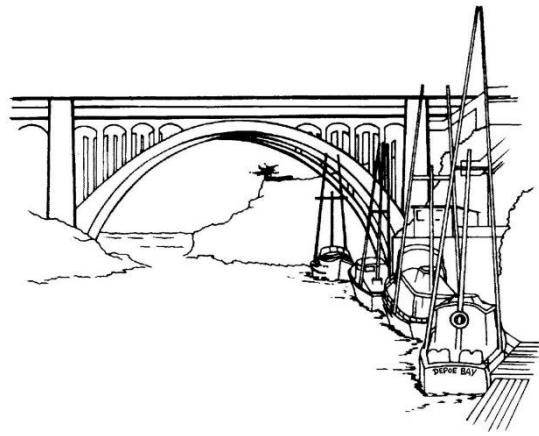


City of Depoe Bay

City Council Special Meeting

January 31, 2022 – Monday, 7:00 PM

Depoe Bay City Hall – 570 SE Shell Avenue



The meeting location will be accessible to the public. Masks are required as per State of Oregon Office of the Governor effective August 13, 2021. Public comments may be made via email up to two hours before the meeting start time at info@cityofdepoebay.org or you can also dial in to attend using your telephone (888) 204-5987, access code 9599444.

AGENDA

- I. Call Meeting to Order and Establish a Quorum
- II. Public Hearing: Appeal of Planning Commission Decision on Application for Development in the Retail Commercial C-1 Zone and Request for Variances (Case File #2-VAR-PC-21)
- III. Adjourn

Depoe Bay City Hall is accessible to the disabled. If special accommodations are needed, please notify City Recorder at 765-2361 48 Hours in advance of the meeting so that appropriate assistance can be provided.

TTY#1-800-735-2900

"This institution is an equal opportunity provider"

NOTICE OF APPEAL & DEPOE BAY CITY COUNCIL PUBLIC HEARING

Revised Notice – Public Hearing **Monday, January 31, 2022**

APPEAL OF DEPOE BAY PLANNING COMMISSION APPROVAL APPLICATION FOR DEVELOPMENT IN THE RETAIL COMMERCIAL ZONE AND REQUEST FOR VARIANCES

APPELLANT: Fran Recht

DESCRIPTION: The Depoe Bay Planning Commission approval of an application for development in the Retail Commercial Zone and Request for Variances has been appealed to the City Council. The proposed development is to construct six (6) new townhouse buildings, each with three (3) units for a total of 18 units in the Retail Commercial Zone (C-1). The proposed development includes six (6) tax lots. The request includes variances for pedestrian amenities, location of main entrances, and sidewalks.

The appellant states the basis for the appeal is “ignoring the applicable standards for streets; ignoring standards in the C-1 zone for landscaping; ignoring standards in the C-1 zone for pedestrian amenities; and for allowing multiple variances to the development standards that pervert the intent of the variance ordinance through flawed rationale and findings.”

APPLICABLE CRITERIA:

Depoe Bay Zoning Ordinance No. 24 (as amended)

- a) Section 3.110: Retail Commercial Zone C-1
- b) Section 3.115: Commercial Zone C-1 – Design Standards and Guidelines
- c) Article 8: Variances

LOCATION: The subject properties are bounded by US HWY 101 on the west, NE Bradford Street on the south, and NE Williams Avenue on the east, and are further identified on Lincoln County Assessor’s Map 09-11-05-CD as tax lots 02800, 03100, 03200, 03300, 03301, and 03400.

APPLICATION MATERIALS:

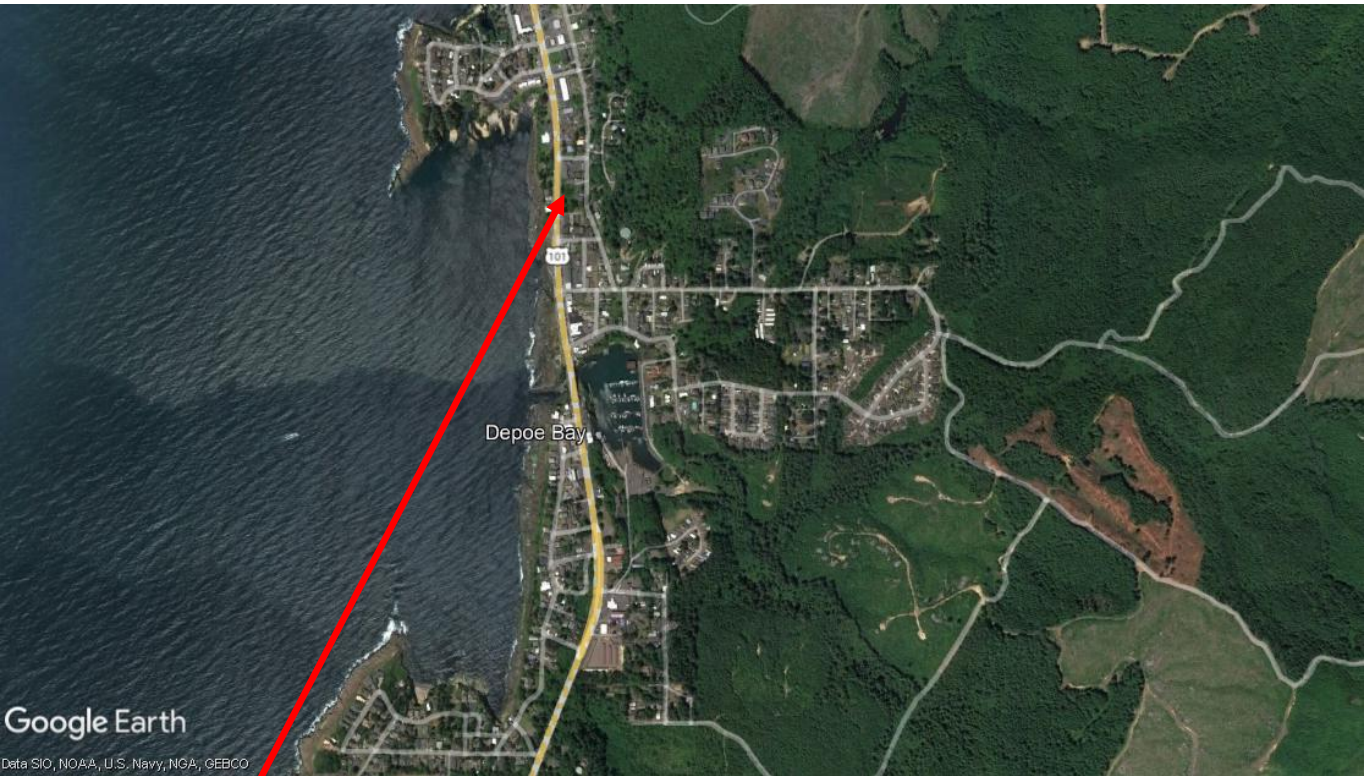
Application materials, documents and evidence submitted by or on behalf of the appellant are available for inspection at City Hall and can be obtained at cost. Copies of the staff report for this case are also available for review and may be purchased at Depoe Bay City Hall, 570 SE Shell Avenue, seven days prior to the hearing.

TESTIMONY: Testimony may be submitted in written or oral form. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, either in person or in writing, or failure to provide statements/evidence sufficient to afford the City Council an opportunity to respond to the issues precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. The comment period for written testimony expires, January 31, 2022, 4:00 p.m. Send letters to Depoe Bay City Hall or email info@cityofdepoebay.org.

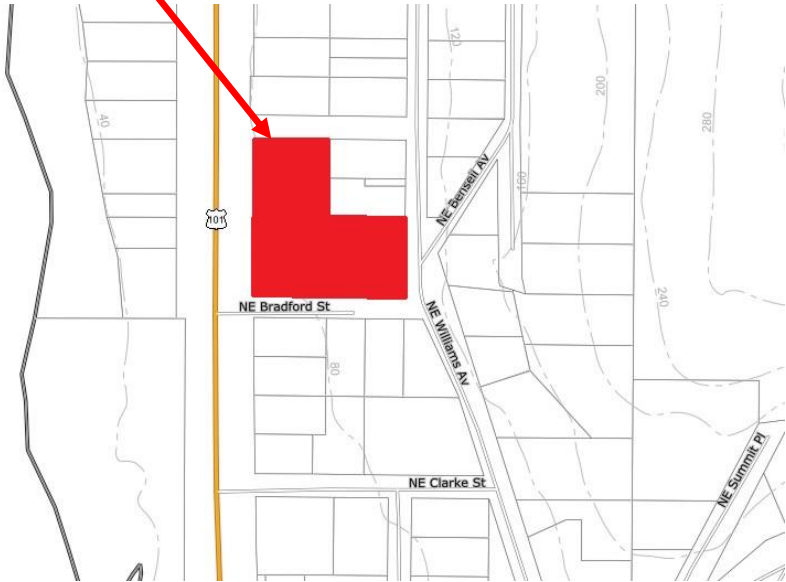
CONTACT: Barbara Chestler, City Recorder (541) 765-2361 ex 11 or info@cityofdepoebay.org.

TIME/PLACE: **Monday, January 31, 2022, 7:00 P.M., Depoe Bay City Hall, 570 SE Shell Avenue, Depoe Bay, OR 97341.** Mail comments to P.O. Box 8, Depoe Bay, OR 97341.

Depoe Bay City Hall is accessible to the disabled. If special accommodations are needed, please contact the City Recorder at 541-765-2361 forty-eight hours in advance of the meeting so that appropriate assistance can be provided.



Lincoln County Tax Id. No. 09-11-05-CD-02800, 03100, 03200, 03300, 03301, 03400



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NOTICE OF APPEAL & DEPOE BAY CITY COUNCIL PUBLIC HEARING

Revised Notice – Public Hearing **Monday, January 31, 2022**

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APPELLANT: Fran Recht

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The appellant states the basis for the appeal is “ignoring the applicable standards for streets; ignoring standards in the C-1 zone for landscaping; ignoring standards in the C-1 zone for pedestrian amenities; and for allowing multiple variances to the development standards that pervert the intent of the variance ordinance through flawed rationale and findings.”

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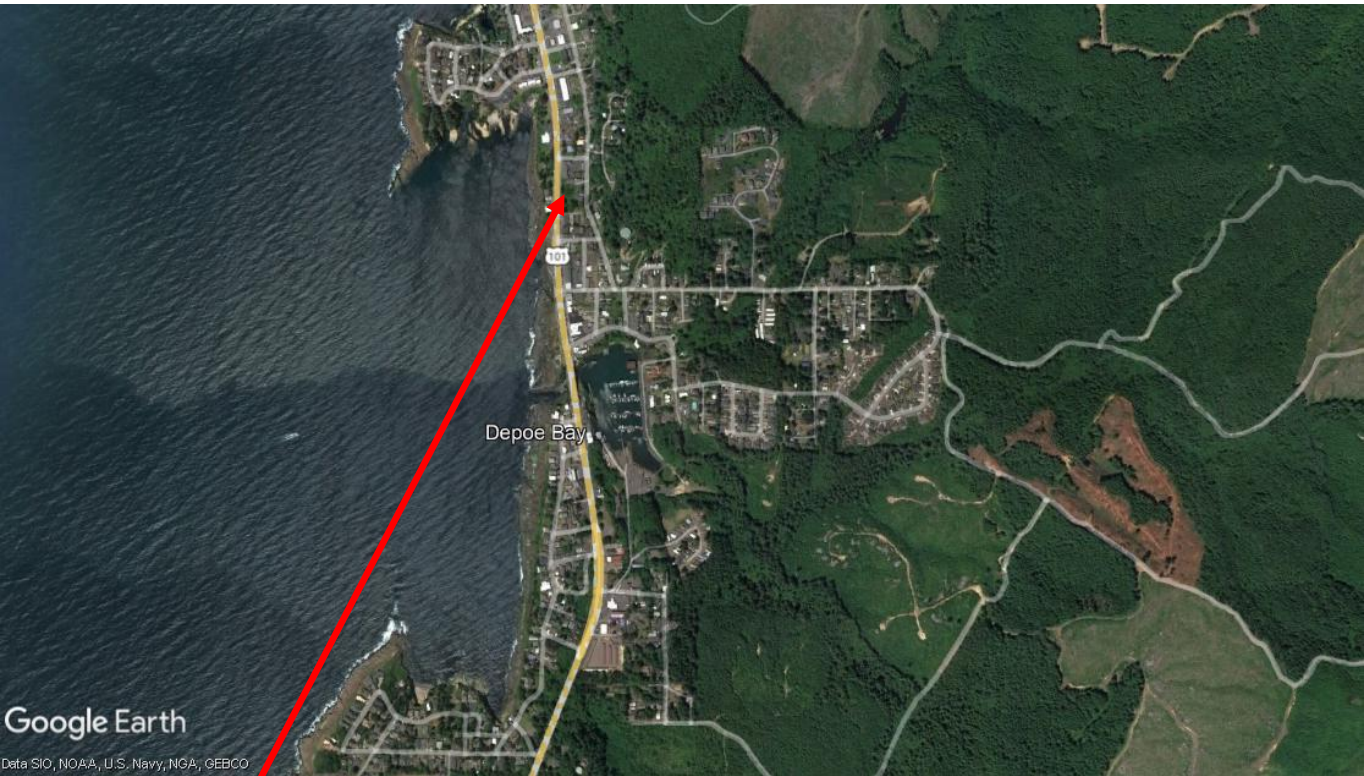
Application materials, documents and evidence submitted by or on behalf of the appellant are available for inspection at City Hall and can be obtained at cost. Copies of the staff report for this case are also available for review and may be purchased at Depoe Bay City Hall, 570 SE Shell Avenue, seven days prior to the hearing.

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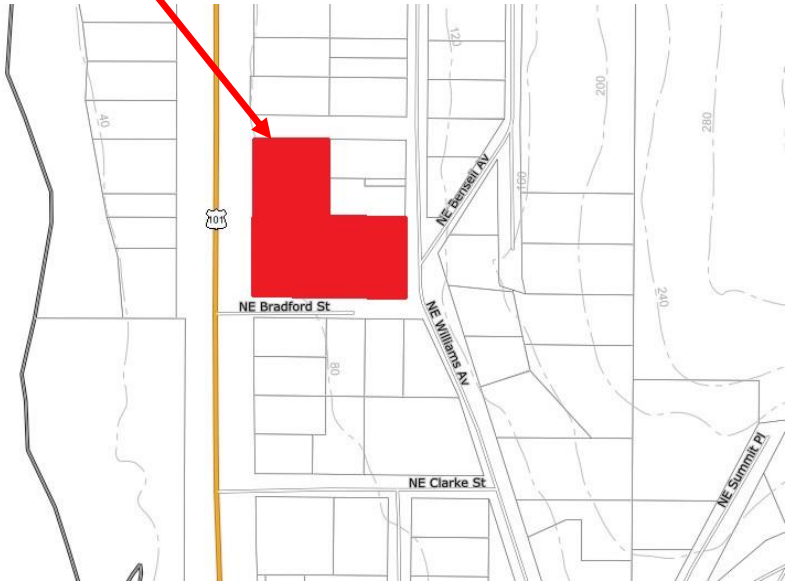
CONTACT: Barbara Chestler, City Recorder (541) 765-2361 ex 11 or info@cityofdepobay.org.

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Lincoln County Tax Id. No. 09-11-05-CD-02800, 03100, 03200, 03300, 03301, 03400



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APPEAL OF PLANNING COMMISSION DECISION
Case File #2-Var PC-21
APPLICATION FOR DEVELOPMENT IN THE RETAIL COMMERCIAL ZONE AND REQUEST FOR
VARIANCES

The Planning Commission's approval of an application for development in the retail commercial zone and request for variances has been appealed. The appellant states that the reason for the appeal is that the Planning Commission erred in approving the application because it ignored the applicable standards for streets, ignored the standards in the C-1 Zone for landscaping, ignored the standards in the C-1 zone for pedestrian amenities, and for allowing multiple variances to the development standard that pervert the intent of the variance ordinance through flawed rationale and findings. To help facilitate City Council deliberations, the staff offers the following summary.

SUMMARY

Appellant	Planning Commission and Applicant
<p>1). NE Bradford Street does not meet Standards based on Article 14.070.2 of the DBZO and fails to comply with the required land division street widths (requires 28' paved road surface width) and requirement for a cul-de-sac on the dead-end road. Section 14.045 of the Traffic Impact Study (TIS) assumed a 28' paved width was cited. Case File #1-C1-PC-21 cites as street standards being used in other cases.</p>	<p>1). Depoe Bay Zoning Ordinance (DBZO) Article 14 (attached) applies to Land Divisions, Partitions, Subdivisions, Property Line Adjustments, and Replatting Land Division development. DBZO states: "Section 14.070 Street Width in Subdivisions and Partitions". This was not a land division application. The applicant requested approval to construct six (6) new townhouse-style buildings on six (6) legally existing tax lots. The request included variances for pedestrian amenities, location of main entrances, and sidewalks.</p> <p>The applicant did not initially provide a TIS but subsequently provided the TIS after the Planning Commission requested it at the 10/27/21 Public Hearing. The conclusions from the Traffic Impact Study states: "The trip generation calculations show that the proposed 18 - unit development is projected to generate nine new morning peak hour trips, ten new evening peak hour trips, and 130 new average weekday trips. No significant trends or crash patterns were identified at any of the site access study intersections. Accordingly, no specific safety mitigation is recommended. Based on the access evaluation, the most direct access links on US 101 are expected to operate safely. No further transportation-related mitigation is necessary or recommended for the proposed development. The proposed improvements to be constructed by the project applicant are anticipated to be sufficient in providing safe and efficient movement around the site in a manner that is proportionate to the development and consistent with the surrounding transportation environment."</p> <p>The appellant cited case File #1-C1-PC-21 to identify standards that were applied in another case file; however, this case does not bear a resemblance to Case File #2-VAR-PC-21 and presented a</p>

	<p>completely different set of circumstances. Case File #1-C1-PC-21 was not required to place the sidewalk on his property but rather had no choice since the city's road encroached on his property, and there was nowhere else to put the sidewalk except on his property. In this case; Case File #2-VAR-PC-21, the applicant is putting a 5-foot sidewalk along Bradford Street within the existing city's road right of way, which leaves enough existing right of way to widen the street from the existing 15' wide to 24 or 25' in width without taking any of the applicant's property.</p>
<p>2). The Road into the Development does not Meet Standards. Based on the DBZO, Land Division Ordinance, Article 14 Section 14.010.2, 14.040.3, 14.040.11.a, 14.040.7. It is stated that this does not meet the code since a direct pedestrian walkway is not provided.</p>	<p>2). Article 14 (attached) applies to Land Divisions, Partitions, Subdivisions, Property Line Adjustments, and Replating Land Division. DBZO Section 14.040 states: "General Requirements and Minimum Standards of Development Design: The following are the minimum requirements and standards to which subdivisions and partitions must conform". This does not apply for the following reasons: The applicant proposes to develop six (6) legally existing tax lots. No new tax lots will be created, deleted, altered, etc.</p> <p>Final plans (this is not a final plan) will require the applicant to have a final plan review and approval from the Depoe Bay Fire District Chief. The staff report was prepared. The comments were provided to the planning commission and are part of the record. The staff report did not address Fire Chief comments due to a response from the Fire Chief was received after the findings had been submitted to the Planning Commission. Article 4 Section 4.110 Review of Fire Department reads: "With the exception of single-family detached dwellings, all development proposals involving structures shall be submitted to the Depoe Bay Fire Department for review, comment and recommendation. If no response is received within ten days from the Fire Department, the city may proceed as it deems appropriate. "</p> <p>The applicant can develop any single lot as a stand-alone project, one at a time, without developing the other lots at the same time. The applicant is choosing to develop all six lots at the same time. Article 14 does not apply; Section 3.115 does apply. Section 3.115.5B-allows driveway and interior parking court. Parking Area/Lot meets Diagram A standards, including 8'x20' parking stalls and a 24' drive aisle. The 24' drive aisle provides ample space for vehicles to back out of parking spots and maneuver within the Parking Area/Lot without having to "back into the road," as the appellant claimed.</p>

	<p>Article 4, Section 4.030.12 states, "Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required." The code is silent on the size of Parking Areas/Lots other than what is shown in Diagram A. Additionally, the 24' drive aisle incorporated into Diagram A and the development plans more than meet the width requirements of a typical alley (10'-30'). Therefore the Parking Area/Lot as shown, including the 24' driveway from Bradford Street, meets the DBZO definitions and standards of a Parking Area/Lot.</p> <p>DBZO Commercial Zone C-1 Design Standards and Guidelines (attached), Section 3.115.5(B), allows interior parking courts and driveways.</p> <p>Condition of Approval #6 from the Planning Commission Final Orders states: "Final plan review and approval from the Depoe Bay Fire District."</p> <p>DBZO Article 4 Supplementary Regulations (attached), Section 4.030 requires off-street parking in the amount of one (1) space for each guest accommodation and two (2) spaces per residential unit. The applicant proposes to use the four buildings fronting US HWY 101 for Tourist Accommodations. Each unit will have one (1) dedicated parking space totaling 12 parking spaces. The units adjacent to Williams Avenue will have a garage on the ground floor, and one (1) dedicated parking space for each unit totaling 12 parking spaces (2 per unit). A total of 24 parking spaces will be provided. Based on the above, the parking requirements for the proposed land use are met.</p>
<p>3). Landscaping Requirements were not addressed as required by 3.115.7 d - requires 15% of the property to be provided in this specific area.</p>	<p>3). DBZO Commercial Zone C-1 Design Standards and Guidelines (attached), Section 3.115.7.d applies to properties facing US HWY 101, not all properties in the C-1 zone. Therefore, This section applies to the four lots facing HWY 101, not all six lots. Section 3.115.7.d states: "a minimum 15% of C-1 properties with HWY 101 frontage north of Bradford Street and south of Evans Street shall be landscaped with native vegetation including a mix of trees, shrubs, and ground cover."</p> <p>As per the plans, landscaping for the four lots facing HWY 101 is 28%. Landscaping for all six lots is 35%.</p> <p>Additionally, Condition of Approval #4 from the Planning Commission Final Orders states: "Retail Commercial Zone C-1 Standards. Except for the variances identified in Condition of Approval #2 above, the proposed development shall meet all</p>

	<p>other DBZO Retail Commercial Zone C-1 standards.”</p> <p>The assumption is that items, such as landscaping % that outright meet the design standards, in this case, exceed and are covered by the above statement and do not necessarily need to be addressed in the staff report or during Planning Commission Public Hearings unless specifically addressed by the testimony of Planning Commissioner. This section applies to the four lots facing HWY 101, not all six lots. Section 3.115.7.d states, “a minimum 15% of C-1 properties with HWY 101 frontage north of Bradford Street and south of Evans Street shall be landscaped with native vegetation including a mix of trees, shrubs, and ground cover.”</p> <p>As per the plans, landscaping for the four lots facing HWY 101 is 28%. Landscaping for all six lots is 35%.</p>
<p>4). Provision of Useable Pedestrian Amenities Along HWY 101 were not provided; DBZO Section 3.115.3.b.2 applies to properties that face US HWY 101. See also Pedestrian Amenities Standards and Architectural Standards in this section).”</p>	<p>4). DBZO Commercial Zone C-1 Design Standards and Guidelines (attached), Section 3.115.8.B states, “Every building and development on arterials (HWY 101) shall provide one or more of the “pedestrian amenities” listed in the subsection: 4). Multi-family housing and tourist accommodations that do not have a majority (greater than 75%) of retail on the ground floor shall have a minimum of 8 feet of landscaped grounds between the buildings and the sidewalk.”</p> <p>Since the proposed development is tourist accommodations with 0% retail, and 10 feet of landscaping is proposed between the building and sidewalk, the condition is met.</p> <p>DBZO Commercial Zone C-1 Design Standards and Guidelines (attached), Section 3.115 (8)(B) states...”Every building and development on arterials (Hwy. 101) shall provide one or more of the “pedestrian amenities” listed in the subsection below.</p> <p>1) A managed landscaped plaza, courtyard, square or recessed area next to the building; 2) Sitting space, such as; dining area, benches, or sitting ledges (minimum of 16 inches in height and 30 inches in width) between the building and sidewalk 3) Building canopy, awning, pergola, or similar weather protection (minimum projection of 4 feet over a sidewalk or other pedestrian space, and minimum 8 foot above the sidewalk or other pedestrian space). 4) Multi-family housing and tourist accommodations that do not have a majority (greater than 75%) of retail on the ground floor shall have a minimum of 8 feet of landscaped grounds between the building(s) and sidewalk.”</p>

	<p>Proposed site plans show a ten (10) foot setback from the edge of the US HWY 101 right-of-way. This area is the ODOT slope easement and will be landscaped. The applicant is proposing a five (5) foot sidewalk along the north side of Bradford Street. The applicant is also proposing a bench and landscaping for the corner of Bradford and HWY 101</p>
<p>5). Variance Standards Were Not Met Regarding Requirements to Provide a Sidewalk Along US HWY 101. ALL the properties to the south have removed the rock wall for their developments, and therefore this developer should do the same.</p>	<p>5). DBZO Commercial Zone C-1 Design Standards and Guidelines (attached), Section 3.115 was designed to create a safe, walkable, and inviting pedestrian area in the defined downtown core area. This is correct; what was not acknowledged was the existing sidewalk along US HWY 101. Currently, there is a safe, walkable sidewalk down Highway 101. The existing sidewalk along HWY 101, with the exception of the main commercial area, is 6 feet. It runs the full length of the properties and provides a continuous link to sidewalks to the north and south. The 8-foot sidewalk requirement along US HWY 101 was included in Ordinance No. 319 signed on October 2, 2019, an Ordinance adding a new section 3.115 to the DBZO. Prior to that, the 8-foot sidewalk was not a requirement.</p> <p>However, given the location of property lines, fronts of buildings, existing traffic/travel lanes, curb, gutter, and parking along HWY 101, it is logical to surmise that the sidewalk filled into 8' or more to span the area between parked cars and storefront. Removal of the rock wall, or grading of property in general, is not a city requirement. Because the buildings to the south are primarily retail stores, restaurants, or offices, their developers wanted to be at street level for easier access. Since this development is for Tourist Accommodations and there will not be an office, "walk-in" business is not anticipated. The purpose of DBZO Section 3.115 is correct. However, the appellant's discussion does not apply since Section 3.115.8.B allows "non-retail" developments to provide pedestrian amenities in the form of an 8' landscaped area between the building and sidewalk. This development complies with this provision.</p> <p><i>(Refer to Planning Commission Findings, 6. Variances)</i></p>

<p>6. Variance Standards Were Not Met Regarding Requirements to Provide a Direct Pedestrian Access to HWY 101, and Western Buildings Are not oriented to US HWY 101.</p>	<p>6). DBZO Commercial Zone C-1 Design Standards and Guidelines (attached), Section 3.115(5)(B) states development may be configured to provide a driveway or interior parking court. If interior parking courts are created, then pedestrian pathways shall be provided between buildings from the street right-of-way to interior parking courts, to ensure safe, direct, and convenient access to building entrances and off-street parking”</p> <p>The applicant requested a variance to not provide a direct pedestrian access to US HWY 101 and that the western buildings are not oriented to US HWY 101.</p> <p>Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, or other circumstances over which the applicant has no control. Since one of the intents of DBZO Section 3.115 is to encourage walking, not providing sidewalks along Williams Avenue would conflict with the city's code. The applicant proposes to orient the buildings to an interior parking area. Access to the development would be from Bradford Street. No access is proposed from Williams Avenue. The development would be linked by sidewalks from the building entryways, through the parking area, and a 5-foot sidewalk along the north side of Bradford Street to the existing sidewalk on US HWY 101. The Planning Commissions finding were since pedestrian access will be provided to US HWY 101 and the “walkability” of the main commercial zone is maintained, the variance would not be materially detrimental to the purposes of this ordinance or to property.</p> <p>All units have individual entrances facing the parking area</p> <ul style="list-style-type: none"> • Since there is 0% retail, pedestrian activity is mainly from guests staying at the development, and the development is oriented to benefit its guests. • Similar to other tourist accommodations along HWY 101, the orientation of living spaces is to provide a maximum ocean viewing experience. This includes those accommodations not at ground level along the central business district. These are mainly accessed from the rear. <p><i>(Refer to Planning Commission Findings, 6. Variances)</i></p>
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CITY COUNCIL ACTION

The City Council has three options in making a decision on the appeal.

Option 1: Overturn the Planning Commission's decision and deny the application. State the general reasons and facts relied on, and direct staff to prepare findings for adoption. Use the appellant's argument in preparing the findings.

Option 2: Uphold the Planning Commission's decision of approval. State the general reason and facts relied on, and direct staff to prepare findings and the applicant's testimony stated above in preparing the findings. Include the conditions identified in the Planning Commission final order.

Option 3. Approve a revised plan by requesting the applicant return to the City Council at a later date with a revised plan.

Information

Following is the Depoe Bay Zoning Ordinance (DBZO) Table of Contents and copies of Articles, Sections, and Ordinances as referenced in the Staff Summary, Planning Commission Findings, Conclusions, and Final Order, and City Planner Staff Reports.

Please Note: *Sections have been highlighted to assist you in your review of the items referenced in the Staff Summary, Planning Commission Findings, Conclusions, and Final Order, and City Planner Staff Reports. Your City of Depoe Bay flash drive will give you access to the complete DBZO, Transportation System Plan, Comprehensive Plan, etc.*

**CITY OF DEPOE BAY
ZONING**

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Section 3.110. **Retail Commercial Zone C-1.** *(as amended 8/19/80- ORD 71, 7/7/82- ORD 92, 4/6/87- ORD 130, 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173, 12/22/92-ORD 186, 2/16/93-ORD 187, 4/17/95-ORD 217, 12/16/96-ORD 234, 11/2/04-ORD 268)* In a C-1 zone, the following regulations shall apply:

1. **Uses Permitted Outright.** In a C-1 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13 where applicable:

- a. A single family dwelling built on the site. *(as amended 2/16/93-ORD 187)*
- b. Manufactured dwelling. *(as amended 12/2/91-ORD 173)*
- c. A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle: *(as amended 12/2/91-ORD 173)*
 - 1) Is located during the time the construction is underway; and
 - 2) Will not remain more than one (1) year from date of placement or thirty (30) days following substantial completion, whichever is earlier.
- d. Agricultural use of land provided that no livestock shall be raised or kept on the premises.
- e. Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building. *(as amended 12/2/91-ORD 173, 2/16/93-ORD 187)*
- f. Pre-fabricated or modular dwelling. *(as amended 2/16/93-ORD 187)*
- g. Two-family dwelling.
- h. **Multi-family dwelling.**
- i. Retail store or shop such as food store, gift shop, drug store, apparel store, hardware store, furniture store, or similar establishment.
- j. Repair shop for the type of goods offered for sale in those retail trade establishments permitted in a C-1 zone provided all repair shall occur entirely within an enclosed building.
- k. The manufacture, fabrication and/or assembly of those goods offered for sale on the premises, provided all manufacturing, fabricating, assembling, and storage not exceed 50% of the total floor area of the establishment and provided further that it shall occur within an enclosed building.
- l. Personal or business service establishment such as barber or beauty shop, laundry or dry cleaning establishment, tailor shop or similar establishment.
- m. Clinic.
- n. Club, lodge or fraternal organization.

o. Financial institution.

*** Hotel, motel or resort (deleted 12/16/96-ORD 234 see Tourist Accommodation).*

p. Indoor commercial amusement or recreation establishment such as a bowling alley, theater, pool hall or aquarium.

q. Mortuary.

r. Newspaper office, print shop.

s. Office.

t. Private museum, art gallery or similar facility.

u. Restaurant, bar or tavern.

v. Home occupation.

w. Automobile service station, including minor repair, provided it is conducted entirely within an enclosed building.

x. Laundromat.

y. Retail sale of sporting goods or bait.

z. Condominiums. *(added 4/6/87-ORD 130)*

aa. Public or private parking lots. *(added 10/7/91-ORD 172)*

bb. Residential facility. *(added 9/17/90-ORD 154)*

cc. Time share project. *(added 4/6/87-ORD 130)*

dd. Tourist Accommodation or Resort. *(added 12/16/96-ORD 234)*

ee. Commercial fishing gear storage in the part of the zone adjacent to the harbor (Tax Map 09-11-08 AB, tax lots 600, 700, 800, 900, 1000, 1100, 1101, 1200, 1201, 7900, 8000, 8100, 8200, 90000, 90001, 90002, 90003). *(added 11/2/04-ORD 268)*

2. Conditional Uses Permitted. In a C-1 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, 6 and 13, where applicable:

a. Church, non-profit religious or philanthropic institution.

b. Community center.

c. Day nursery, nursery school, kindergarten or similar activity.

d. Governmental structure or use of land.

- e. Mobile vending stand. *(added 7/7/82-ORD 92)*
- f. Private non-commercial recreation club such as tennis, swimming or archery club.
- g. Public park, playground, swimming pool.
- h. Public school or private school offering curricula similar to public school.
- i. Public or private utility facility.
- j. Radio or television transmitter or tower.
- k. Solid waste disposal transfer station.
- l. Recreational vehicle park. *(as amended 12/2/91-ORD 173)*
- m. Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.
- n. Hospital and/or nursing home.
- o. Drive-in services, such as a drive-in restaurant.
- p. Billboards.
- q. Kennel.
- r. Animal hospital
- s. Automobile repair garage provided all repair shall be conducted entirely within an enclosed building.
- t. Boat or marine equipment sales, service, storage, or rental; boat or marine equipment minor repair, provided all such repair be conducted entirely within an enclosed building. *(added 4/17/95-ORD 217)*
- u. Lumber or building materials, sales, and storage. *(added 4/17/95-ORD 217)*
- v. Warehouse or storage area. *(added 4/17/95-ORD 217)*

3. Standards. Except as provided in Articles 4, 5 and 6, in any C-1 zone, the following standards shall apply: *(as amended 12/16/96-ORD 234)*

- a. All yards abutting a lot in a residential zone shall be a minimum of 10 feet.
- b. No building in the C-1 zone shall exceed a height of 35 feet.
- c. Outdoor storage shall be screened with a sight-obscuring fence.

d. Kennels shall be located:

- 1) No closer than 75 feet from a residential zone.
- 2) No closer than 20 feet from a property line.

e. Off-Street Parking. Off-street parking requirements shall be located on the same lot or within 500 feet (as measured by a direct line from the nearest property line to the nearest property line of the parking lot), unless otherwise approved by the Planning Commission, and shall meet the provisions set forth under Section 4.030, Off-Street Parking and Off-Street Loading Requirements. *(added 12/22/92-ORD 186)*

- 1) Off-street parking provided in accordance with this section shall be committed to the use for which it is approved.
 - 2) Off-street parking provided in accordance with this section shall be designated by signs approved in conformance with ordinance #58 (Depoe Bay Sign Ordinance) or its successor ordinance. A sign shall be posted in manner visible from a street adjacent to the parking area that the parking area is for off-street parking for use in conjunction with the subject retail commercial property, by designating the name of the retail commercial use located at the subject property. A sign shall be posted in a manner visible from a street adjacent to the primary public entrance of the retail commercial use as to the location or general direction of the remote off-street parking area.
4. All retail commercial uses existing at the time of adoption of this ordinance which have off-street parking required by Ordinance No. 24 (Depoe Bay Zoning Ordinance) at locations other than on the same parcel as where the retail commercial use is located or on parcels adjacent thereto which are developed and improved so to appear as contiguous to the retail commercial use shall comply with the signage requirements as set forth in Section 1 of this ordinance (Section 3.110 (3)(f)(1) and (2) within ninety days from the date of adoption of this ordinance, unless following application for exemption to the Planning Commission within forty-five days from the date of adoption of this ordinance, compliance shall be excused or delayed on the basis of undue hardship by the Planning Commission. No sign permit fee shall be charged or collected from any existing retail commercial use applicant who submits application for signage as required by this subsection within forty-five days from the date of adoption of this ordinance. *(ORD 186, section 4-12/22/92)*

ORDINANCE NO. 319

CITY OF DEPOE BAY

AN ORDINANCE AMENDING ORDINANCE NO. 24 (ZONING ORDINANCE), AS AMENDED; **ADDING A NEW SECTION 3.115 COMMERCIAL ZONE C-1 – DESIGN STANDARDS AND GUIDELINES**, ENACTING PROVISIONS REQUESTED AS RESULT OF REVIEW OF THE DEPOE BAY ZONING ORDINANCE BY THE CITY OF DEPOE BAY; AND DECLARING AN EMERGENCY.

WHEREAS, the Depoe Bay Planning Commission has reviewed the Zoning Ordinance and considered proposed revisions and additions thereto; and

WHEREAS, the Depoe Bay Planning Commission held public hearings on April 11, 2018, July 11 2018, and August 8, 2018, to obtain public comment on proposed revisions to the Zoning Ordinance; and

WHEREAS, the Depoe Bay Planning Commission, after considering public testimony, approved certain changes to the Zoning Ordinance and has recommended those changes to the Depoe Bay City Council; and

WHEREAS, the Depoe Bay City Council held public hearings on August 21, 2019, and September 3, 2019, and has concluded deliberations on the recommended changes to the Zoning Ordinance, including considering public testimony and staff recommendations;

NOW, THEREFORE, the City Council of the City of Depoe Bay ordains as follows:

1. Ordinance No. 24, as amended, is hereby amended in the following particulars:

a. Section 3.115 Commercial Zone C-1 – Design Standards and Guidelines, is a new section as shown in the text attached hereto, marked Exhibit A.

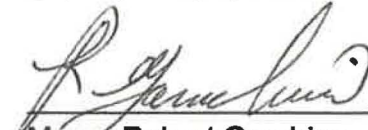
WHEREAS, the adoption of this ordinance is necessary to preserve the peace, health, safety and welfare of the citizens of the City of Depoe Bay, an emergency is hereby declared to exist and this ordinance shall be in full force and effective immediately upon its adoption by the City Council of the City of Depoe Bay and approved by the Mayor.

Introduced and passed the first reading in a regular meeting of the City Council of the City of Depoe Bay, Oregon, on this 17th day of September, 2019.

Passed at the second reading, placed on final passage, and adopted by the City Council of the City of Depoe Bay, Oregon, on this on this 1st day of October, 2019.


Approved by the Mayor of the City of Depoe Bay, Oregon, this 2nd day of October, 2019.

CITY OF DEPOE BAY



Mayor Robert Gambino

ATTEST:



Interim City Recorder

EXHIBIT A

Section 3.115 Commercial Zone C-1 - Design Standards & Guidelines

Sections:

1. Applicability
2. General Information
3. Building Setbacks
4. Lot Coverage of Buildings on Arterials (Hwy 101)
5. Building Orientation on Arterials (Hwy 101)
6. Building Height on Arterials (Hwy 101)
7. Building Architectural Standards
8. Pedestrian Amenities in the C-1 Zone
9. Special Standards for Certain Uses in the C-1 Zone
10. Parking, Garages, and Driveways in the C-1 Zone

1. Applicability

- A. The provisions of this Section 3.115 shall be applicable to Section 3.110 Retail Commercial Zone C-1. The provisions of this Section 3.115 shall override any conflicts between provisions of Section 3.115 and 3.110.
- B. Any structure lawfully permitted which is made nonconforming by adoption or amendment of this chapter is a nonconforming structure. Existing structure non-conformities may continue indefinitely (grandfathered). Normal maintenance and repairs are permitted that do not result in the alteration of the footprint, volume, or height of the structure.

2. General information

- A. In the Commercial Zone C-1 on arterials (specifically Hwy. 101), these commercial guidelines help create a vibrant pedestrian environment by slowing traffic down, providing a storefront business friendly character to the street, and especially by encouraging walking for the enjoyment of residents and visitors. To create a social and approachable "streetscape" the setback standards are flexible to encourage public spaces between sidewalks and building entrances (e.g., extra-wide sidewalks, plazas, squares, outdoor dining areas, and pocket parks). The addition of these pedestrian amenities serves as informal gathering places for socializing, resting, and enhanced enjoyment of the Depoe Bay commercial district.
- B. The standards encourage the formation of solid blocks of commercial and mixed-use buildings for individual walkable districts that are tied to the overall business district.
- C. Along Highway 101 frontage, landscaping, building setbacks, and other pedestrian amenities sustain the feel of a small community located between two Oregon State parks and vegetated corridors. These amenities will distinguish Depoe Bay from many cities and towns that have arterial development dominated by pavement, parking lots and stark building facades immediately adjacent to narrow sidewalks.

EXHIBIT A

- D. Higher density residential uses, such as multi-family buildings and attached townhomes, are permitted to encourage permanent housing near employment, shopping, and services, and to encourage affordable, amiable housing for families that desire to play and live in Depoe Bay.

3. Building Setbacks

- A. These setback standards shall apply to primary structures as well as accessory structures on arterials (Hwy. 101). The standards may be modified only by approval of a variance in accordance with Article 8. Variances.

B. Front Yard Setbacks.

- 1) Minimum Setback. There is no minimum front yard setback required.
- 2) Maximum Setback. There is no maximum front yard setback required, but a usable public space with pedestrian amenities (e.g., plaza, pocket park, managed landscaping, outdoor dining area or town square with seating) shall be provided in the entire area between the building and front property line. (See also, Pedestrian Amenities Standards and Architectural Standards in this Section).

- C. Rear Yard Setbacks. There is no minimum rear yard setback.

- D. Side Yard Setbacks. There is no minimum side yard setback required but in the case of a side yard on a corner lot, a usable public space with pedestrian amenities (e.g., extra-wide sidewalk, plaza, pocket park, managed landscaping, outdoor dining area or town square with seating) shall be provided in the entire area between the building and side property line. (See also, Pedestrian Amenities Standards and Architectural Standards in this Section).

- E. All buildings shall conform to the clear vision standards in Section 4.010 and the applicable fire and building codes for attached structures, fire walls, and related requirements.

4. Lot Coverage of Buildings on arterials (Hwy. 101).

- A. There is no maximum or minimum lot coverage requirement.
- B. All buildings on arterials (Hwy 101) shall have a minimum 1,000 square feet.

5. Building Orientation on arterials (Hwy. 101).

- A. Buildings shall have their primary entrance(s) oriented to (facing) Hwy 101, except as noted below;
 - 1) Building entrances may include entrances to individual units, lobby entrances, entrances oriented to pedestrian plazas, or breezeway/courtyard entrances (i.e., to a cluster of units or commercial spaces).

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- 2) Alternatively, a building may have its entrance facing a side yard when a direct pedestrian walkway not exceeding 20 feet in length is provided between the building entrance and the street right-of-way.
 - 3) On corner lots, buildings entrances may be oriented to the street corner.
 - B. Developments may be configured to provide a driveway or interior parking court. If interior parking courts are created, then pedestrian pathways shall be provided between buildings from the street right-of-way to interior parking courts, to ensure reasonably safe, direct, and convenient access to building entrances and off-street parking.
 - C. Off-street parking, driveways or other vehicular circulation shall not be placed between a building and Hwy 101.
6. Building Height on arterials (Hwy. 101).
- A. Maximum Height. Buildings shall not exceed a height of 35 feet.
 - B. Building height shall be measured at the front of the building from the lowest point from the adjacent sidewalk, or the existing paved street elevation where a sidewalk doesn't currently exist. For corner lots and through lots the front shall be along the major street.
 - 1) The one exception to the above is on the west side of Hwy 101 from Sunset Street to the bridge where building height is measured in accordance with DBZO Section 1.030 Definitions.
7. Building Architectural Standards
- A. This section applies to all building types on arterials (Hwy. 101).
 - B. All buildings along Hwy 101 shall contribute to the storefront character and visual relatedness of Depoe Bay's C-1 Zone buildings. This criterion shall be met by providing architectural features as listed in items 1-34 below, in the front or "main street" façade or elevation, as applicable. Buildings situated on corners shall include the stated criteria in the side street elevation or façade as well. Buildings on through-lots (lots that face a street along the front and rear of the property) shall treat the secondary street façade in a manner similar to that as the main street façade is treated. Additionally, if the architectural character along the secondary street is other than commercial, that façade should be compatible with the architectural character of that neighborhood as much as possible while maintaining the architectural integrity of the main building.
 - 1) Fenestration and decoration. Appropriately spaced and/or shaped windows with window hoods, cornices and/or canopies or special trim at all windows on all building stories. Windows shall be of a design that is consistent with the architectural character of the building and as described in this section.
 - 2) Display windows. Large display windows shall be provided on the ground floor and shall be set off by extended mullions, applied columns, or a

EXHIBIT A

storefront cornice to separate the ground floor from upper stories. Street ground floor exterior walls shall contain a minimum of 50% of either display windows or entrance area measured across the length of the exterior wall. Display windows are not required for residential or tourist accommodation uses. For all building types and uses, floors facing streets shall not have less than 25% window area measured across the length of the exterior wall. Proportion of windows shall conform to general architectural standards.

- 3) **Decoration.** Decorative cornices and/or fascias on street facades at top of building (flat roof), or eaves on buildings with pitched roofs and/or expressions of roof structure such as projected roof trusses or decorative roof overhangs.
- 4) **Additional Design Features.** A minimum of two of the following design features are required:
 - a) Cedar shake shingle appearance for the roof and siding,
 - b) A steeply pitched roof with gable ends,
 - c) Multiple dormers,
 - d) Shutters by windows,
 - e) Window boxes,
 - f) Pilasters surrounding doors,
 - g) Bright white trim.
- C. Other than receptacles for the public use, trash containers (including recyclables and garbage) shall not be located along Hwy 101, unless they are non-conforming ("grandfathered"), and shall be obscured by a fence or similar, or otherwise hidden from view.
- D. A minimum 15% of C-1 properties with Hwy 101 frontage north of Bradford Street and south of Evans Street shall be landscaped with native vegetation including a mix of trees, shrubs, and ground cover. Properties shall contain at least one tree indigenous to the northwest.

8. Pedestrian Amenities in the C-1 Zone

- A. Pedestrian sidewalks shall be provided on all street sides of buildings, parking areas, etc. in the entire C-1 zoned area. These sidewalks shall have a minimum 8 foot width along Highway 101, and minimum 5 foot width elsewhere. Sidewalks shall be concrete with a city-approved surface material that is consistent with adjacent and nearby sidewalks. All sidewalks shall be ADA compliant to meet current laws.
- B. Every building and development on arterials (Hwy. 101) shall provide one or more of the "pedestrian amenities" listed in subsection below.

EXHIBIT A

- 1) A managed landscaped plaza, courtyard, square or recessed area next to the building;
- 2) Sitting space, such as; dining area, benches or sitting ledges (minimum of 16 inches in height and 30 inches in width) between the building and sidewalk
- 3) Building canopy, awning, pergola, or similar weather protection (minimum projection of 4 feet over a sidewalk or other pedestrian space, and minimum 8 foot above the sidewalk or other pedestrian space).
- 4) Multi-family housing and tourist accommodations that do not have a majority (greater than 75%) of retail on the ground floor shall have a minimum of 8 feet of landscaped grounds between the building(s) and sidewalk.

9. Special Standards for Certain Uses in the C-1 Zone

A. Common Areas

All common areas (e.g., walkways, drives, courtyards, private alleys, parking courts, landscaped areas, and any otherwise unused right-of-way areas between the property line and developed road, etc.) and building exteriors shall be maintained by the property owner. Copies of any applicable covenants, restrictions and conditions shall be recorded by the applicable agency and provided to the city prior to building permit approval.

B. Accessory Uses and Structures.

- 1) An accessory structure shall not be allowed before or without a primary use.
- 2) Accessory structures on arterial (Hwy. 101) property shall comply with the setback standards herein, except that the maximum setback provisions shall not apply.
- 3) Accessory structures on arterial (Hwy. 101) property shall comply with the Building Architectural Standards, as provided herein.
- 4) A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way without prior written approval by the applicable agency.
- 5) The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
- 6) No accessory use structure shall be viewable from Hwy 101.

10. Parking, Garages, and Driveways in the C-1 Zone

- A. Parking requirements within the C-1 Zone shall conform to DBZO Section 4.030 Off-Street Parking and Off-Street Loading Requirements. Parking-related provisions of this Section 3.115 shall supersede provisions of Section 4.030 that are expressly contrary to this Section 3.115. The required size of parking spaces, aisles, driveways and similar design features are set forth in Diagram A

EXHIBIT A

of the DBZO. Due to the increased length of vehicles, longer parking spaces are highly recommended. No "compact" sized spaces are allowed.

- B. If an existing commercial building is presently non-conforming in regards to parking ("grandfathered"), increasing the square footage of the building will not require the building owner/developer to fulfill the existing non-conforming portion of the parking space requirement. The owner/developer will be required to fulfill any additional parking requirement relating to the increased square footage.
- C. All off-street paved vehicle areas along arterials (Hwy. 101), including surface lots, driveways, parking areas and garages, shall be accessed from alleys or a side or back street, and shall be located in areas located behind or to the side of a building. They may be placed in structures above the ground floor. Side-yards on corner lots shall not be used for surface parking. Parking areas on the side of a building shall be limited to one row of diagonal parking maximum. All garage entrances facing a street (e.g., structured parking) shall be recessed behind the front elevation by a minimum of 4 feet. On corner lots, garage entrances and driveways shall be oriented to a side-street (i.e., away from Hwy 101 when vehicle access cannot be provided from an alley). Parking areas or parking spaces shall not be placed in front of a building on arterials (Hwy. 101), other than the public parking spaces provided within the public right-of-way.
- D. Between nine a.m. and five p.m. on any day, no individual who works or resides in the C-1 Zone shall park a vehicle on Hwy. 101 north of the Depoe Bay Bridge while in their place of employment or in their place of residence except for vehicles with authorized disabled placards. One exception is on the west side of Hwy. 101 from Sunset St. south to Whale Park Memorial Wall (Bradford St.). Tourist transients are also excluded. No structure in the applicable area shall be considered non-conforming or ("grandfathered") from this specific standard.
- E. Driveways, alleyways, and any other vehicle access shall be hard-surface paved and shall be at the existing road grade level at the point the driveway meets the public right-of-way. In cases where the current developed road is not the full width of the public right of way, the vehicle access shall be at the elevation the road grade level would be as if the road were expanded to the edge of the public right-of-way.
- F. Regardless of use, all parking lots, parking areas, parking courts, and parking spaces shall be hard-surface paved and striped for individual parking spaces. The parking spaces along the outer boundaries of a lot or parking area shall contain a curb or bumper rail at least four inches high and set back four (4) feet from the front of the space. At least 5% of parking areas over 6 stalls shall be landscaped.

is a temporary use of land for the purpose of providing general community amusement, recognition of historical events or traditions, or celebration of community-wide local products, which are organized by nonprofit organizations and the proceeds of the festival or event are used to promote the purposes of the nonprofit organization or donated to other nonprofit organizations.

Section 4.030. Off-Street Parking and Off-Street Loading Requirements. *(amended 8/19/80- ORD 71, 7/7/82- ORD 92, 7/1/85-ORD 124, 4/6/87-ORD 130, 1/3/89-ORD 145, 10/7/91-ORD 172, 12/2/91-ORD 173, 12/16/96-ORD 234, 4/6/04-ORD 256)*

At the time a new structure is erected, or an existing structure is enlarged, or the use of the structure is changed, off-street parking spaces, loading areas and access thereto shall be provided as set forth in this section unless greater requirements are otherwise established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this ordinance.

1. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.
2. In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the several uses computed separately.
3. Owners of two or more uses, structures, or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases or contracts to establish the joint use and hours of operation.
4. Off-street parking spaces for dwellings, hotels, motels, resorts and time-shares shall be located on the same lot or on a lot immediately adjacent to the lot served by such parking.
5. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
6. Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved adequately for all-weather use, and shall be adequately maintained. Drainage shall conform to the City's Storm Water Master Plan and a drainage plan shall be approved the City Field Superintendent.
7. Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones, or adjacent to Highway 101, or residential uses shall be designed to minimize visual impacts by use of landscaping or by a fence screened by landscaping.
8. Parking areas used for public or private parking lots under the conditional use in an R-4 zone must have garbage containers available for garbage which may be generated by users of the parking lot. Such garbage containers must be emptied on a regular basis and not less than weekly. Parking lots shall be posted with the following sign: "NO CAMPING OR OVERNIGHT USE" and shall have their hours posted. Parking lot hours shall not extend

beyond 10:00 p.m. or open earlier than 4:00 a.m. If the property owner suffers, permits or fails to enforce the parking prohibitions, the Planning Commission may review the Conditional Use Permit.

9. Parking spaces along the outer boundaries of a lot shall contain a curb or bumper rail at least four inches high and set back four (4) feet from the front of the space.
10. Artificial lighting may be used in parking areas provided it is of low intensity, is pointed generally downward, and is shielded if necessary so as to not create light or glare offsite.
11. Except with respect to approved driveways, required off-street parking areas shall not be provided in the required front or street side-yard areas in a residential zone.
12. Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.
13. Passenger loading. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.
14. Loading of merchandise, materials or supplies. Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths of sufficient numbers and size to handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this ordinance may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.
15. All spaces shall be permanently and clearly marked. Markings which guide safe and efficient traffic flow shall also be permanently and clearly marked. All markings shall be replaced regularly to remain visible.
16. All improvements, including surfacing, storm water management, striping and landscaping, shall be fully maintained for the life of the parking facility. Failure to maintain such improvements shall constitute a violation of this ordinance.
17. All parking lots shall be designed with spaces for handicapped drivers as provided for in the Uniform Building Code.
18. The clear vision requirements set forth in Section 4.010 shall apply to all points where parking lot driveways intersect with a public street.

19. Off-Street Parking Space Requirements:

- | | |
|--|---|
| a. Any single or multi-family residential use including condominium or time share: | Two (2) spaces per unit. |
| b. Recreational vehicle park: | Three (3) spaces for each two RV spaces. |
| c. Tourist accommodation: | One (1) space for each guest accommodation. |

d. Hospital:	Three (3) spaces for each two (2) beds.
e. Nursing home, residential facility, residential home, retirement home:	One (1) space for each three (3) beds.
f. Church, auditorium, meeting place, theater, gymnasium, mortuary or similar place of assembly:	One (1) space for each 50 square feet of floor area used for assembly.
g. Library, private museum, art gallery or similar facility:	One (1) space for each 300 square feet of floor area.
h. Dance hall, skating rink, pool hall, aquarium, or similar commercial amusement enterprise:	One (1) space for each 100 square feet of floor area.
i. Bowling alley:	Five (5) spaces for each lane.
j. Retail store not handling bulky merchandise:	One (1) space for each 200 square feet of floor area.
k. Service or repair shop; retail store handling bulky merchandise such as automobiles, furniture, boats, marine equipment, etc.; automobile service station, feed and seed; heavy equipment; lumber or building supplies; or similar uses:	One (1) space for each 600 square feet of sales, storage or repair area.
l. Financial institution, laboratory or office:	One (1) space for each 300 square feet of floor area.
m. Medical or dental clinic:	One (1) space for each 200 square feet of floor area.
n. Warehouse, storage and wholesale business:	One (1) space for each 2000 square feet of area.
o. Manufacturing, fabrication, assembly, processing, cabinetry or similar use:	One (1) space for each 1000 square feet of floor area.
p. Eating and drinking establishment:	One (1) space for each 100 square feet of serving area.
q. Day care, nursery school, kindergarten, elementary and middle schools and similar uses:	Two (2) spaces per classroom or instructional area plus requirements for offices, places of assembly, etc.

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|--------------------------------------|--|
| r. High schools: | Eight (8) spaces per classroom or instructional area plus requirements for offices, places of assembly, etc. |
| s. Golf courses: | Five (5) spaces per hole plus the 75% the ancillary parking requirements. |
| t. Miniature golf: | 1.5 spaces per hole. |
| u. Animal hospital or kennel: | One (1) space per 500 square feet. |
| v. Public or private swimming pool: | One (1) space per 100 square feet. |
| w. Personal or business service: | One (1) space per 250 square feet. |
| x. Laundromat: | One (1) space per three machines. |
| y. Marina or other moorage facility: | One (1) space per boat mooring space. |

20. The required size of parking spaces, aisles, driveways and similar design features are set forth in Diagram A. Required landscaping areas are not shown.

Section 4.040. Distance from Property Line. In areas where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three (3) feet from the property line.

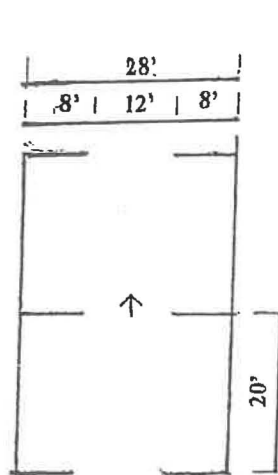
Section 4.050. Exterior Lighting. Exterior lighting for uses in commercial and industrial zones shall be located in such a manner so as not to face or shine directly onto a lot in a residential zone, street, or highway.

Section 4.060. General Provisions Regarding Accessory uses, Fences, Retaining Walls, Hedges and Decks. (amended 8/19/80-ORD 71, 10/7/91-ORD 172, 12/2/91-ORD 173, 4/6/04-ORD 256)

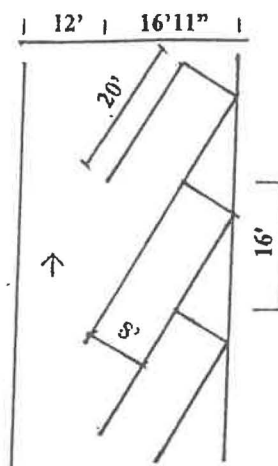
An accessory use shall comply with all requirements for a principal use, except as this ordinance specifically allows to the contrary, and shall comply with the following limitations:

1. An accessory structure not used for human habitation and separated from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided it is not closer to a property line than the minimum setback required for the zone.
2. One single-wide manufactured dwelling or recreational vehicle may be located as a temporary accessory use to a legally established dwelling under medical hardship provisions subject to the following requirements:
 - a. That the medical hardship be established in writing by a medical doctor;
 - b. That the placement of the unit comply with all residential setback requirements;

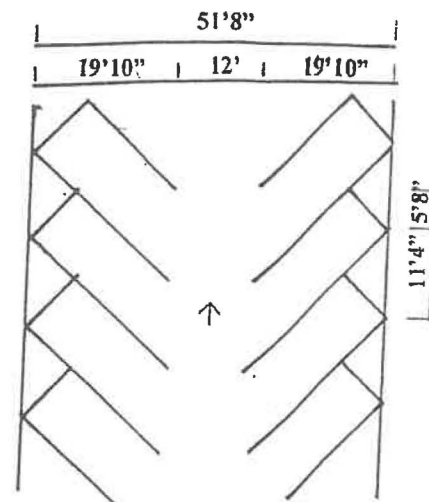
DIAGRAM A **PARKING SPACE STANDARDS**



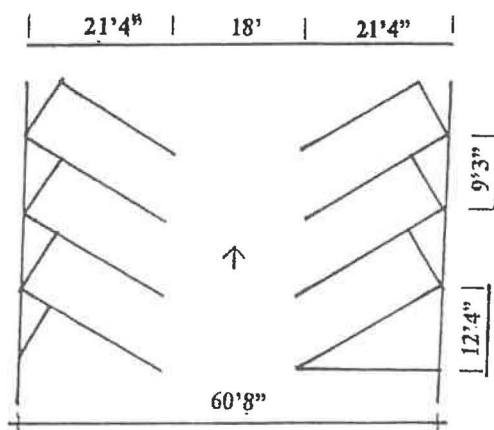
PARALLEL



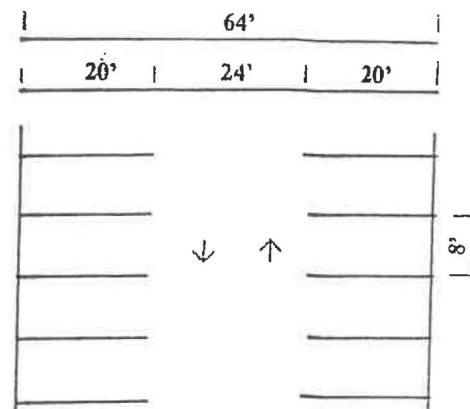
30°



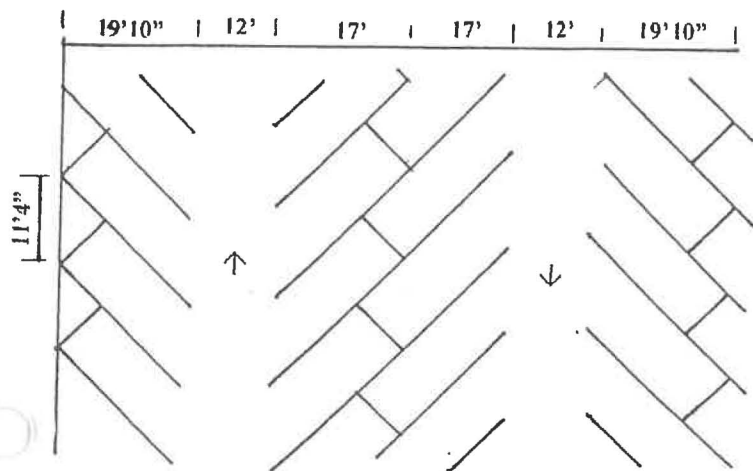
45°



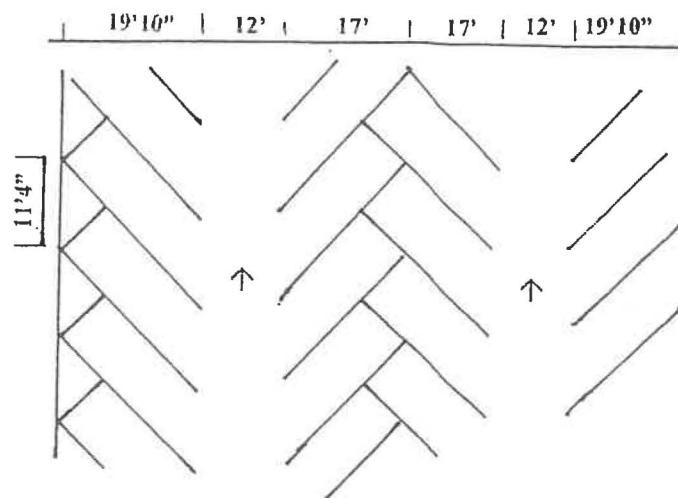
60°



90°



45° OVERLAPPED



45° HERRINGBONE

Section 4.110. Review of Fire Department. With the exception of single-family detached dwellings, all development proposals involving structures shall be submitted to the Depoe Bay Fire Department for review, comment and recommendation. If no response is received within ten (10) days from the Fire Department, the city may proceed as it deems appropriate.

Section 4.200. Building Permit Approvals. No building or structure shall be erected, enlarged, altered, rebuilt, remodeled or moved unless in conformance with the requirements of all state and local ordinances applicable to the structure and the land upon which it is proposed.

Section 4.300. Development Guidelines. In order to protect the quality of the City of Depoe Bay which makes it a desirable place in which to live, the Planning Commission may recommend and the City Council may adopt as ordinances such development guidelines and accompanying maps as may be necessary for (1) the conservation and development of natural resources, (2) the protection of areas having historical or aesthetic importance, (3) the safe and desirable use of geologically hazardous areas, and (4) utilization and development of any other air, land, or water uses which may have significant impact on the quality of the City of Depoe Bay. Such development guideline ordinances will be made as addendums to this ordinance. Areas to which such ordinances apply will be so designated on the zoning maps of the city.

Section 4.400. Standards and Requirements for Condominiums and Time Share Projects. (added 4/6/87-ORD 130) Each condominium and time share project shall comply with the following additional standards and requirements.

1. An association of unit owners shall be organized to serve as a means through which the unit owners shall administer, manage and operate the condominium, as required by the applicable statute of the latest ORS. (amended 5/4/10-ORD 287)
2. Each time share project shall establish an owners' association or designate another form of managing entity, as required by the applicable statute of the latest ORS. (amended 5/4/10-ORD 287)
3. The owners' association for condominiums, or the owners' association or managing entity for time share projects, shall maintain on record with the City Recorder of the City of Depoe Bay the name and address of the representative or agent of the owners' association or a natural person as managing entity. That designated person shall receive all notices or orders by the City of Depoe Bay to the owners' association or managing entity, and shall also thereby be as the agent of the owners' association or managing entity for purposes of service of process.
4. The person designated by the owners' association or managing entity, as provided above, shall file, from time to time, any required reports or records with the City of Depoe Bay as may be required, including but not limited to the transient room tax ordinance, Ordinance #22.

Section 4.500. Temporary Placement of a Manufactured Dwelling. (added 9/16/91-ORD 163, amended 12/2/91-ORD 173) A manufactured dwelling may be temporarily placed upon an individual lot upon compliance with the following conditions:

ARTICLE 8. VARIANCES

Section 8.010 Authorization to Grant or Deny Variances. (amended 12/22/92-ORD 185) The Planning Commission may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

Section 8.020. Circumstances for Granting a Variance. A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
3. The variance would not be materially detrimental to the purposes of this ordinance, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
4. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.
5. The hardship asserted as a basis for the variance does not arise from a violation of the Zoning Ordinance.

Section 8.030. Variance Procedure. The following procedures shall be followed in applying for and acting on a variance.

1. A property owner may initiate a request for a variance by filing an application with the City Recorder, using forms prescribed pursuant to Section 10.030. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of the proposed development. The Planning Commission may request other drawings or material essential to an understanding of the variance request.
2. Before the Planning Commission may act on a request for a variance, it shall hold a public hearing. Section 10.050 sets procedure for Notice of Public Hearing.
3. Within five (5) days after a decision has been rendered with reference to a request for a variance, the City Recorder shall provide the applicant with notice of the decision of the Planning Commission.

4. The Planning Commission's decision is final unless it is appealed pursuant to Section 10.020.

Section 8,040. Time Limit on a Variance. Authorization of a variance shall be void after one (1) year unless substantial construction pursuant thereto has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one (1) year, on request.

ARTICLE 14. LAND DIVISION

(4/6/76-ORD 24-EFFECTIVE DATE, amended 4/6/04-ORD 256-LAND DIVISION, formerly PARTITION & SUBDIVISION ORD 57-6/4/79, ORD 87-3/15/82, ORD 111-5/21/84, ORD 153-7/16/90, ORD 155-9/17/90, 5/4/10-ORD 287)

Section 14.010. Purpose: As authorized by law, including ORS Chapter 92, the following requirements and standards relating to the division of land apply to all land within the City of Depoe Bay. This Article is necessary for the protection of the health, safety and welfare of the city's citizens, and is designed to promote coordinated and appropriate development of land and to carry out the City's comprehensive plan. These regulations have the following objectives:

1. To allow for the proper location of utilities.
2. To specify the width, location and improvement of streets.
3. To provide for adequate sewage disposal facilities.
4. To provide for adequate water supplies.
5. To provide for adequate drainage facilities.
6. To reduce danger from geologic hazards, floods, fire and pollution.
7. To provide for adequate open space.

Section 14.011. Exceptions for Section 3.410 - Planned Developments: The provisions of Article 14, Sections 14.010 through 14.080, shall be applicable to Section 3.410, Planned Developments, unless expressly contrary to a specific provision of Section 3.410.

Section 14.020. Approval Of Partitions:

1. A partition of land shall not be valid until it has been approved and recorded as provided for in this Article. No person shall convey any interest in a parcel in any partition, or replat of a partition, until the plat of the partition has been recorded as provided for in this chapter. A person may negotiate to sell any parcel in a partition or replat of a partition upon approval of the tentative plan of the partition.
2. A person may negotiate to sell any parcel in a partition prior to the approval of the tentative plan for such partition, however, no person may sell any parcel in a partition prior to tentative approval
3. No building permits shall be approved for any parcel in a partition until the partition has been recorded.
4. Partitions shall not be approved that will create a lot smaller than the minimum lot dimensions for the zone in which the partition occurs. If a road divides a parcel, the land on each side of the road shall be considered separately for purposes of calculating minimum lot sizes.

Section 14.030. Approval of Subdivisions:

1. No plat or replat of a subdivision of land shall be recorded or have any validity unless and until it has the approval of the City, as provided for in this article.
2. No person shall negotiate to sell any lot in a subdivision until a tentative plan of that subdivision has been approved, however, no person shall sell any lot in the subdivision prior to final subdivision approval.
3. No person shall dispose of, transfer, or sell any lot in any subdivision until final approval is obtained and the plat of that subdivision recorded.
4. Approval of Property Line Adjustments: No person shall accomplish a property line adjustment without having first secured the approval of the city as provided for in this chapter.
5. Approval of Street or Road Creations.
 - a. No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the City as provided for in this chapter.
 - b. No instrument dedicating land to public use shall have any validity unless such instrument bears the approval of the City as accepting such dedication.

Section 14.040. General Requirements and Minimum Standards of Development Design: The following are the minimum requirements and standards to which subdivisions and partitions must conform:

1. Conformity to the Comprehensive Plan: All subdivisions and partitions shall conform to applicable portions of Article 13, the City's Development Guidelines, and the purposes of the goals and policies of the Comprehensive Plan.
- ~~2. Performance Agreement: (deleted 5/4/10-ORD 287)~~
2. Relation to Adjoining Street System: If development of a subdivision or partition would otherwise impede or interfere with access to or through existing streets and rights of way, a subdivision or partition shall provide for the continuation of said streets and rights-of-way. If physical conditions make such continuation impractical, exceptions may be made.
 - a. If the City finds that the off-site effects of a subdivision warrant the necessity of improved streets or rights-of-way, the City may require that the subdivision or partition provide for them. If no such off-site effects are found, the City may require that the lay-out of the subdivision or partition take into account the future development of streets and rights-of-way with regard to setback, access, parks and open spaces, as well as other requirements of this Article.
 - b. When a tract is divided into lots or parcels of a size which could allow for further re-division under current zoning, the City may require an arrangements of lots and streets such as to permit a later redivision in conformance with the street requirements and other requirements contained in this Article.

3. Access:

- a. A subdivision, partition or replat shall provide each lot or parcel with not less than 25 feet of frontage on a public or private road or street, except that where necessitated by adverse sight distances or other factors, greater frontage may be required.
- b. A subdivision or partition shall consider vehicular access to the parcel off existing or proposed roads that addresses traffic congestion, speed, stop signs and turn lanes for the orderly development of traffic accessing the area.

4. Private Streets:

- a. No street or road which would serve as a collector from existing public streets shall be approved as a private street.
- b. The establishment of a private street shall not be allowed if it will deny the public access to public areas such as beaches or parks.
- c. No road or street shall be approved as a private road in a case where such a road or street presently is or will in the future be needed to provide access to development on adjacent properties or to serve as a collector for other subdivisions or partitions in the area.
- d. All private streets or roads established for the purpose of subdividing, partitioning or replatting land shall be surveyed and monumented.
- e. Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.
- f. Private road rights-of-way may be approved of less than 50 feet in width but in no instance shall the road right-of-way be less than 30 feet, except that a private road to two lots may be 20 feet in width. In instances where the road access to more than three lots is less than 50 feet in width, utility/slope easements may be required.
- g. Private road standards shall be the same as those for public streets. No more than three lots shall be exempt from standards for improvements.

5. Public Streets:

- a. Right-of-way and improvement requirements for public streets shall conform to the widths as specified in Sections 14.070 and 14.080 of this Article.
- b. If topographical requirements necessitate either cuts or fills for the proper grading of roads, additional right-of-way or slope easements shall be provided.
- c. The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this ordinance.
- d. Street improvements, street grades and center line radii on curves shall meet the minimum requirements as specified in Sections 14.070 and 14.080 of this Article.

- e. The City of Depoe Bay shall only be responsible for maintenance of a public street when the street is accepted by the City Council through dedication. A street that is accepted by the City Council through dedication shall be referred to as a "City Street." (added 5/4/10-ORD 287)

6. Street Intersections.

- a. Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout.
- b. Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections.

7. Cul-de-Sacs and Turnarounds.

- a. Dead-end (cul-de-sac) streets in partitions and subdivisions shall terminate in a turnaround with a minimum property line radius of forty (40) feet, or other type of turnaround approved by the City.
- b. Approved turnarounds shall be provided on all dead-end streets.
- c. No dead-end street may be established without Fire Marshall approval.

8. Easements. Where alleys are not provided, easements of not less than six (6) feet in width may be required on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainage ways or channels.

9. Blocks. Normally no block shall be longer than six hundred (600) feet between street lines. Approval for longer blocks can be given where topographical conditions constrain development.

10. Public Access Ways. When necessary for public convenience and safety, the Planning Commission may require the developer to dedicate to the public reasonable access ways to connect to cul-de-sacs, pass through oddly shaped blocks, provide for networks of public paths according to adopted plans, or to provide access to schools, parks, beaches or other public areas, or for other such design and location as reasonably required to facilitate public use. A subdivision, partition or replat shall maintain existing public access points to shore lands as required by Section 3.360.5.d. Such access points shall be ascertained as follows:

- a. By examination of a standard title report;
- b. By consulting City inventory of such points; or
- c. Through presentation of other lawful information.

11. Lots and Parcels.

- a. Every lot/parcel shall abut a public street or private road. A flag lot with the staff that does not comply with the required minimum lot widths for the zone it is located in is permitted, but the staff measurement shall not be less than 25 feet minimum frontage.

- b. Each side line shall be as close to perpendicular to the adjacent street/road or radial to a curved street/road as possible.
 - c. Lots/parcels with double frontage shall not be permitted unless, in the opinion of the City, the physical characteristics of the land prohibit any other plan for a subdivision.
 - d. The staff portion of a flag lot shall not be used in computing lot size for zoning and building purposes.
12. Utility Easements.
- a. Where alleys are not provided, easements of not less than ten (10) feet in width may be required on side or rear lines if determined to be necessary for utility lines, wires, conduits, storm and sanitary sewers, gas and water.
 - b. Easements of the same or greater widths may be required along boundary lines or across lots where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainage ways or channels.
13. Water. No partition or subdivision shall receive final approval unless the City has received and accepted:
- a. A certification by the City Superintendent, or such other City official as the City may designate, that water will be available to the boundary line of each and every lot or parcel depicted in the proposed Subdivision or partition; or
 - b. A performance agreement, bond, contract or other assurance that a water supply system will be installed to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.
14. Sewer. No partition or subdivision shall receive final approval unless the City has received and accepted:
- a. A certification by the City Superintendent, or other officials as the City may designate, that sewer will be available to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition; or
 - b. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the developer to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.
15. Surface Drainage and Storm Sewer.
- a. Drainage facilities shall be provided within subdivisions and partitions, and to connect the subdivision or partition drainage to drainage ways or storm sewer outside the subdivision or partition. The connection to the city system shall be engineered using standard practices and shall be approved by the city.
 - b. Design of drainage within subdivisions and partitions shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the development as well as to allow extension of the system to serve those areas.

16. Phase Development. A plat may be filed on a portion or phase of an approved tentative plan. Each phase of a subdivision must be able to qualify for approval independent of the balance of the approved tentative plan.
17. Geologic Hazards. All land divisions shall comply with the procedures and standards set forth in Article 13, where applicable.
18. Parks and Open Spaces. Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park or natural land, for use by the residents of the subdivision.

Section 14.050. Dedication of Public Streets Application. Any person wishing to create a public road or street which is not a part of a subdivision shall make written application to the City Council. The application shall consist of a letter addressed to the Council requesting acceptance of the dedication; a dedication deed with a proper description of the proposed dedication signed by all owners of the property being dedicated; a map showing the proposed road and property intended to be served by the road.

Section 14.051. Review. The City Council shall refer the dedication application to the following:

1. The City Superintendent, or other designated person, who shall check the proposal for grade and conformance to City road standards;
2. A title insurance company for a standard preliminary title report;
3. The City Planning Commission which shall review the proposal for compatibility with the City's Comprehensive Plan, Transportation Plan, and any adjacent approved tentative plans, plats, or maps.

Section 14.052. Approval.

The above reports shall be forwarded to the City Council along with the application for dedication. The dedicator shall furnish a standard title insurance policy insuring title of the dedicated street to the City. A public street will not be maintained by the City unless that street is accepted by the City into the City's road system.

Section 14.060. Procedure for Insuring Completion of Roads and/or Utilities in Subdivisions and Partitions

1. The developer's engineer will prepare cost estimates for completion of roads and/or utilities. Road cost estimates shall be based upon road standards as designated herein. All cost estimates shall be stamped by a registered professional engineer, licensed in the State of Oregon.
2. All estimates shall be submitted to the City Superintendent; water and/or sewer cost estimates shall be sent to the water and sewer department for review and approval.

3. The City Superintendent shall notify the developer as to the amount of bond or other performance agreement required and as to any changes necessary for bond acceptance or other performance agreement.
4. The developer shall submit the bond or performance agreement and three copies thereof written in favor of the City of Depoe Bay to City Hall for approval.
5. Upon completion of construction of roads and utilities, the applicant's engineer shall certify that such improvements are built to the standards approved. This certification of completion shall be submitted prior to the release of any bond or performance agreement.

Section 14.070. Street Width in Subdivisions and Partitions.

TYPE OF STREET	RIGHT OF WAY WIDTH	SURFACE WIDTHS +
1. Arterials	80' to 150' ++	40' to 52' ++
2. Collector Streets and all streets other than Arterials	40' to 50' ++	28' to 38' ++
3. Cul-de-Sacs	40'	28'
4. Circular Ends of Cul-de-Sacs	80' +++	60' +++

+ Surface width is that measured from face to face of curbs or shoulders.

++ The Planning Commission may require a width within the limits shown based upon adjacent physical conditions, safety of the public and the traffic needs of the community.

+++ Measured by diameter of circle constituting circular end.

Section 14.080. Street Improvements in Subdivisions and Partitions. Improvements shall meet the following minimum standards unless increased at the request of the Planning Commission:

1. All streets shall be rough graded for the full surface width.
2. All streets shall have a minimum of eight (8) inches of base material to a minimum width of twenty eight (28) feet.
3. All streets shall have a leveling course of 3/4" crushed rock, two (2) inches deep compacted.
4. All streets shall be paved with two (2) inches of asphalt concrete to a minimum of the width required by the Planning Commission.

Section 14.090. Procedure for Subdividing, Partitioning or Replatting Land:

1. Pre-Application Conference: Prior to submitting a tentative plan of a subdivision, partition, or replat, the applicant should confer with the City Planner regarding the requisites of the tentative plan application and the applicable standards and criteria of the Depoe Bay Zoning Ordinance.
2. Tentative Plan Requirements: The submitted tentative plan for a subdivision, partition, or replat shall contain all of the information listed on the applicable City of Depoe Bay application form. If the proposal includes new access from a state highway, the applicant shall submit documentation that the Oregon Department of Transportation will be willing to issue the requested road approach permits.
3. Tentative Plan Application and Review for Subdivisions and Partitions: The procedure for application and review of the tentative plan of a subdivision, and the procedure for application and review of the tentative plan for a partition shall be as set forth in Article 10, Section 10.025(3). *(replaced 5/4/10-ORD 287)*
4. Tentative Plan Application and Review for Replats:
 - a. The procedure for review and approval of the tentative plan shall be set forth in Article 10, Section 10.025(3).
 - b. For replats of previously recorded partition plats, the procedure for review and approval of the tentative plan shall be as set forth in Article 10, Section 10.025(1).
5. Time Limit for Tentative Approval: Approval of a tentative plan in accordance with this section is valid for a period of three years. A single time limit extension may be granted by the Planning Commission only if the development is substantially completed within the three year time period. A development is deemed to be substantially completed when utilities, streets, and drainage are in and stubbed to the lot line.
6. Revision of Tentative Plan: If an approved tentative plan for a subdivision is revised in any way, the Planning Commission shall review the proposed revisions to determine if a new application for tentative approval will be required. Such review will be limited to those issues impacted by the revision. If an approved tentative plan is substantially revised, such revision shall be filed as a new application for tentative plan approval.
7. Certifications Required for Final Approval: Requests for final approval of a subdivision, partition, or replat shall be accompanied by the following:
 - a. A copy of all covenants and restrictions.
 - b. Copies of all legal documents required for dedication of public facilities and/or for the creation of a homeowner's association.
 - c. The certification, bond, performance agreement, or statement regarding the installation of water and sewer services.
 - d. As-built certifications for all required roads and/or utilities unless otherwise guaranteed by a bond or performance agreement.

- e. A plat and one exact copy meeting the requirements of Section 14.100 and the applicable statute of the latest ORS. *(replaced 5/4/10-ORD 287)*
 - f.
 - f. When access from a State Highway is proposed, a copy of the approach road permit issued by the Oregon Department of Transportation confirming that all required improvements have been satisfactorily completed.
 - g. Such other information as is deemed necessary by the City Planner or Commission to verify conformance with the conditions of tentative approval.
8. Procedure for Final Approval of Partitions:
- a. The procedure for application and review of a request for final approval of a partition shall be as set forth in Article 10, Section 10.025(1). All such applications shall be accompanied by the certifications set forth in Section 14.090(7).
 - b. Upon granting of final approval, the City Planner shall sign the plat and its exact copy.
 - c. Upon signing, the City Planner shall deliver the plat and its exact copy to Lincoln County Surveyor who shall follow established procedures for obtaining recordation of the plat.
9. Procedure for Final Approval of Replats:
- a. If the proposed replat involves three (3) lots or less and is for the purpose of lot boundary changes only, procedure for review of final approval shall be as set forth in Article 10, Section 10.025(1).
 - b. If the proposed replat involves four (4) lots or more or includes changes to street rights-of-way, utilities, or any other features besides boundary lines, procedures for review of final approval shall be as set forth in Article 10, Section 10.025(2).
 - c. Following the signature of the City Planner or Planning Commission Chairperson, the City shall deliver the replat and its exact copy to the Lincoln County Surveyor who shall follow established procedures for obtaining recordation of the plat.
10. Procedure for Final Approval of Subdivisions:
- a. When the City Planner determines that all of the certifications set forth in Section 14.090(7) have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the agenda of the next scheduled meeting of the Planning Commission for determination that all requirements have been met. The Commission shall then approve, disapprove for cause, or, when further information is required, postpone a decision on the plat.
 - b. Unless appealed, the decision of the Planning Commission shall become effective 15 days after the decision is rendered. When the approval becomes effective, the Planning Commission Chairperson shall sign the plat and its exact copy.
 - c. Following the Planning Commission Chairperson's signature, the City shall deliver the plat and its exact copy to the Lincoln County Surveyor. The County Surveyor shall review the plat for conformance with the requirements of Section 14.100 and the provisions of the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*

- d. Upon approval of the County Surveyor, subdivision plats shall be circulated for signing to the following officials:
 - (1) The County Treasurer, whose signature shall certify that all taxes on the property have been paid;
 - (2) The County Assessor, whose signature shall certify that the plat is signed by the owner or owners of record.
- e. Upon signing by the County Treasurer and County Assessor, subdivision plats shall be delivered to the County Clerk for recording.
- f. The signature of the Chairperson on the final subdivision plat shall be valid for a period of one year. If a plat has not been recorded within one year of the date of the Chairperson's signature, the final approval of the plat shall expire, and a new request for final approval shall be required.

Section 14.100. Plat Requirements:

- 1. Requirements of Survey Plats: The surveys and plats of all subdivisions, partitions and replats shall be made by a registered professional land surveyor and shall conform to the requirements of the applicable statute of the latest ORS. (*amended 5/4/10-ORD 287*)
- 2. Encroachment or Hiatus: In the event that any encroachment, hiatus or property line discrepancy exists on the property to be platted, such encroachment, hiatus or discrepancy shall be clearly shown on the plat.
- 3. Elevation Bench Marks: Where required, the location, name and elevation of any elevation bench marks shall be indicated on the face of the plat. The name, year, and elevation of the bench mark upon which the elevation is based shall also be shown.
- 4. Easements: All recorded and proposed easements will be shown on the plat, along with the following information:
 - a. The specific location and size by dimensions or description.
 - b. If previously recorded, the County Clerk's recording reference.
 - c. The purpose or type of easement and whether it is a public or private easement and, if private, who benefits from the easement. Any public or private easement to be created, or any other restriction made, shall be noted in the declaration. Public easements shall include language in the declaration which dedicates the easement to the use of the public.
- 5. Exceptions:
 - a. Parcels created in excess of 80 acres need not be shown on a partition plat.
 - b. Parcels in excess of ten acres created by partition plat need not be surveyed or monumented.

Section 14.110. Standards and Procedures for Property Line Adjustments:

1. Tentative Approval:

- a. The procedure for application, review, and tentative approval of property line adjustments shall be as set forth in Section 10.025(1).
- b. A property line adjustment shall be tentatively approved provided that:
 - (1) No additional lots or parcels will be created; and
 - (2) The subject lots, parcels or tracts of land will not be reduced in size to below the minimum area required by the applicable use zone; and
 - (3) The proposed lots, parcels or tracts of land as adjusted will comply with any required minimum width requirement as set forth in the applicable use zone; and
 - (4) The proposed property line adjustment will not reduce any yard or other setback below that required under applicable zoning; and
 - (5) The proposed property line adjustment will not reduce the street or road frontage of the subject lots or parcels to below that required by the City of Depoe Bay Code; and
 - (6) The proposed property line adjustment will not reduce any setback for an existing on-site sewage disposal system or approved replacement area below the required minimum; and
 - (7) The proposed property line adjustment will not increase the degree of non-conformity on vacant lots, parcels, or tracts that do not conform to lot size, width, or depth requirements, or on developed lots if the increase in non-conformity results in adjacent property becoming further dividable. The proposed property line adjustment will not increase the degree of non-conformity for required yards.
- c. Tentative approval of a property line adjustment is valid for a period of one year. Tentative approval may be extended by the City Planner prior to expiration of tentative approval. Requests shall specify reasons for requiring a time extension, along with a specific plan and timeline for completion. Only one (1) time extension of up to one (1) year may be granted.

2. Final Approval:

- a. The procedure for application, review and final approval of property line adjustments shall be as set forth in Article 10, Section 10.025(2).
- b. Final approval of a property line adjustment shall be granted upon submittal of the following:
 - (1) A copy of a filed survey of the property line adjustment in accordance with the applicable statute of the latest ORS and in substantial conformance with the tentative approval, except that property line adjustments where all lots, tracts or parcels affected are greater than 10 acres need not be surveyed or monumented. (amended 5/4/10-ORD 287)

- (2) Copies of recorded conveyances conforming to the tentatively approved property line adjustment and containing the names of the parties with proper acknowledgment.
- (3) Such other documentation as may be required by the City Planner to verify conformance with any requirements or conditions of the tentative approval.

Section 14.120. Property Line Adjustments in Subdivisions and Partitions:

- 1. Except as provided for herein, all property line adjustments within recorded plats shall be accomplished by replatting in accordance with Section 14.090.
- 2. Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments rather than by replatting, when the City Planner determines that:
 - a. The property line or lines to be adjusted will not result in a substantial reconfiguration of the affected lots or parcels so as to render them unsuitable for their previously approved purpose;
 - b. The property line or lines to be adjusted will not result in an increase in lots;
 - c. The property line or lines to be adjusted will not reduce the common open space or park and recreational acreage;
 - d. All of the other requirements for property line adjustments set forth in Section 14.010 will be met.

ORDINANCE NO 326-20

AN ORDINANCE ADDING A NEW SUBSECTION TO ARTICLE 14 LAND DIVISION IN ORDINANCE NO. 24 (ZONING ORDINANCE) AS SUBSECTION 14.045 TRANSPORTATION IMPACT STUDY REQUIREMENTS

WHEREAS, the Depoe Bay Planning Commission last amended Article 10 May 4, 2010, by Ordinance 287; and

Whereas, the Depoe Bay Planning Commission held public hearings on November 13, 2019, to obtain public comment on proposed revisions to the zoning ordinance; and

Whereas, the Depoe Bay City Council held a public hearing on May 19, 2020, and has concluded deliberations on the recommended changes to the Zoning Code, including considering public testimony and staff recommendations.

NOW, THEREFORE, the City Council of the City of Depoe Bay ordains as follows:

1). Ordinance No.24 Adding a New-Subsection to Article 14 Transportation Impact Study (TIS)

Section 14.045. Transportation Impact Study (TIS): The purpose of this section of the code is to implement Section 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule that requires the City to adopt standards to protect the future operations of roadways and transit corridors and a process to apply conditions to development proposals in order to protect and minimize adverse impacts to transportation facilities. This section establishes when a TIS must be submitted with a land use application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities.

1. **Applicability – TIS letter.** A TIS letter shall be required to be submitted with a land use application if the proposal is expected to generate 10 to 30 peak hour trips or 100 to 300 daily trips.
2. **Applicability – TIS report.** A TIS report shall be required to be submitted with a land use application if the proposal is expected to involve one or more of the following:
 - a. The proposed development would generate more than 30 peak hour trips or more than 300 daily trips.
 - b. The proposal is immediately adjacent to an intersection that is functioning at a poor level of service, as determined by the City.
 - c. An increase in use of any direct property approach road to US 101 by 10 vehicles or more per day that exceed 20,000 pounds gross vehicle weight.
 - d. A new direct approach to US 101 is proposed.
 - e. A proposed development or land use action that the road authority states may contribute to operational or safety concerns on its facility(ies).
 - f. An amendment to the Depoe Bay Comprehensive Plan or Zoning Map is proposed.
3. The TIS letter or TIS report shall be prepared by an Oregon registered professional engineer qualified to perform traffic engineering analysis and will be paid for by the applicant. The TIS Letter or Report shall include trip generation estimates that are based on the Institute of Transportation Engineers (ITE) Trip Generation Manual.


4. Consistent with the City's Traffic Impact Study (TIS) Guidelines, the City will determine the project study area, intersections for analysis, scenarios to be evaluated, and any other pertinent information concerning the study that must be addressed in either a TIS letter or a TIS report.
5. Approval Criteria. When a TIS Letter or Report is required, a proposal is subject to the following criteria:
 - a. The TIS addresses the applicable elements identified by the City, consistent with the Traffic Impact Study Guidelines;
 - b. The TIS demonstrates that adequate transportation facilities exist to serve the proposed development or, in the case of a TIS report, identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the City and, when state highway facilities are affected, to ODOT;
 - c. For affected non-highway facilities, the TIS report establishes that mobility standards adopted by the City have been met; and
 - d. Proposed public improvements are designed and will be constructed consistent with City street design standards and access standards in the Transportation System Plan.
6. Conditions of Approval.
 - a. Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or access ways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.
 - b. Where the existing transportation system is shown to be impacted by the proposed use, improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, access ways, paths, or streets that serve the proposed use may be required.
 - c. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

WHEREAS, the adoption of this ordinance is necessary to preserve the peace, health, safety, and welfare of the citizens of the City of Depoe Bay. This ordinance shall be in full force and in effect thirty days upon its adoption by the City Council of the City of Depoe Bay.

Introduced and passed the first reading in a regular meeting of the City Council of the City of Depoe Bay on this 7TH day of JULY, 2020.

Passed at the second reading, placed on final passage, and adopted by the City Council of the City of Depoe Bay on this 7TH day of JULY, 2020.

Approved by the Mayor of the City of Depoe Bay this 7TH day of JULY, 2020.



Mayor

Attest: 

City Recorder