

1 Depoe Bay Planning Commission  
2 Regular Meeting  
3 Wednesday, October 8, 2014 – 6:00 P.M. Depoe Bay City Hall  
4

5 PRESENT: B. Taunton, P. Leoni, R. Hageman, J. Hayes  
6 ABSENT: G. Steinke, B. Blessinger  
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: September 10, 2014 Regular Meeting.  
13

14 Motion: Leoni moved to approve the Minutes of the September 10, 2014 Regular Meeting as written. Hayes  
15 seconded.  
16

17 Vote: Motion passed.  
18 Ayes: Taunton, Leoni, Hageman, Hayes  
19

20 III. ITEMS FROM THE AUDIENCE

21 There was none.  
22

23 IV. UNFINISHED BUSINESS  
24

25 A. Case File: #1-PD-PC-14 (Findings, Conclusions, and Final Order)  
26 Applicant: Martin Boone, Member - Orbis and Omni Financial, L.L.C.  
27 Agent: Reece & Associates, Inc.  
28 Application: Whale Watch Planned Development  
29 Zone, Map and Tax Lot: Commercial C-1 and Residential R-1, 09-11-05-B #1109  
30 Location: North end of Depoe Bay City Limits on the east side of Highway 101  
31

32 Hageman announced this is not a Public Hearing.  
33

34 Referring to the draft Findings, Conclusions, and Final Order Hageman cited (Page 12 of 22 – second paragraph)  
35 *The Planning Commission expressed concern about Driveways and Streets intersecting with Lillian Lane. Lillian*  
36 *Lane is proposed to be a Collector Street that will generate a significant amount of Traffic with development of*  
37 *the Whale Watch PD and development of the adjacent 80 acre Parcel to the east. In order to provide for*  
38 *adequate and safe access, the TIA and subsequent Preliminary Plans shall address issues related to Lillian Lane*  
39 *Side Street and Driveway Accesses, i.e. Traffic Volumes, Street Grade, Sight Distances, Turn Lanes, and*  
40 *Alternate Access Routes and Configurations. After lengthy discussion (reiterating safety issues/concerns)*  
41 *regarding Lillian Lane the Planning Commission agreed to insert The Planning Commission does not recommend*  
42 *having direct Residential Access (Driveways) off of Lillian Lane.*  
43

44 Lewis also noted that Rich Catlin, Reece & Associates, upon review of the draft Findings, Conclusions, and Final  
45 Order requested a revision (Page 12 of 22 – second paragraph) *Lillian Lane is proposed to* may be classified as a  
46 *Collector Street that will generate a significant amount of Traffic with development of the Whale Watch PD and*  
47 *development of the adjacent 80 acre Parcel to the east. After brief discussion the Planning Commission*  
48 *determined Lillian Lane to be a Collector Street (as identified in the 2007 Way of Necessity Investigation).*  
49

50 The Planning Commission agreed to direct Lewis to prepare the revised Findings, Conclusion and Final Order for  
51 Hageman's signature.  
52

53 Motion: Leoni moved to approve the Findings, Conclusions, and Final Order for the Whale Watch Planned  
54 Development Master Plan Application (Case File #1-PD-PC-14) as outlined by the City Planner and as amended.

1 Lewis is directed to prepare the Findings, Conclusions and Final Order for Hageman's signature. Hayes  
2 seconded.

3  
4 Vote: Motion passed.  
5 Ayes: Leoni, Hageman, Hayes, Taunton  
6

7 V. PUBLIC HEARING ITEMS  
8

9 A. Case File: #3-CS-PC-14  
10 Applicant: John & Sara Britton  
11 Application: Coastal Shorelands Development  
12 Zone, Map and Tax Lot: Residential R-1, 09-11-08-BD #5200  
13 Location: 515 S.W. Coast Avenue

14 Hageman said Testimony and evidence given must be directed toward Criteria described by the City Planner, or  
15 other Criteria in the Code that the Testifier believes apply to the request. Failure to raise an issue, accompanied  
16 by statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to the  
17 issue precludes appeal to the State Land Use Board of Appeals on that issue. Application materials or other  
18 evidence relied upon by the Applicant had been provided to the City and made available to the Public.  
19

20 Hageman explained the Public Hearing procedure: He will call for Planning Commissioner ex-parte contact,  
21 conflict of interest or bias to declare. There will be an opportunity to object to any Planning Commissioner  
22 hearing the Case. Applicants will have the opportunity to present information relevant to their Application,  
23 followed by Testimony in support of the Application, then Testimony in opposition, with the Applicant having the  
24 opportunity for rebuttal. Unless there is a request to hold the Record Open, Testimony will be closed and the  
25 Commission will enter into Deliberations on the Application.  
26

27 Hageman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Hayes declared  
28 his Home is within 100 yds. (close Neighbor, within his View) of the Subject Property. Leoni stated she and  
29 Hageman live down the street (Coast Avenue) from the Subject Property. Hageman then asked if anyone had  
30 objection to any Planning Commissioner hearing the Case. There was no objection.  
31

32 Lewis summarized the Staff Report (copy attached to original of these Minutes). No Written Testimony was  
33 received. Hageman asked if the Commissioners had any questions to address to the City Planner. There was brief  
34 discussion regarding: (1) Non-Conforming Existing Deck on the adjacent Property to the north extends 11 ft.  
35 further westward; (2) Applicant submitted Structural Calculations and a Detailed Drawing (not attached to the  
36 Staff Report).  
37

38 The Applicant was given an opportunity to testify and answer questions from Commissioners. John Britton,  
39 introduced his wife, Sarah Britton, Co-Owner of 515 S.W. Coast Avenue (mailing address 590 Lower Ben  
40 Lomond Dr. S.E., Salem, OR 97302), and John Whiteside, Whiteside General Construction. He testified: They  
41 purchased the Home approximately two years ago and have been doing renovations for the last year and a half  
42 with the intent to retain the character of the cottage (believe built in 1935). He reiterated the unsafe condition of  
43 the aging Deck (dry rot and structural unsoundness) and the need to replace it for their own safety and the safety  
44 of their guests. He stated Mr. Lewis summarized the situation very accurately and agreed to abide with the three  
45 Conditions of Approval. He thanked the Planning Commission for their consideration and mentioned if the  
46 Planning Commissioners have any questions the three of them would attempt to answer them.  
47

48 Applicant and Planning Commission discussed: (1) Proposal is for a Concrete 3-level (sloping south to north)  
49 tiered Deck (accommodate the Topography of the House and Land); (2) Data pertaining to a Coastal Shorelands  
50 Application (specifically Exception to the Standards) are not illustrated on the Drawings i.e. Lot Line to the west,  
51 Bluff to the west, maximum/minimum distance from the Bluff to the Patio, location of the engineered  
52 cantilevered Retaining Wall; (3) Conceivably Denying the Application or Continuing the Public Hearing (request  
53 additional information); (4) Expressed appreciation for the improvements the Applicants have made to the House.  
54 Rick Davilla, retired contractor, 35 South Point Street, asked for clarification on Deck versus Concrete Patio  
55 Setback Standards in this situation. Lewis replied a Concrete Patio more than 30" above grade necessitates a

1 Building Permit and adherence to the same Setback Standard (encroach no further than 1/3 into the required  
2 Setback) as an Unenclosed Deck. There was brief discussion. Hageman reiterated that the Planning Commission  
3 is determining whether the Applicant meets the Exception Criteria of the Coastal Shorelands Overlay Zone  
4 Setback Standards, the actual Property Line extends well further to the west.  
5

6 John Whiteside, Contractor, stated he would hope that the Narrative and Testimony provided this evening in  
7 conjunction with the Drawings would be sufficient for approval. He explained: (1) Unable to get an accurate  
8 measurement of the Property Line (over the Bluff); (2) Proposed Structure is smaller than Existing 16 ft. Deck,  
9 (3) He was responsible for preparing the Drawings and consulted an Engineer; (4) Proposed Structure is  
10 illustrated on the Drawing as 12 ft. from the House (Staff Report and Engineered Drawings illustrated 14 ft.  
11 including the Cantilever); (5) Expressed desire to proceed/complete prior to the inclement weather (Nov./Dec.);  
12 (6) Edge of the Bluff is addressed in the Staff Report (City Planner did a Site Visit); (7) Expressed the intention to  
13 keep it structurally sound and stabilize the soil. Brief discussion ensued.  
14

15 There was no further Testimony in support of the Application. There was no Testimony in opposition to the  
16 Application. There was no request to keep the Record Open. The Public Hearing was closed and Deliberations  
17 began.  
18

19 The Planning Commission discussed approval of the Application with the understanding that the Applicant re-  
20 submits Drawings illustrating the items as discussed by the Planning Commission (subject to approval by the  
21 Lewis and Hageman). Lewis added that he has actually been On-Site three times and has a clear knowledge of  
22 the location of the former Deck, proposed Patio with the Retaining Wall, and where the Bluff Line falls along the  
23 extent of the Property and feels the Staff Report/Attachments is an accurate reflection of the situation. After  
24 further discussion the Planning Commission identified the necessary Drawing modifications: Illustrate the Top of  
25 Bluff, the distance from the House to the Bluff; the distance of the new overhang and Patio to the Bluff; Rear and  
26 Front Property Lines; and an overhead and side view from the west including dimensions and descriptions. Hayes  
27 stated for the Record to his knowledge the Original Owner of the House is no relation.  
28

29 Hageman called for a Motion.

30  
31 Motion: Hayes moved to approve the Coastal Shorelands Overlay Application (Case File #3-CS-PC-14) and  
32 adopt the Conditions of Approval (Items. 1. Thru 3.) as recommended by the City Planner provided the Drawings  
33 include an overhead and side view from the west (back view); dimensions to the Top of Bluff to the Property  
34 Line Front and Rear; and the distance of the House and the Deck with Overhang to the Top of Bluff. Subject to  
35 approval by the City Planner and Hageman's satisfaction the Applicant can proceed and finish the job. Hageman  
36 interjected - Also show the Footings and edge of the Deck. Leoni seconded.  
37

38 Vote: Motion passed.

39 Ayes: Leoni, Hageman, Hayes, Taunton  
40

41 B. Case File: #1-VAR-PC-14

42 Applicant: Matthew Tueth

43 Application: Variance to Setback Standard

44 Zone, Map and Tax Lot: Residential R-4, 09-11-05-CA #6200

45 Location: 45 N.W. Harney Street  
46

47 Hageman said Testimony and evidence given must be directed toward Criteria described by the City Planner, or  
48 other Criteria in the Code that the Testifier believes apply to the request. Failure to raise an issue, accompanied  
49 by statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to the  
50 issue precludes appeal to the State Land Use Board of Appeals on that issue. Application materials or other  
51 evidence relied upon by the Applicant had been provided to the City and made available to the Public.  
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53 Hageman explained the Public Hearing procedure: He will call for Planning Commissioner ex-parte contact,  
54 conflict of interest or bias to declare. There will be an opportunity to object to any Planning Commissioner  
55 hearing the Case. Applicants will have the opportunity to present information relevant to their Application,

1 followed by Testimony in support of the Application, then Testimony in opposition, with the Applicant having the  
2 opportunity for rebuttal. Unless there is a request to hold the Record Open, Testimony will be closed and the  
3 Commission will enter into Deliberations on the Application.  
4

5 Hageman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There was  
6 none. Hageman then asked if anyone had objection to any Planning Commissioner hearing the Case. There was  
7 no objection.  
8

9 Lewis announced the Applicant currently resides in Michigan and is not here this evening but is willing to make  
10 arrangements to attend if the Public Hearing is continued. Hageman empathized with the Applicant's absence.  
11 Lewis summarized the Staff Report (copy attached to original of these Minutes). Written Testimony was received  
12 after preparation of the Staff Report in opposition to the Application from Peter S. Dixon, John A. Dixon, and  
13 Frances M. Smithwaite; and Steven Benson. Hageman asked if the Commissioners had any questions to address  
14 to the City Planner. There was brief discussion regarding: (1) 2006 Coastal Shorelands and Variance Application  
15 did not include a Garage; (2) Proposed Development: 34 ft. Building Height; 515 sq. ft. Garage; 993 sq. ft. Main  
16 Floor; and a 642 sq. ft. Upper Floor; 1,635 sq. ft. total Living Area; 34 ft. wide x 44 ft. deep Footprint excluding  
17 the 6 ft. length Covered Stairway.  
18

19 The Applicant was not present. There was no Testimony in favor of the Application.  
20

21 Rick Davilla, 35 South Point Street, after confirming the Proposed Home meets the Residential R-4 Building  
22 Height Standards (maximum 35 Ft.) stated having been in the business a long time and having attended numerous  
23 Planning Commission Meetings he has always had his Designer for a minimal expense draw Elevations, Cross-  
24 Sections, and Setbacks for Preliminary Approval. He wondered how the Planning Commission can consider an  
25 Application that doesn't provide the information necessary to make a determination to approve or deny.  
26

27 Hageman called for Testimony in opposition to the Application.  
28

29 Peter Dixon, 55 N.W. Harney (mailing P.O. Box 1328, Depoe Bay) thanked the Planning Commission and  
30 referenced his Written Testimony (on behalf of him and his family) and asked if they had any questions. Brief  
31 discussion ensued regarding (1) Calculation of square footage; (2) Applicant is requesting a Variance to the  
32 northeast Side Yard and Front Yard Setback Standards; (3) Off-Street Parking Requirements; (4) Per DBZO  
33 Height determines the Side Yard Setbacks; (5) Drawings are vague (is the maximum Footprint illustrated or does  
34 the 3<sup>rd</sup> floor extend further).  
35

36 There was no further Testimony in opposition to the Application. There was no request to keep the Record Open.  
37 The Public Hearing was closed and Deliberations began.  
38

39 The Planning Commission discussed: (1) Desire to have the Applicant provide House Plans including Building  
40 Elevations; (2) DBZO Off-Street Parking Requirements; (3) Continue the Public Hearing and ask the Applicant to  
41 attend the next meeting.  
42

43 Hageman called for a Motion.  
44

45 Motion: Hageman moved to continue the Public Hearing to the next Planning Commission Meeting (Applicant to  
46 attend). Prior to the Meeting the Applicant will provide House Drawings and any other Detailed Drawings the  
47 City Planner may require. Hayes seconded.  
48

49 Vote: Motion passed.

50 Ayes: Hageman, Hayes, Taunton, Leoni  
51

52 VI. NEW BUSINESS

53 There was none.  
54

55 VII. CITY COUNCIL LIAISON SCHEDULE AND REPORT

1 Hayes reported on the following items: (1) Interviews/Appoint Applicant to Fill Vacancy – City Council Position  
2 #3; (2) Fish Plant Lease Agreement; (3) Docks and Pilings Replacement Project – Request for Proposals for  
3 Preliminary Engineering Services; (4) Lincoln County Sheriff’s Office - Law Enforcement Services Agreement;  
4 (5) Renewal of Utility Franchise Agreements; (6) Replacement of three Water Plant Turbine Pumps; (7) U.S.  
5 Coast Guard Newport Air Station Facility Closure. There was discussion on several of the items.  
6

7 VIII. PLANNER'S REPORT

8 Lewis reviewed the Planners Report – Land Use Activity September 4th thru October 1st (copy attached to the  
9 original of these Minutes).  
10

11 IX. PLANNING COMMISSION CONCERNS

12 Hayes asked about the status of the Deck at 125 S.E. Bay Street. Lewis responded there has been no work since  
13 the Building Permit was issued (over 6 months); the City has asked the Lincoln County Building Official to notify  
14 the Applicant that the Building Permit is expired; City Staff will be notifying the Owner we will be moving  
15 forward with City Council enforcement. Hayes announced he will not be able to attend the October 21<sup>st</sup> City  
16 Council Meeting. Hageman and/or Leoni plan to attend. Taunton again expressed her continued concern  
17 regarding City of Depoe Bay Sign Regulations and Permit Procedures and Parking Requirements. There was  
18 lengthy discussion regarding Downtown Parking issues/concerns/solutions including the offer of gift of property  
19 to the City from K. Henry and M. Louise Granat Living Trust and in the imminent future O.D.O.T. demanding  
20 Parallel Parking along Highway 101. Hageman reiterated the Planning Commission needs to proceed with Text  
21 Amendments to the DBZO Master Plan with Phases Procedures (Section 3.410 Planned Development Zone (PD)  
22 Item 4.) Davilla (from the audience) suggested that Developers be required to pay System Development Charges  
23 and Connection Fees (currently paid at the time a Building Permit Application is filed). The Planning  
24 Commission discussed enactment of that requirement.  
25

26 X. ADJOURN

27 There being no further business, the Meeting was adjourned at 7:45 p.m.  
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29  
30  
31

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Roy Hageman, President

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37 \_\_\_\_\_  
Carla Duering, Recording Secretary