

1 Depoe Bay Planning Commission  
2 Regular Meeting  
3 Wednesday, March 8, 2017 – 6:00 P.M.  
4 Depoe Bay City Hall  
5

6 PRESENT: G. Steinke, J. Speer, R. Hageman, J. Hayes, B. Taunton  
7 STAFF: City Planner L. Lewis, Recording Secretary C. Duering  
8 VACANCY: Two Vacant Seats  
9

10 I. CALL MEETING TO ORDER

11 Hageman called the Meeting to order and established a Quorum at 6:00 P.M.  
12

13 II. APPROVAL OF MINUTES: February 8, 2017 Regular Meeting.  
14

15 Motion: Speer moved to approve the Minutes of February 8, 2017 Regular Meeting as written. Hayes seconded.  
16

17 Vote: Motion passed.

18 Ayes: Steinke, Speer, Hageman, Hayes, Taunton  
19

20 III. ITEMS FROM THE AUDIENCE

21 There was none.  
22

23 IV. PUBLIC HEARING ITEMS

24 Hageman noted there are two Public Hearing Items this evening. The first one is Quasi-Judicial and the second is  
25 Legislative.  
26

27 A. Case File: #1-VAR-PC-17

28 Applicant: Catherine Henry, TTEE, Grow Emerging Companies LLC 401K Plan

29 Application: Variance to Off-Street Parking Requirements

30 Zone, Map and Tax Lot: C-1 Retail Commercial Zone, 09-11-08-BA #04600

31 Location: 249 S. Hwy. 101  
32

33 Hageman said Testimony and evidence given must be directed toward Criteria described by the City Planner, or  
34 other Criteria in the Code that the Testifier believes apply to the request. Failure to raise an issue, accompanied  
35 by statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to the  
36 issue 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

39 Hageman explained the Public Hearing procedure: He will call for Planning Commissioner ex-parte contact,  
40 conflict of interest or bias to declare. There will be an opportunity to object to any Planning Commissioner  
41 hearing the Case. Applicants will have the opportunity to present information relevant to their Application,  
42 followed by Testimony in support of the Application, then Testimony in opposition, with the Applicant having the  
43 opportunity for rebuttal. Unless there is a request to hold the Record Open, Testimony will be closed and the  
44 Commission will enter into Deliberations on the Application.  
45

46 Hageman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Hageman  
47 declared that he lives approximately two blocks from the Subject Site/Structure; knows the neighbors; is a  
48 personal friend to Loren and Dorinda Goddard who live on Ellingson Street (across from Subject Site); and  
49 walked around the location today. Taunton stated that she drove by the Subject Site today. Hayes declared he  
50 lives in the neighborhood and drove by and looked in the window.  
51

52 Hageman then asked if anyone had objection to any Planning Commissioner hearing the Case. There was no  
53 objection.  
54

1 Lewis summarized the Staff Report (copy attached to original of these Minutes). Written Testimony was received  
2 from Ellen Germaneri (copy attached to original of these Minutes) in support of the Application and expressing  
3 concerns regarding parking, specifically on Coast Avenue.  
4

5 Hageman reminded everyone that the Applicant is only requesting a Parking Variance. The drainage issue,  
6 condition of the existing structure, and the ability to renovate and add a 2<sup>nd</sup> floor is not a consideration in tonight's  
7 discussion. If the Variance Application is approved, the Applicant would be required to submit a Building Permit  
8 Application and engineered plans.  
9

10 Hageman asked if the Commissioners had any questions to address to the City Planner. There was none.  
11

12 The Applicant was given an opportunity to testify and answer questions from Commissioners.  
13

14 Catherine Henry asked if the Planning Commission had any questions.  
15

16 The Applicant and Planning Commission discussed/clarified the following: (1) Applicant acknowledged  
17 vacation rentals can have a negative impact to neighborhoods and the community's desire to encourage people to  
18 explore South of the Bridge – Proposal addresses those items by providing one residential on-site manager unit  
19 and commercial storefront with Hwy.101 frontage; (2) Applicant noted Depoe Bay is a rare oceanfront  
20 pedestrian/handicapped friendly city (husband is handicapped and they are interested in providing a ramp  
21 accessible 2<sup>nd</sup> floor VRBO); (3) Correct Staff Report – Mixed Use of 1,000 sq. ft. retail, two residential units, and  
22 three vacation rentals requires twelve off-street parking spaces; (4) Garage access would negate the availability of  
23 existing off-street parking; (5) Financially not feasible for Applicant to purchase property for parking and unable  
24 to acquire leased property; (6) Existing inadequate parking for the mixture of commercial and residential uses in  
25 the vicinity and a desire to determine which of the proposed uses would have the least unfavorable outcome; (7)  
26 There are no grandfathered off-street parking spaces (bookstore has not been operational for years); (8) Applicant  
27 believes that due to the seasonable circumstances of Depoe Bay the property offers more success if there is  
28 optimal use of the structure (commercial, residential, and vacation rental units); (9) The two inch encroachment  
29 on Ellingson Street right-of-way must be resolved (City Council issue).  
30

31 Hageman called for Testimony in support of the Application.  
32

33 Pat Dunlop, 1275 S.W. Walking Wood, came forward to state she had researched for use in her 2-story home the  
34 cost of a stair lift and found that one could be purchased for \$2,000.  
35

36 Hageman called for Testimony in opposition of the Application.  
37

38 Dorinda and Loren Goddard, 15 Ellingson Street, testified: Would truly love to see something done with the  
39 vacant building but have an issue with the insufficient amount of existing parking (especially during peak tourist  
40 season) in the vicinity of the Subject Property; unable to offer a resolution to the parking issue or suggest any  
41 alternatives; clarified the misconception regarding surrounding properties not in adherence to the off-street  
42 parking requirements – They were indeed required to provide off-street parking when they added a 2<sup>nd</sup> story; and  
43 on the basis of parking they would have to be opposed to the proposal.  
44

45 Hageman asked if they are opposed to all of the proposed alternative land uses. They answered they would not be  
46 in opposition to the retail/commercial use. Their primary concern is with the additional residential and tourist  
47 accommodation uses.  
48

49 Alison Young, 245 S.W. Coast Avenue (The Commander's Cottage), stated she concurs with the Goddards.  
50 Parking is an issue (during the summer it is difficult to get to her own home) – Love the idea that someone wants  
51 to improve/use the property, however adequate parking is key. She suggested the Applicant consider the option  
52 of providing a long drive-way.  
53

1 Hageman stated the Applicant is not proposing to decrease the size of the existing structure and the southwest  
2 corner of the building is a retaining wall.

3  
4 Valerie Miller, 37 N.E. Spring Avenue (mailing address P.O. Box 75) declared that she was not opposed. She  
5 commented on how sad it is to see a vacant building (negative impression that our town is failing and lacking  
6 growth). She loves the area and loves this town. Parking is a tremendous problem and encouraged working  
7 toward a solution (as a fairly new resident of two years she was not sure what she could contribute).

8  
9 Hageman called for additional comments (pro/con).

10  
11 Fred Rush, 211 S.W. Hwy. 101, applauded the Applicant's initiative but is troubled with the parking situation.  
12 Parking is not just a problem for this one enterprise, it is a genuine problem for the amount of activity that occurs  
13 for ¼ -½ of mile South of the Bridge. The City, proprietors, and residents need to address the parking constraints  
14 and work towards a solution that supports additional economic activity. This Variance Application is just an  
15 example of the bigger issue confronting economic growth.

16  
17 The Applicant was given an opportunity for rebuttal.

18  
19 Catherine Henry stated that she understands the concerns with parking and reiterated that unfortunately she can't  
20 afford to purchase additional land and the existing building covers the property. She assumed that the previous  
21 use retail/residence is grandfathered and could be continued.

22  
23 Hageman interjected that there is no grandfathered use per Depoe Bay Zoning Ordinance (discontinued for over  
24 one year).

25  
26 Catherine Henry stressed that she would not proceed with purchasing the property if the Variance Application is  
27 approved only as a residential/commercial space (not financially viable). She also remarked that another potential  
28 buyer had expressed their desire to do a similar Change of Use.

29  
30 Lewis asked the Applicant to identify their ideal mixed use option. Her preferred option (Hwy. 101 frontage  
31 retail, three vacation rentals, and one residence) would involve a total renovation of the first floor and the addition  
32 of a partial second floor. Brief discussion followed between the Applicant and the Planning Commission. In  
33 conclusion it was determined that nine parking spaces would be required for 800 sq. ft. of retail, one residence,  
34 and three vacation rentals.

35  
36 A Planning Commissioner referred to Urban Renewal. Lewis spoke about the future plans for Hwy. 101  
37 improvements between the Bridge and Schoolhouse Street identify a significant increase in on-street parallel  
38 parking. Highway improvements are pending final approval of funding with construction estimated to occur  
39 between 2019 and 2021. Discussion followed.

40  
41 Joe Fisher, 331 N.E. 1<sup>st</sup> St., asked for clarification regarding the non-conforming grandfather clause and how it  
42 applies to this situation.

43  
44 Hageman explained that the Applicant is expanding a non-conforming structure by adding a 2<sup>nd</sup> story which then  
45 requires conformance to the Parking Standards. He also quoted DBZO Section 7.080 Discontinuation of a Non-  
46 Conforming Use – *If a non-conforming use is discontinued for a period over one year, further use of the property*  
47 *shall be in conformance with the provisions of the Zoning Code.*

48  
49 Fisher said the building has been in use, just not open to the public on a daily basis. Hageman replied there has  
50 been no Business License activity since 2013.

51  
52 There was no further Testimony.

53  
54 There was no request to keep the Record Open and no Request to Continue the Public Hearing.

1 The Public Hearing was closed and deliberations began.

2  
3 The Planning Commission and City Planner discussed the following: (1) Maintaining retail space along the  
4 ground floor Hwy. 101 frontage creates retail streetscape vibrancy (increases pedestrian traffic) as opposed to the  
5 building turning into a residence or tourist accommodation; (2) Existing on-street parking in the immediate area;  
6 (3) Examples of prior Parking Variances granted for Change of Use; (4) Lake Oswego parking garage funding  
7 (partially Urban Renewal Agency, majority the Developer); (5) Legally and morally we can't deny the  
8 Application – Need to justify the Variance (consider the on-street parking and determine which of the proposed  
9 uses would have the least unfavorable outcome and still be economically viable for the Applicant); (6) Growth  
10 potential along Hwy. 101 and possibly Coast Avenue; (7) Setting a precedent; (8) Decreasing the number of  
11 tourist accommodations from three to two.

12  
13 Hageman re-opened the Public Hearing to get the Applicant's opinion.

14  
15 Catherine Henry stated it wasn't exactly what they would like but would probably be doable. She feels that  
16 because the building has frontage on three streets (Hwy. 101, Ellingson, and S.W. Coast Ave) there is ample  
17 parking. She noted because this will be a cash purchase as opposed to conventional financing it enables them to  
18 consider the lesser option. Brief discussion ensued. The Planning Commission agreed to a range of 800-1000 sq.  
19 ft. of commercial retail space.

20  
21 Deborah Callendar, 151 S.E. South Forty Lane, noted that three versus two tourist accommodations would benefit  
22 the City – Increases Room Tax Revenue.

23  
24 Hageman interrupted her testimony and asked her to go no further (cannot be considered, irrelevant and could be  
25 cause for Appeal).

26  
27 Dorinda Goddard restated her support of the Applicant's effort to turn the structure into a thriving multi-use  
28 building. However, she believes there needs to be an effort made by the Applicant to meet a reasonable amount  
29 of the Off-Street Parking Requirements. She was unaware that discontinuing a use for more than a year requires  
30 conformance to the current standards.

31  
32 Discussion ensued regarding the prior use and proposed use and the adverse impact of approving a Parking  
33 Variance until there is a long-range solution to the parking issues.

34  
35 Hageman closed the Public Hearing.

36  
37 The Planning Commission further discussed: (1) Per DBZO Off-Street Parking Requirements parking can be  
38 provided within 500 ft. for retail but must be on the same lot or a lot immediately adjacent for a residence and  
39 tourist accommodation; and (2) An on-site two or three car garage would eliminate one to three on-street parking  
40 spaces.

41  
42 Hageman called for a Motion followed by further discussion.

43  
44 Motion: Speer moved to approve the Variance Application (Case File #1-VAR-PC-17) as discussed by the  
45 Planning Commission (a mixed-use option of 800-1,000 sq. ft. Hwy. 101 retail frontage, one residence, and two  
46 vacation rentals).

47  
48 A Commissioner commented we aren't going to please everyone. Another commented we need more time to  
49 think – It's too much.

50  
51 Hageman asked do I officially hear you requesting a continuation. The Commissioner replied yes.

52  
53 Motion Withdrawn: Speer withdrew his Motion.

1 Hageman announced the Public Hearing will be continued to the April Planning Commission Meeting and  
2 clarified that Public Testimony will remain closed.

3  
4 B. Depoe Bay Transportation System Plan Update  
5

6 Hageman explained the less formal Public Hearing procedure and requested that people not repeat verbatim  
7 previous Testimony (just acknowledge agreement). He invited the Consultant to come forward.  
8

9 Hageman provided a brief synopsis of the four-year process to create the Draft Depoe Bay Transportation System  
10 Plan Update which included numerous Public Meetings and Workshops, Community Advisory Committee  
11 participation, and extensive public input. He noted this is a conceptual, long-term plan (we know the budget  
12 status of the City and the budget status of the State) that gives everyone something to like and dislike.  
13

14 Reah Flisakowski, DKS Associates, 720 S.W. Washington Street, Suite 500, Portland thanked the Planning  
15 Commission and wanted to express her appreciation of City Staff (Pery & Larry – Working with such a great  
16 team, very responsive) and to O.D.O.T. who provided the funding for the project. She believes the plan to be  
17 very reflective of Depoe Bay. She then proceeded with a printed PowerPoint presentation (copy attached to  
18 original of these Minutes).  
19

20 Hageman noted the Summary is a result of the Planning Commissions' recommendation.  
21

22 Lewis summarized the Written Testimony received from Katherine Pyle, Steven J. Taylor, John Turner Menniti,  
23 Robb and Sundi McClain, Gene and Josie Whisnant, and Carrie Newell (copies attached to original of these  
24 Minutes).  
25

26 Hageman called for Public Testimony.  
27

28 Paul Miller, 37 N.E. Spring Avenue (mailing address P.O. Box 75), expressed several concerns: An alternative  
29 route to Hwy. 101 in the event of a natural disaster i.e. earthquake should be a high priority issue; Collins Street  
30 sidewalks should be a higher priority than a bike lane (in 3 years he has seen a lot of people walking and has yet  
31 to see a bicyclist); and Collins Street hilltop visibility is a dangerous situation for a vehicle and would be  
32 especially dangerous for a bicycle.  
33

34 Hageman and Flisakowski responded: Overall, residents supported an alternative route, while a number of  
35 business owners were very vocal about their objections to anything that could be perceived to be a bypass; it is  
36 also cost prohibitive (approximately fifty million dollars). They agreed that sidewalks would be used more than  
37 bicycle lanes on Collins Street. Typically it is much more cost effective to package sidewalks and bicycle lanes  
38 (drainage and sidewalks share the bulk of the expense). Also noted that Collins Street is under Lincoln County's  
39 jurisdiction; and the project is listed as an Aspirational Project (will not have funding by 2035, unless additional  
40 sources become available).  
41

42 Pat Dunlop, 1275 S.W. Walking Wood, former owner of a downtown business, shared a potentially hazardous  
43 incident she and other business owners witnessed when a gentleman was going up the south side sidewalk of  
44 Collins Street in an electric wheelchair and nearly tipped backwards.  
45

46 Jane Richardson, 375 E. Anchor Avenue, is more concerned with the people that live in Depoe Bay, rather than  
47 people that visit Depoe Bay (downtown seems to be more ADA accessible). She has a neighbor who loves his  
48 golf cart and that is his transportation for independence. As an advocate for alternative transportation she would  
49 like the City to consider allowing alternative types of transportation in their street right-of-ways. She asked that  
50 they be clearly identified (i.e. electric wheelchairs, golf carts, segways, and bike with motors) and defined. She  
51 also submitted Written Testimony pertinent to her request as well as Written Testimony for the upcoming Sign  
52 Ordinance Public Hearing (copies attached to Original of these Minutes).  
53

1 Flisakowski responded: Motor vehicle is the term used in a Transportation System Plan. Encouraged the City to  
2 set the standards for what is allowed or not allowed in public right-of-way and on their trails. The State  
3 determines what is allowed on Hwy. 101 and they do not allow golf carts. She also acknowledged that hybrid  
4 gas/electric bicycles are becoming very popular.  
5

6 Steve Taylor, 410 S.W. Coast Avenue, reiterated his driveway/access concerns as stated in his Written Testimony  
7 regarding the proposed improvements on Coast Avenue.  
8

9 Flisakowski and Hageman responded: The Project has not been designed – Listed on the Aspirational Project List  
10 (will not have funding by 2035, unless additional sources become available). We know there are issues –  
11 Engineers will determine amount of grading, the necessity of retaining walls, etc. They assured Taylor that the  
12 City is aware that every driveway needs to be maintained and there would be no negative impact to his access.  
13 City Council has discussed issues/concerns (dangerous for pedestrians; effort to make it one-way; and limit  
14 parking on one side) regarding Coast Avenue over the years. It was also noted that Coast Avenue has a platted  
15 width of 40 feet.  
16

17 Dorinda Goddard, 15 Ellingson Street, emphasized there are better projects to spend money on than the Harbor  
18 Loop Pedestrian Trail. It should not be a priority of the City. She also agreed with the concerns regarding  
19 bicycle and pedestrian safety on Coast Avenue.  
20

21 Hageman believes we will see a change in that with the new administration. The City Council and Urban  
22 Renewal at the time was very supportive of the Project. The Planning Commission chose not to address the  
23 prioritizing of Projects. Paving will increase the amount of vehicular traffic, speed they will travel, and broaden  
24 the amount of pedestrian and bicycle use.  
25

26 Catherine Henry, stated as a former resident who lived on South Point she often walked Coast Avenue. She  
27 compared the dangers of walking along the coastline in Lincoln City to safely walking the rural back roads of  
28 Depoe Bay. Any sidewalk would be a wonderful benefit (create an even more walkable Depoe Bay).  
29

30 There was no further testimony.  
31

32 Hageman asked the Planning Commission if they were prepared to vote on a recommendation for adoption or  
33 would they like to allow for additional Public Testimony at the next Planning Commission Meeting. Brief  
34 discussion ensued.  
35

36 An audience member asked what can be done to reconfigure the Collins Street and Hwy. 101 intersection.  
37 Conversation followed between audience members and Hageman. In conclusion Hageman said that is another  
38 comment to forward to City Council – Knock the top off of Collins.  
39

40 Hageman called for a Motion.  
41

42 Motion: Steinke moved to recommend adoption of the Draft Depoe Bay Transportation System Plan (Summary,  
43 Volume 1 and Volume 2) as is and request that tonight's comments be forwarded to City Council. Hayes  
44 seconded.  
45

46 Vote: Motion passed.

47 Ayes: Speer, Hageman, Hayes, Taunton, Steinke  
48

49 Hageman invited the audience to stay for the remainder of the Meeting. Many conversations were going on.  
50

51 Recess: 8:30 – 8:45 p.m.  
52

53 VI. NEW BUSINESS

54 There was none.

1 VII. UNFINISHED BUSINESS

2 There was none.

3  
4 VIII. CITY COUNCIL LIAISON SCHEDULE AND REPORT

5 Hageman reported on the following: (1) Proposed Ordinance No. 312 – An Ordinance Granting to Lightspeed  
6 Networks, Inc., DBA “LS Networks”, an Oregon Corporation, a Franchise to Construct, Operate, and Maintain a  
7 Telecommunications Network within the City of Depoe Bay, Oregon, and Declaring an Emergency; and (2)  
8 Oregon Parks and Recreation Department Local Government Opportunity – Land Acquisition/Parks.

9  
10 Hageman reminded the Commissioners to file their Quarterly Public Official Disclosure Form with the Oregon  
11 Government Ethics Commission. There was brief discussion regarding the Quarterly Filing process.

12  
13 IX. PLANNER'S REPORT

14 Lewis reviewed the Planner’s Report – Land Use and Building Permit Activity January 1, 2017 thru February 1,  
15 2017 (copy attached to the original of these Minutes) which replaced the February 2, 2017 thru March 1, 2017  
16 Report distributed earlier (copy attached to original of these Minutes). Discussion followed regarding marijuana  
17 retail/producer facilities in Depoe Bay and Lincoln County.

18  
19 X. PLANNING COMMISSION CONCERNS

20 Hageman thanked a Commissioner for continuing the Public Hearing for the Variance to Off-Street Parking  
21 Requirements. This resulted in a lengthy discussion.

22  
23 Hageman shared that he had been talking with Lewis regarding creating commercial design guidelines to be  
24 implemented into our Zoning Code. The Planning Commission and City Planner discussed at length the benefits  
25 of having guidelines. In conclusion the Planning Commission agreed to direct Lewis to provide them with a  
26 copy of the recently adopted Architectural Guidelines and Standards in the City of Waldport for discussion at the  
27 next Planning Commission Meeting.

28  
29 Taunton asked about receiving a notice from the Lincoln County Sheriff’s Department regarding a tourist  
30 accommodation in her neighborhood. Lewis explained that any owner who operates a dwelling as a short term  
31 rental within the unincorporated areas of Lincoln County is now required to obtain a license through the Sheriff's  
32 Office.

33  
34 Steinke mentioned that the Solar Eclipse is estimated to bring thousands of people to Depoe Bay for the first time  
35 and could be a significant event for us as a community in terms of long-range development.

36  
37 There was additional discussion between audience members, the Planning Commission, and City Planner  
38 regarding Oregon Department of Transportation Right-of-Way parameters; City assuming jurisdiction of Hwy.  
39 101 sidewalks and the ramifications (i.e. maintenance, liability etc.); and allowing sandwich boards on the  
40 sidewalks, and signs/awnings to project over sidewalks.

41  
42 XI. ADJOURN

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

44  
45  
46  
47  
48 \_\_\_\_\_  
49 Roy Hageman, President

50  
51  
52 \_\_\_\_\_  
53 Carla Duering, Recording Secretary