

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, August 8, 2012 – 6:00 P.M.
4 Depoe Bay City Hall
5

6 PRESENT: G. Steinke, B. Taunton, S. Scopelleti, R. Hageman, P. Leoni
7 ABSENT: J. Hayes
8 STAFF: City Planner L. Lewis, Recording Secretary C. Duering
9

10 I. CALL MEETING TO ORDER

11 Hageman called the Meeting to order and established a Quorum at 6:06 P.M.
12

13 II. APPROVAL OF MINUTES: June 27, 2012 Special Meeting.
14

15 Motion: Steinke moved to approve the Minutes of the June 27, 2012 Special Meeting as written. Leoni
16 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: Steinke, Taunton, Scopelleti, Hageman, Leoni
22

23 III. ITEMS FROM THE AUDIENCE

24 There were no Items from the Audience.
25

26 IV. PUBLIC HEARING ITEMS

27 Hageman asked if there were any objections to reversing the order of the Public Hearing Items. There was no
28 objection.
29

30 A. Case File: #1-GEO-PC-12

31 Applicant: The Hills of Depoe Bay, L.L.C.

32 Application: Geologic Hazards Permit – Street, Water, Sewer, and Storm Drain

33 Zone, Map and Tax Lot: Commercial C-1, 09-11-05-BD #00500

34 Commercial C-1/Residential R-1, 09-11-05-B #01109

35 Commercial C-1, 09-11-05-BD #00500

36 Residential R-2, 09-11-05 #100

37 Location: Northern Portion of Depoe Bay, East of Hwy. 101
38

39 At the request of Hageman Lewis stated the Applicable Criteria by title only Depoe Bay Zoning Ordinance
40 *Section 3.010 Residential Zone R-1; Section 3.020 Residential Zone R-2 Section 3.110 Retail Commercial Zone*
41 *C-1; Section 4.060 General Provisions Regarding Accessory Uses, Fences, Retaining Walls, Hedges and Decks;*
42 *Article 13. Development Guidelines; Article 14. Land Division (Sections relevant to Streets and Utilities).*
43

44 Hageman explained the Public Hearing procedure, noting that this procedure applies to all Public Hearing Items
45 (Agenda Item A. and B.). Hageman said Testimony and evidence given must be directed toward criteria
46 described by the City Planner, or other criteria in the Code that the Testifier believes apply to the request. Failure
47 to raise an issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an
48 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that issue.
49 Application materials or other evidence relied upon by the Applicant had been provided to the City and made
50 available to the Public. Commissioners will be asked for any declaration of ex-parte contact, conflict of interest,

1 or bias to declare. The Public will have the opportunity to state objection to any Planning Commissioner hearing
2 the Case. Applicants will have the opportunity to present information relevant to their Application, followed by
3 Testimony in support of the Application, then Testimony in opposition, with the Applicant having the opportunity
4 for rebuttal. Unless there is a request to hold the Record Open, Testimony will be closed and the Commission
5 will enter into Deliberations on the Application.
6

7 Hageman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There was
8 none. There was no objection to any Planning Commissioner hearing the Case. Lewis summarized the Staff
9 Report (copy attached to original of these Minutes). No Written Testimony was received. Lewis posed the
10 following Items for discussion and/or inclusion in the Recommended Conditions of Approval: The Applicant
11 shall be responsible for all costs the City may incur by hiring a Professional Engineer to review and comment on
12 the Final Engineering Plans; insure that all Utilities are placed underground; Developer shall be responsible for all
13 Street and Utility upgrades that may be required with Future Development of Property; extend the Sidewalk from
14 Hwy. 101 on the south side of the New Street to the Neighbor's New Driveway; Proposed 28 ft. wide Pavement
15 (2 Travel Lanes and 1 Shoulder) - adequate room for vehicles to pull out of the Travel Lane (i.e. allow
16 emergency vehicle to pass, vehicle break downs, etc.). The Applicant was given an opportunity to testify and
17 answer questions from Commissioners. Jon Oksenholt, Partner, The Hills of Depoe Bay, 2002 N.W. 36th St.,
18 Lincoln City, testified: He was born and raised in Lincoln City and has been a member of the Oregon Coast
19 Community for some time; past Projects include Bella Beach (Lincoln Beach/Gleneden Beach area) and Belhaven
20 at Roads End (Lincoln City); emphasized their hard work and effort negotiating with surrounding Property
21 Owners; and with Oregon Department of Transportation (O.D.O.T.) - Application for Highway Approach Permit;
22 and gave a brief synopsis. Discussion ensued regarding the issue of unknown Future Development Plan(s) and
23 how to determine if the Proposed Infrastructure (Utilities, Street Improvements, etc.) is adequate; The Hills of
24 Depoe Bay is responsible for developing the Road, however, approximately 95% of the Road is being constructed
25 on Property not currently owned or controlled by The Hills of Depoe Bay; Road Construction Schedule – first
26 deadline October 2013; Water SDCs will be paid by The Hills of Depoe Bay for the four Existing Residences
27 located south of the Proposed Street currently served by a Private Water Source; intend to construct aesthetically
28 pleasing Retaining Walls (use of natural materials and native vegetation if feasible). David Reece, P.E., Reece &
29 Associates, Inc., 321 1st Ave. E., Suite 3A, Albany, agreed with the additional provisions as identified by Lewis
30 during the Staff Report summary. He stated the Infrastructure was designed to accommodate the calculated
31 normal and customary allowed Build-Out/Density and explained in more detail; confident Proposed Road width is
32 adequate (first 400 ft. is 36 ft. wide; remaining portion 28 ft. wide). Discussion ensued regarding: Pedestrian
33 Access/Sidewalk – to be addressed at the time of Development other than what is specified in the O.D.O.T.
34 Highway Approach Permit, Topography on the north side of Proposed Street could accommodate Pedestrian
35 Improvements; reiterated Developer's preference to integrate into nature i.e. using low impact pervious materials
36 (boulders, plantings, groundcovers, etc.) in construction of Retaining Walls, Pathway/Hiking Trail System. Joan
37 Chambers, Attorney, Kulla, Ronnau, Schaub & Chambers, P.C., 4488 N.E. Devils Lake Blvd., Lincoln City,
38 (representing The Hills of Depoe Bay Limited Partnership) requested that the Planning Commission discuss and
39 address any concerns, additional Conditions of Approval and/or questions while the Record is still Open (allow
40 them the opportunity to respond). She recapped their request that there be no Conditions for Sidewalks at this
41 time and no Condition that the Hills of Depoe Bay be responsible for all Future Road Improvements (the Initial
42 Improvement is 28 ft. with a Right-of-Way of 60 ft.). There was no further Testimony in support of the
43 Application and no Testimony in opposition of the Application. There was no Request to Keep the Record Open.
44 The Public Hearing was closed and Deliberations began. Discussion included: (Record Re-Opened) Condition of
45 Approval Item 4. Retaining Walls. (Insert) *Retaining walls shall be constructed and appear of natural materials*
46 *where practical* (Record Re-Closed); Item 6. Water/Sewer/Storm Drainage (Insert) *The Applicant shall be*
47 *responsible for all costs the City may incur by hiring a Professional Engineer to review and comment on the Final*
48 *Engineering Plans;* (Add Item) *Underground Utilities. All Utilities shall be underground;* (Add Item)
49 *Future/Street/Utility Improvements. Any Future Improvements within the Right-of-Way that may be required or*
50 *necessitated by a Development will be the responsibility of that Development.* The Planning Commission

1 concluded that the Underground Conduit for power is being installed, Pedestrian Facilities will be addressed at the
2 time a Subdivision/Planned Development Application is submitted; and the Proposed Street width is sufficient for
3 now (contingent on Future Development). There was no Request to Keep the Record Open.
4

5 Motion: Scopelleti moved to approve Case File #1-GEO-PC-12 (Geologic Hazards Permit – Street, Water,
6 Sewer, and Storm Drain) and adopt the Conditions of Approval (Items. 1. Thru 11.) as recommended and
7 amended by the City Planner and as discussed by the Planning Commission. Steinke seconded.
8

9 Hageman said it was moved and seconded, and called for discussion. There was none.
10

11 Vote: Motion passed.

12 Ayes: Taunton, Scopelleti, Hageman, Leoni, Steinke
13

14 It was the consensus of the Commission to direct Lewis to prepare the Findings, Conclusion and Final Order for
15 Hageman's signature.
16

17 Steinke left the Meeting (7:03 P.M.)
18

19 B. Case File: #1-CU-PC-12

20 Applicant: Neighbors for Kids

21 Application: Request for Conditional Use – Community Center

22 Zone, Map, and Tax Lot: Light Industrial L-1, 09-11-08-CA #07400

23 Location: 630 S.E. Highway 101
24

25 Hageman said Testimony and evidence given must be directed toward criteria described by the City Planner, or
26 other criteria in the Code that the Testifier believes apply to the request. Failure to raise an issue, accompanied by
27 statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to the issue
28 precludes appeal to the State Land Use Board of Appeals on that issue. Application materials or other evidence
29 relied upon by the Applicant had been provided to the City and made available to the Public.
30

31 Hageman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Hageman
32 declared ex-parte contact – He has supported Neighbors for Kids and has donated to their Organization in the
33 past. Leoni and Scopelleti stated likewise. Taunton stated she may have a conflict of interest – Proposed use is
34 potentially in conflict of her Business and she is not comfortable. Hageman suggested proceeding with the Public
35 Hearing and if at any time she feels there is a conflict, a continuation of the Public Hearing will be requested (lack
36 of Quorum). Taunton and the other Planning Commissioners concurred. Lewis summarized the Staff Report
37 (copy attached to original of these Minutes). No Written Testimony was received. He noted the Applicant
38 originally submitted an Application for a Zone Change and for Conditional Uses for a Community Center and for
39 a School. The Applicant has Withdrawn the Request for the Zone Change and the School. There was no
40 objection to any Planning Commissioner hearing the Case. Discussion ensued regarding: the City has not
41 received any Letters of complaint or endorsement, specifically from the adjacent Property Owners; the Applicant
42 has not submitted a clear Statement of Operation identifying the Community Center (Conditional Use) versus
43 Neighbors for Kids (Club, Lodge, or Fraternal Organization - Uses Permitted Outright); the Barrier location
44 restricting the Use to 1,614 sq. ft. The Applicant was given an opportunity to testify and answer questions from
45 Commissioners. Bob Houston, Neighbors for Kids (NFK), Board of Directors Chair and President of the Non-
46 Profit Corporation, 215 Tillicum St., Lincoln Beach (mailing address: Depoe Bay, OR 97341) emphasized the
47 Conditional Use will allow them to conduct Assembly in their Facility (allow for Use to a fuller degree beyond
48 the Kids Zone After-School and Summer Camp Programs); Building has potential for so much more value to the
49 Community; in order to achieve long-term sustainability they need other sources of income; intent is not to
50 displace or take business away from the City of Depoe Bay Community Center; reiterated circumstances

1 pertaining to Conditional Use Application (#1-CU-PC-11). He distributed: a Floor Plan illustrating the area to
2 be used for Assembly (limited to the Gymnasium) and the location of the Barrier; a Plat Map showing the location
3 of the existing Facility on Highway 101 and the Proposed/Undeveloped 26-Space Parking Lot on Painter Lane
4 (prospective Substantial Completion Date of September/October 2012); and the Statutory Warranty Deed
5 pertaining to Parcel 1 of Partition Plat 2012-9 (copies attached to original of these Minutes). Hageman cited a
6 portion of DBZO Article 6. Conditional Uses Section 6.010 Purpose. *...the effect such Uses have on adjoining*
7 *Land Uses and on the growth and development of the City as a whole.* He stated that puts the burden of proof on
8 the Applicant. The Applicant, City Planner, and Planning Commission entered into a lengthy discussion
9 concerning the current Use/Activities as a Club, Lodge or Fraternal Organization versus the proposed
10 Use/Activities as a Community Center (Use/Rental of Facility/Gym by others, Non-NFK Events, etc.); the
11 Building Permit specified the Use as an After-School Program (Neighbors for Kids) and the Approval of the
12 Building Permit was based on compliance to the Light Industrial L-1 Standards, Off-Street Parking and Off-Street
13 Loading Requirements, traffic flow criteria, etc. for that type of Use; Outright Uses in the Light Industrial Zone;
14 Calculation of the Off-Street Parking Space Requirements per DBZO is based on Assembly Area (*One (1) Space*
15 *for Each 50 Square Feet of Floor Area Used for Assembly*) versus Square Footage of the Building; Fire Marshall
16 Maximum Occupancy for the Structure is 218; sympathized with the circumstances (need for other revenue
17 sources) - Organization's dream exceeds the ability to pay for it - the Planning Commission still needs to consider
18 the applicable DBZO Standards/Criteria. Dick Johnson, 1915 McDonald Ave., compared the Use of their Facility
19 to be similar to a Theater - the place of Assembly is not in the Entry Area or Bathrooms; referred to a list
20 submitted to City Staff (Fundraising Activities Planned for NFK categorized by Outright or Conditional Use and
21 NFK or Other Business); stressed the type of activities they would like to pursue falls under the Use *Community*
22 *Center* as defined in the DBZO. The intention is not to be the Community Center. Discussion continued
23 regarding: Article 1. Introductory Provisions Section 1.030 Definitions *Community Center - A Facility owned*
24 *and operated by a Governmental Agency or a Non-Profit Community Organization, provided that the primary*
25 *purpose of the Facility is for Recreation, Social Welfare, Community Improvement, or Public Assembly, and*
26 *further provided that no permanent Commercial Eating or Drinking Facilities shall be operated on the premises;*
27 a NFK (Club related) Activity/Event still needs to provide adequate Parking; Conditional Use Application #1-CU-
28 PC-11 Staff Report (Analysis Portion). There was no further Testimony in Support of the Application. Hageman
29 called for Testimony in opposition of the Application. Karen Schulzki, testified on behalf of Art Moore (her
30 Significant Other) and Owner of adjacent Property (art gallery, hair salon, etc.) expressed her extreme concerns in
31 regards to Safety; Painter Lane is so narrow, no sidewalks; kids/adults cutting across Private Property; liability
32 issues (accident(s) waiting to happen). There was no further Testimony in opposition to the Application.
33 Hageman proposed a Continuation of the Public Hearing and suggested asking the Applicant to provide the
34 following Items: Statement of Operation (i.e. details of Proposed Uses and how it will be conducted -
35 what/why/how - intended operations/functions and if under Outright or Conditional Use); a description of how to
36 prohibit people at Community Center Events from assembling in other areas; description of how to keep people
37 off Private Property (to and from Parking Lot); description of how NFK will limit users of the Facility to the
38 Applicant's designated Parking and General Public Parking, i.e. how NFK will prohibit Parking on surrounding
39 Private Parking; describe Parking Lot Improvements; copy of O.D.O.T. Permit/Approvals. Applicant asked
40 Taunton to clarify her conflict of interest. She restated she has a Restaurant with a large area used to host
41 Meetings/Parties. After extensive discussion with Audience participation the Planning Commission agreed to
42 Continue the Public Hearing and request the additional information from the Applicant as discussed.

43
44 Motion: Hageman moved to Continue the Public Hearing to the next Planning Commission Meeting (September
45 12, 2012) providing the Applicant submit the specified Items as Recommended, so the Planning Commission can
46 analyze it prior to the next Meeting. Leoni seconded.

47
48 Hageman said it was moved and seconded, and called for discussion. Lewis will prepare a Letter in regards to the
49 120-Day Decision Date. Hageman asked if anyone objected to Taunton voting on the Motion. There was none.

1 The Record will remain open for additional Written/Oral Testimony at the September 12, 2012 Meeting.
2 Hageman cited questions from a document he had prepared for the City Planner/Public Hearing (copy attached to
3 original of these Minutes); there was further discussion regarding responsibility/liability issues. The Applicant's
4 representatives also interjected comments.

5
6 Vote: Motion passed.

7 Ayes: Scopelleti, Hageman, Leoni, Taunton
8

9 Hageman acknowledged the difficulty of the Public Hearing and reminded the Audience that Written Testimony
10 would be appreciated prior to the next Meeting. Lewis stated the next Meeting will be Wednesday, September 12,
11 2012, at 6:00 p.m.

12
13 V. NEW BUSINESS

14 There was none.
15

16 VI. UNFINISHED BUSINESS

17 Hageman reported the City Council moved to uphold the Planning Commission decision on Case File #1-CS-PC-
18 12 (Coastal Shorelands, Geologic Hazard Report); the Applicant (Glenn Petry, Inn at Arch Rock) has not
19 submitted a Building Permit Application for Planning Commission review. Hageman and Leoni reported on the
20 Outdoor Warning and Public Alert System Project.

21
22 VII. CITY COUNCIL LIAISON REPORT

23 There was none.
24

25 VIII. PLANNER'S REPORT

26 Lewis reviewed the Planners Report (copy attached to the original of these Minutes). The Planning Commission
27 opted to delay discussion on the Planning Commission Membership on the Transportation System Plan Update
28 Community Advisory Committee.
29

30 IX. PLANNING COMMISSION CONCERNS

31 Commissioners talked about recruiting Candidates to fill the Planning Commission Position #3 Vacancy.
32 Hageman thanked Taunton for her honesty. She replied that she had a concern.
33

34 V. ADJOURN

35 There being no further business, the Meeting was adjourned at 8:20 p.m.
36
37
38

39
40 _____
41 Roy Hageman, President

42 _____
43 Carla Duering, Recording Secretary