

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, September 12, 2012 – 6:00 P.M.
4 Depoe Bay City Hall
5

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

9 I. CALL MEETING TO ORDER

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

12 II. APPROVAL OF MINUTES: August 8, 2012 Regular Meeting.
13

14 Motion: Steinke moved to approve the Minutes of the August 8, 2012 Regular Meeting as written. Taunton
15 seconded the Motion.
16

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

19 Vote: Motion passed.

20 Ayes: Steinke, Taunton, Hageman, Hayes, Leoni
21

22 III. ITEMS FROM THE AUDIENCE

23 There were no Items from the Audience.
24

25 IV. PUBLIC HEARING ITEMS
26

27 A. Case File: #1-CU-PC-12 (Continued)

28 Applicant: Neighbors for Kids

29 Application: Request for Conditional Use – Community Center

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

31 Location: 630 S.E. Highway 101
32

33 Hageman gave a brief synopsis of the prior Public Hearing for the benefit of the Audience. He emphasized the
34 Planning Commission continued the Public Hearing providing the Applicant submit additional information (copy
35 attached to original of these Minutes); although Neighbors for Kids is a good Organization, it is not a Criteria
36 in evaluating if the request is in compliance with the applicable DBZO Standards. Hageman said Testimony and
37 evidence given must be directed toward Criteria described by the City Planner, or other Criteria in the Code that
38 the Testifier believes apply to the request. Failure to raise an issue, accompanied by statements or evidence
39 sufficient to afford the Commission and the parties an opportunity to respond to the issue precludes appeal to the
40 State Land Use Board of Appeals on that issue. Application materials or other evidence relied upon by the
41 Applicant had been provided to the City and made available to the Public.
42

43 At the request of Hageman, Lewis stated the Applicable Criteria by title only Depoe Bay Zoning Ordinance
44 *Section 3.210 Light Industrial Zone L-1; Section 4.030 Off-Street Parking and Off-Street Loading Requirements;*
45 *and Article 6. Conditional Uses.* (Copies attached to original of these Minutes: Memo - Larry Lewis, City
46 Planner, dated September 2, 2012; Written Testimony in support of the Application - Jack and Maggie Brown, Al
47 Gleason, and Loretta Hoagland; Written Testimony in opposition to the Application - Art Moore and Karen
48 Schulzki).
49

50 Hageman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Hageman
51 declared ex-parte contact – He has supported Neighbors for Kids and has donated to their Organization in the
52 past. Leoni and Hayes stated likewise. There was no objection to any Planning Commissioner hearing the Case.

1 Hageman explained the Public Hearing procedure. The Applicant will have the opportunity to present information
2 relevant to their Application, followed by Testimony in support of the Application, then Testimony in opposition,
3 with the Applicant having the opportunity for rebuttal.
4

5 The Applicant was given an opportunity to testify and answer questions from Commissioners. Bob Houston,
6 Neighbors for Kids (NFK), Board of Directors Chair and President of the Non-Profit Corporation, 215 Tillicum
7 St., Lincoln Beach (mailing address: Depoe Bay, OR 97341). Houston confirmed the Planning Commission
8 received his submittals (copy attached to original of these Minutes). He read and submitted a Statement into the
9 Record (copy attached to original of these Minutes). He clarified his Testimony at the last Public Hearing in
10 regards to not competing with the Community Center – their Facility has classrooms and wireless access, suitable
11 for conferences and lectures versus potlucks and parties. Hageman reiterated competing with the Community
12 Center and circumstances relating to Case File #1-CU-PC-11 are not Relevant Criteria. The Planning
13 Commission and Applicant discussed the Parking Plan submitted by the Applicant illustrating 8 ft. x 16 ft.
14 dimensions and the DBZO Diagram A – Parking Space Standards illustrating Perpendicular Parking with 8 ft. x
15 20 ft. dimensions. Hageman called for Testimony in support of the Application. Jerome Grant, 1040 Morning
16 Walk, Co-Owner of Gracie’s Sea Hag Restaurant and Lounge, spoke in support of Kid Zone and their future
17 prosperity, and encouraged the Planning Commission to “in the spirit” collaborate with Kid Zone (i.e. solutions to
18 adhering to the Parking Standards, etc.). Hageman and Grant discussed the 22-Space Sea Hag Customer Only
19 Parking Lot previously a Public Parking Lot; loss of Hwy. 101 Parking on Hwy. 101 when Crosswalks were
20 added to the Downtown Corridor; and Compliance/Variance to Off-Street Parking Requirements. Rick Beasley,
21 140 Bay Street, thanked the Planning Commission for serving their Community. He commented: Applicable
22 Standards - An Applicant needs to have a reasonable expectation that if DBZO Standards/Criteria are met, a
23 Permit will be issued; cited portions of the Draft Minutes from the last Meeting *a description of how to prohibit*
24 *people at Community Center Events from assembling in other Areas; description of how to keep people off*
25 *Private Property (to and from Parking Lot); description of how NFK will limit users of the Facility to the*
26 *Applicant’s designated Parking and General Public Parking, i.e. how NFK will prohibit Parking on surrounding*
27 *Private Parking; responsibility of Property Owners to post signage to deter Trespassing/Parking on their*
28 *Property; Highway 101 and Parking Lot Safety concerns/speculations should not be considered; and requested*
29 *the Planning Commission keep their judgment strictly to the DBZO. Hageman cited Article 6. Conditional Use,*
30 *Section 6.070 Standards Governing Conditional Uses, Item 1. (d.) The Proposed Use is compatible with Existing*
31 *and Permitted Uses on adjacent Lands, considering the factors in paragraph (a.) of this Subsection. and*
32 *Paragraph (a.) The Size, Design and Operating Characteristics of the Proposed Use. Discussion ensued regarding*
33 *mitigating a negative impact to adjacent Property Owners and the Outright and Conditional Uses in the Light*
34 *Industrial Zone (L-1). Rick Davilla, 35 South Point Street, spoke on behalf of himself and his wife (unable to*
35 *attend) in support of the Application and requested the Planning Commission approve the Application, NFK has*
36 *been nothing but an asset to this Community and our Children. Discussion: NFK exceeds the Off-Street Parking*
37 *and Off-Street Loading Requirements provided the Area to be used as Assembly is limited to the Gymnasium (per*
38 *Applicant barriers will prohibit entry into other Areas – classrooms, etc.) in the calculation of the Off-Street*
39 *Parking Requirements (per DBZO Article 4. Supplemental Regulation, Section 4.030 Off-Street Parking and Off-*
40 *Street Loading Requirements. f. Church, Auditorium, Meeting Place, Theater, Gymnasium, Mortuary or Similar*
41 *Place of Assembly - One (1) Space for Each 50 Square Feet of Floor Area Used for Assembly). Al Gleason, 510*
42 *Cove Point, testified he submitted a Letter into the Record (copy attached to original of these Minutes) which*
43 *speaks to his involvement and support of Neighbors for Kids. He also encouraged the Planning Commission to*
44 *approve their Application, wonderful Building with potential for other Community related events. He reiterated*
45 *that there are laws for protection of Private Property thru signage and towing, and it is unreasonable to expect*
46 *NFK to police other people’s Property and should not be a Condition of Approval. Comment: Request was*
47 *simply to deter Parking on adjacent Property and insure a good neighbor policy. There was no further Testimony*
48 *in support of the Application. Hageman called for Testimony in opposition to the Application. Art Moore, 566*
49 *Fairway Drive, Gleneden Beach, Owner of the two Properties between Kid Zone and the Proposed Parking Lot,*
50 *submitted an Aerial Photo of the Vicinity highlighting his Property, the Subject Property, and the Proposed*
51 *Parking Lot (copy attached to original of these Minutes). He expressed his extreme concern regarding children*

1 and adult Safety when they cut across his Property – Vehicles backing in and out behind and the 12-Parking
2 Spaces in front of his Building, and semi-trucks pulling on/off of Hwy. 101. He acknowledged NFK is a great
3 Organization with financial trouble. Fencing his Property would be an additional expense for him to incur. Karen
4 Schultze, Art Moore’s other half, confirmed her Written Testimony (copy attached to original of these Minutes)
5 was received. She testified Painter Lane is essentially a Single-Lane Road without a Sidewalk and she foresees a
6 dangerous disaster (vehicles and pedestrians all using the same entry/exit at the time of an event); Semi trucks,
7 RVs, and buses park along the Hwy. 101 shoulder; and illegal U-turns. There was no further Testimony in
8 opposition. The Applicant was given an opportunity for rebuttal. Bob Houston testified Painter Lane is a
9 Dedicated Road and has served the City well for many years and Hwy. 101 has a very wide shoulder. He does
10 not see Safety as an issue – parents would be accompanying children from the Parking Lot to the Facility and are
11 obligated to keep them safe. He assured the Planning Commission that NFK would notify people to Park in their
12 Designated Parking, respect adjacent Neighbors, and only use the Right-of-Way to access the NFK Building. He
13 commented further regarding: jurisdictions that are responsible for Right-of-Way Safety; and the City of Depoe
14 Bay’s future plan for improving Pedestrian Safety South of the Bridge. The Applicant and Planning Commission
15 entered into a lengthy discussion regarding: Children and the potential for Safety Hazards; the original Mission of
16 NFK – Education and Caring for Children; NFK needs other sources of income to achieve long-term
17 sustainability; Building has much more value if used for other Community activities (currently only used 3:00-
18 6:30 p.m.); impact to adjacent Properties; Light Industrial Zone (L-1) Outright and Conditional Uses; Subject Lot
19 Bargain and Sale Deed Restrictions (City Planner noted this is not an item for consideration, Criteria, or
20 Condition of Approval, Houston agreed, Hageman disagreed stating it is a City Conveyance); approval of the
21 Conditional Use Application would allow other Organizations/individuals to use/rent the Facility. There was no
22 Request to keep the Record open. The Public Hearing was closed and deliberations began. Items discussed:
23 Public Parking limitations in the vicinity (no Public Parking Lots); necessity of more Off-Street Parking to
24 accommodate the maximum Occupancy (228 people - proposed Parking would be 6.5 people per Parking Space –
25 recommend 3 people per vehicle; example DBZO Light Industrial (L-1) Zone Item 2. Conditional Uses Permitted.
26 (o.) Church and Religious Organizations, special, supplemental requirements); limiting size of Assembly
27 Area/Number of People to match the Parking Requirements; Oregon Department of Transportation (ODOT)
28 Access Permit Drawing (submitted by Applicant – copy attached to original of these Minutes) is shown to say
29 “per adjacent Property Owner’s Approval” (Whistle-Stop/Shell Gas Station) raises the question has the existing
30 Property Owner granted approval for the Change of Use to a Community Center given the potential to
31 substantially impact the Traffic Flow; cited and discussed DBZO Article 6. Conditional Uses, Section 6.010
32 Purpose, Section 6.070 Standards Governing Conditional Uses, Item. 1., and Section 6.020 Authorization to Grant
33 or Deny Conditional Use Permit, Item 2., and how they apply to the Subject Application; Traffic/Pedestrian
34 Safety considerations; per DBZO Article 6. Conditional Uses, Section 6.010 Purpose. *Certain types of Uses*
35 *require special consideration prior to their being Permitted in a Particular Zone. The reasons for requiring such*
36 *Special Considerations include, among others, the size of the Area required for the full Development of such*
37 *Uses, the nature of the Traffic Problems incidental to operation of the Uses, and the effect such Uses have on*
38 *adjoining Land Uses and on the Growth and Development of the City as a whole...;* negative effect to adjacent
39 Single-Family Residences and Commercial Businesses (Noise, Traffic, etc.); Recommended Conditions of
40 Approval - Sidewalk on the north side of Painter Lane and paving Painter Lane, a Public-Right of Way (not a
41 Dedicated Street which is maintained by the City of Depoe Bay) to the full width of the 25 ft. Right-Of-Way;
42 Fence along the south edge of the Subject Lot (similar to the one on the north side); modification to the number of
43 Required Parking Spaces; 3-Year Time Limit (re-consider the Conditional Use - Complaints); DBZO Street
44 Standards, Street Dedication Procedure, and Public Funds for Street Improvements; 2-Lot Partition Approval
45 (Case File #1-PAR-PC-12) did not approve the Proposed/Undeveloped 26-Space Parking Lot; total Proposed Off-
46 Street Parking (35 Off-Street Parking Spaces – Subject Lot and Proposed Parking Lot); revise the 3-Year Time
47 Limit to include a determination if Proposed Parking Capacity is insufficient/inadequate (if negative impact to
48 adjacent Properties - limit number of people and/or increase Parking Requirements); asphalt versus chip seal the
49 entire width of Painter Lane to 25 Ft. (existing Paved Area doesn’t allow two cars to pass); Pedestrian Pathway
50 versus concrete Sidewalk (would be included in the 25 Ft. – 4 ft. Sidewalk, two lanes 10 ½ ft. wide each);
51 significance of the entire Community’s best interest/impact. The Planning Commission discussed the following

1 Conditions of Approval: Items 1. thru 4. as recommended by the City Planner; Paving of Painter Lane and a
2 (privately maintained) Public Pedestrian Facility on the north side (a concrete Sidewalk, Curb and Storm
3 Drainage versus Pavement with a designated Pedestrian Pathway); Fence along the southern edge of the Subject
4 Lot; and a Two-Year Review (automatic or complaint driven) – Determine if negative impact on surrounding
5 Neighbor(s) and if Proposed 35 Parking Spaces and Pedestrian Pathway is adequate. An Audience member asked
6 for Public Testimony to be re-opened. Hageman agreed. Houston stated he does not think the Planning
7 Commission is following DBZO Criteria and are bringing in emotional issues. He feels the Planning Commission
8 is way off base, unfair, unrealistic, and he is not willing to give-up NFK's property rights. He did not agree that
9 NFK should be held to a higher standard than other Outright Uses in the Light Industrial Zone and the idea that
10 any impact needs to be mitigated. He anticipates the average size of Assembly in the NFK Building to be 10-15
11 people with a maximum of 100 people; the auxiliary Parking Area is a Code issue and will be seldom used.
12 Discussion: Limiting Occupancy; Conditions of Approval for Phase I of the Knott Family Building Permit
13 (proposed Mini Storage Complex). Houston stated: NFK does not have money to Pave Painter Lane with a
14 concrete Curb and Sidewalk and feels it is unfair to impose a 2-Year Review; laws take care of infractions or
15 noxious activity (i.e. trespassing, noise, property damage, etc.); NFK has ample liability and insurance coverage;
16 Rules/Regulations would be incorporated into a formal Rental Agreement. Davilla made comparisons of existing
17 Pedestrian Safety issues throughout Town; asked Planning Commission to consider if Knott Family were to grant
18 a Temporary Easement for a Driveway and Pedestrian Graveled Foot Path from Hwy. 101 to the Proposed
19 Parking Lot (parallel to Painter St.); Street Improvements would be required at the time of Development of the
20 remaining portion of the Property (mutual cost). Short dialogue between Lewis and Hageman in regards to
21 Painter Lane Improvements by Applicant. Dick Johnson, 1915 McDonald, reiterated the anticipated number of
22 events would be one or two a month with limited attendance (mainly adults). Moore commended the Planning
23 Commission for their ideas and was very disappointed with NFK's response. He understands NFK's financial
24 hardship, acknowledged NFK is a great Organization but doesn't want to be negatively impacted either; the Fence
25 would help deter people from walking across the Front of his Property; expressed his willingness to Fence the
26 Back Area (illustrated in pink on the Aerial Photo – copy attached to original of these Minutes); and agreed with
27 the 2-Year Review. Discussion: Painter is already Paved – Pavement needs to be widened (2-Travel Lanes) with
28 Sidewalk versus widening and adding Pedestrian Pathway with gravel/dustless surface. Liz Martin, 4520 N.W.
29 Hwy. 101, Newport, born and raised in Depoe Bay, expressed her disappointment with the imposed Conditions
30 (Fence, Paving, etc.), compared her childhood experience with a 4-H Club (hosted by Dorothy Painter) to the
31 Mission of Neighbors for Kids. Hageman closed the Public Testimony. Steinke cited DBZO Article 1.
32 Introductory Provisions, Section 1.020 Purpose. *The Purpose of this Ordinance is to promote the Public Health,*
33 *Safety, and General Welfare and to assist in carrying out the Comprehensive Plan for the City of Depoe Bay.*
34 Discussion ensued regarding: Davilla's suggestion of a Driveway/Pedestrian Pathway Easement; Paving of
35 Painter Lane not economically feasible for Applicant and should be a shared cost with the Owner of the larger
36 Parcel (Knott Family); 2-Year Review (Applicant disagrees and Opposition agrees). Hageman called for a
37 Motion.

38
39 Motion: Leoni moved to approve Case File #2-CU-PC-12 (Request for Conditional Use – Community Center)
40 and adopt the Conditions of Approval (Items. 1. Thru 4.) as recommended by the City Planner including defining
41 Painter Street and a designated Pedestrian Walkway, Fence, and a 2-Year Review. Hayes seconded.

42
43 Hageman said it was moved and seconded, and called for discussion. A Commissioner asked if the Conditions
44 could include encouraging the Parties involved to continue discussion/dialogue to resolve their differences. Lewis
45 responded not as a Condition it would be relevant to the Findings. Leoni agreed.

46
47 Vote: Motion passed.

48 Ayes: Hayes, Leoni, Steinke

49 Noes: Hageman

50 Abstain: Taunton

51

1 It was the consensus of the Commission to direct Lewis to prepare the Findings, Conclusion and Final Order for
2 review and approval at the next Planning Commission Meeting.

3
4 V. NEW BUSINESS

5 There was none.

6
7 VI. UNFINISHED BUSINESS

8 A. Volunteer(s) to Serve on Community Advisory Committee (CAC) for Update to Transportation
9 System Plan (TSP)

10
11 Murray (from the audience) reported the City Council would like the Planning Commission to select one or two
12 members to serve on the Transportation System Plan Update Advisory Committee. Lewis anticipates the
13 commitment to be a year (approximately five meetings); local membership to date includes Mayor Carol Connors;
14 Councilor Dorinda Goddard; Pat Dunlop, Business Community Representative; Bruce Silver, Residential
15 Community Representative; Jack O'Brien, Traffic Safety Commission; and query has been sent for a Chamber of
16 Commerce Representative. Hageman and Leoni volunteered to serve on the CAC. Hageman encouraged the
17 Commissioners to review the current Transportation System Plan.

18
19 VII. CITY COUNCIL LIAISON REPORT

20 There was none. By show of hands Leoni was appointed to Vice-President (former Vice-President, Scopelleti,
21 resigned from the Planning Commission). Conversation continued regarding the City of Depoe Bay Outdoor
22 Warning and Public Alert System Project; the decommissioned Tillamook County 40-year old Tsunami Sirens,
23 and Oregon Department of Geology and Mineral Industries' (DOGMAI) negative opinion on Siren Systems not
24 Loudspeaker Systems.

25
26 VIII. PLANNER'S REPORT

27 Lewis reviewed the Planners Report (copy attached to the original of these Minutes). Lewis announced his
28 participation with Oregon Department of Land and Development (DLCD) and Oregon Parks and Recreation
29 Department (OPRD) Ocean Visual Assessments (rate the impact) of potential Energy Facility Sites (update to the
30 Territorial Sea Plan, alternative energy, specifically the potential for wave energy devices at some point in the
31 future). Brief discussion ensued. Lewis also mentioned his conversation with Mayor Connors regarding the
32 Planning Commission pursuing DBZO Text Amendments.

33
34 IX. PLANNING COMMISSION CONCERNS

35 Leoni acknowledged the difficulty of the decision/negotiation tonight and expressed her dislike of the Applicant's
36 comments. Hayes withdrew his Vote to approve the August 8, 2012 Minutes (he was absent). Hageman stated he
37 believes the Planning Commission did focus on the Relevant Criteria and reiterated that Non-Profit/Good
38 Organization is not Relevant. Taunton was amazed at the emotional Testimony, and commented that her
39 Business will likely be impacted by NFK's desire to increase profit. Steinke thanked his fellow Commissioners
40 for their comments and assessments and spoke to the matter of NFK being another Business in our Community.

41
42 V. ADJOURN

43 There being no further business, the Meeting was adjourned at 9:15 p.m.

44
45
46 _____
47 Roy Hageman, President

48 _____
Carla Duering, Recording Secretary