feet by 3 feet (9*
12 *square feet) and attendant Stairway may project into a required Side Yard provided it is the minimum*
13 *encroachment necessary to provide Safe Access, and is no closer than 3 feet to the Property Line;* the
14 north side Fireplace "Pop-Out" (approximately 1 foot 10 inches by 10 feet, not a Chimney or Flue,
15 alignment with Eaves) encroaching into the Setback – DBZO Article 5. Exceptions, Section 5.010 Item
16 1. *Architectural Features such as Cornices, Eaves, Canopies, Sunshades, Gutters, Chimneys, and Flues*
17 *shall not project more than twenty four (24) inches into a required Side Yard or more than forty eight*
18 *(48) inches into a required Front or Rear Yard, nor in any case more than 1/3 distance into any*
19 *Required Yard;* the 4 foot Retaining Wall is not addressed in the Geologist's Preliminary Site Evaluation
20 and the Plans need to be updated to be consistent with the changes (Deck Extension and new Retaining
21 Wall). The Applicant was given an opportunity to testify and answer questions from Commissioners.
22 Ruth Moreland, 30 Hawkins Street, expressed her goal to design a modest, handicapped accessible
23 Home that meets the DBZO specifically the Area of Visual Concern. She apologized for the Retaining
24 Wall discrepancy illustrated on the Plans; she explained in regards to the Fireplace she hasn't decided if
25 it will be a Wood Burning or Pellet Stove and the second Parking Space although not identified on the
26 Plans is intended to be in the Front Courtyard. She indicated if there were questions she is unable to
27 answer she would certainly follow-up with the Engineering Geologist and Designer. The Applicant and
28 Planning Commission further discussed the Fireplace issue (if Gas there would be a Bookcase, if Wood
29 Burning there would be Wood Storage); location of Front Door Access (Path or Sidewalk) and
30 additional Off- Street Parking; and the south wall of the existing Garage is proposed to be relocated 6
31 feet from the south Property Line (align with the House). There was no Testimony in support of the
32 Application and no Testimony in opposition. There was no request to keep the Record Open. The
33 Public Hearing was closed and Deliberations began. A Commissioner stressed his concerns: The
34 importance of having the Geologist review the revised Plans illustrating the 4 foot Retaining Wall for
35 compliance to his recommendations; interpretation of DBZO Exceptions pertaining to the Fireplace
36 "Pop-Out". Lengthy discussion ensued about the Fireplace "Pop-Out" issue. The Planning Commission
37 concluded that the north side "Pop-Out" should be limited to the Fireplace Proper.

38
39 MOTION: Hageman moved to add a Condition of Approval *The "Pop-Out" to the north shall be*
40 *reduced in width to just include the Fireplace Proper and Chimney.* Hayes seconded the Motion.

41
42 Goddard said it was moved and seconded, and called for discussion.

43
44 Vote: Motion passed.

45 Ayes: Taunton, Hageman, Goddard, Hayes, Scopelleti

1 MOTION: Scopelleti moved to add a Condition of Approval *The Retaining Wall needs to be reviewed*
2 *and approved by the Engineering Geologist and the effected Drawings need to reflect the four foot*
3 *Retaining Wall and an additional Front Yard Off-Street Parking Space.* Hageman seconded the Motion.

4
5 Goddard said it was moved and seconded, and called for discussion. Lewis reiterated his understanding
6 of the amended Conditions of Approval: Insert a new Condition *Two Parking Spaces are required. The*
7 *existing Garage provides one Parking Space the 20 foot Front Yard north of the Garage shall provide*
8 *for an additional Parking Space.* Addition to Item 4. *Prior to issuance of a Building Permit, the*
9 *Engineering Geologist shall provide a Letter to the City stating that the Retaining Wall Design is in*
10 *accordance with his recommendations.* Insert a new Condition *The north side “Pop-Out” shall be*
11 *limited to the Fireplace Proper and Chimney/Flue.* Modify Item 1. Building Permit to include *Plans*
12 *shall be updated to show a Parking Space in the 20 foot Front Yard Setback, accurate Retaining Wall*
13 *Design, and the north side Fireplace “Pop-Out” limited to the width of the Fireplace.*

14
15 Vote: Motion passed.

16 Ayes: Hageman, Goddard, Hayes, Scopelleti, Taunton

17
18 The Commission agreed to direct Lewis to prepare the Findings, Conclusions, and Final Order for
19 Goddard’s signature. Hageman thanked the Applicant for attending the Hearing and moving the
20 Existing Garage Wall.

21
22 B. Proposed Depoe Bay Zoning Ordinance Text Amendments

23 Lewis noted that he has prepared a list of the remaining six Amendments to the Depoe Bay Zoning
24 Ordinance for their consideration (copy attached to the original of these Minutes). The Commission
25 reviewed and discussed each itemized Amendment.

26
27 Amendment ‘B’. DBZO 1.030 Definitions – Fractional Ownership – Public comment was received from
28 Greg Steinke, 445 Spindrift, gave an example of a situation – A Fractional Owner allows their friends to
29 stay at their Home (no compensation is exchanged) and the friends do not follow a Development’s
30 CC&Rs – Can the City govern this circumstance or take it into consideration. The Planning
31 Commissioners reiterated that the City can not govern a Homeowner’s right to allow friends to use their
32 Homes when no compensation is exchanged and enforcement of other issues (i.e. noise, unleashed dogs,
33 and garbage containment) are not regulated under the DBZO. It was the consensus of the Commission
34 to approve this Amendment.

35
36 Amendment ‘L’. DBZO 1.030 Definitions – Building Height – After extensive discussion it was the
37 consensus of the Commission to approve Draft Amendment #2 a., b., and c.

38
39 Amendment ‘M’. DBZO 14.110 Standards and Procedures for Property Line Adjustments – The
40 Commission agreed with the Written Public Testimony – The Amendment needed to be clarified. Lewis
41 voiced his concern that adding another step may discourage Property Owners from trying to improve
42 Encroachment and/or Non-Conforming issues. Discussion ensued concerning Lewis’ statement and the
43 current standards and procedures for Property Line Adjustments. Public Testimony was received from
44 Bruce Silver, 420 S.W. Cardinal Street, stated Oregon has a Prescriptive Easement Law. Lewis
45 explained how the Law is applied. It was the consensus of the Commission to approve this Amendment
46 as *The proposed Property Line Adjustment will not result in any Structure on either of the Properties*
47 ~~now~~ *in a situation where they would require a Variance (e.g. Setbacks, Heights, Etc.).*

1 Amendment ‘N’. DBZO 14.040(2) Performance Agreements for Subdivisions and Planned
2 Developments – The Commission discussed a Developer’s potential to Phase a Planned Development or
3 Subdivision; this Amendment would eliminate the City’s potential liability/expenses for completing a
4 Subdivision or Planned Development if the Developer did not complete the improvements. It was the
5 consensus of the Commission to delete Section 14.040(2) Performance Agreement in its entirety.

6
7 Amendment ‘O’ DBZO 14.090(3) Procedure for Review of Tentative Subdivision and Partition Plans
8 and Amendment ‘P’. DBZO 14.090(7)(E) Certification Required for Final Approval (of Subdivisions,
9 Partitions, and Replats) – It was the consensus of the Commission to approve both of these
10 Amendments.

11
12 The Public Hearing was closed. The Planning Commission directed Lewis to prepare a Final Draft of
13 the sixteen Proposed Text Amendments for review and approval at the next Planning Commission
14 Meeting, December 9, 2009.

15
16 VII. CITY COUNCIL LIAISON REPORT

17 Lewis reported the City Council voted to appoint Greg Steinke to Planning Commission (Position #7).

18
19 VIII. PLANNER'S REPORT

20 Lewis reviewed his Report (copy attached to the original of these Minutes). Lewis also noted that the
21 City of Depoe Bay completed and adopted a Local Wetlands Inventory and Assessment in 2007 (the
22 Local Wetlands Inventory estimates the location of Wetlands). DSL reviewed and approved the Depoe
23 Bay Local Wetland Inventory and Assessment a little over a month ago. The Oregon Department of
24 State Lands (DSL) requires the City to notify those Property Owners that have Wetlands identified and
25 mapped on their Property (A Notice of Oregon Department of State Lands Approval of Depoe Bay
26 Wetlands Inventory is being prepared for mailing by Staff).

27
28 IX. PLANNING COMMISSION CONCERNS

29 Taunton distributed copies (attached to original of these Minutes) of her correspondence with the State
30 of Oregon Government Ethics Commission. The Commissioners briefly talked about the matter.
31 Goddard warned the Commissioners that they did not want to be sick with the flu – She is still suffering
32 from symptoms. Hayes congratulated Steinke on his appointment and welcomed him to the Planning
33 Commission. Steinke mentioned (from the Audience) he was unsure of when the “Swearing In” takes
34 place. Lewis explained that he will need to schedule a time with Pery Murray, City Recorder.

35
36 X. ADJOURN

37 There being no further business, the Meeting was adjourned at 7:29 P.M.

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42 _____
Dorinda Goddard, President

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45
46 _____
47 Carla Duering, Recording Secretary