

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, February 14, 2024 – 6:00 PM
4 Depoe Bay City Hall

5
6 PRESENT: R. Moreland, E. Sherman, J. Imbrie
7 STAFF: City Planner K. Fox, Deputy City Recorder C. Duering

8
9 I. CALL MEETING TO ORDER

10 Sherman called the meeting to order and established a quorum at 6:00 PM.

11
12
13 II. ANNOUNCEMENTS

14
15 The City Planner announced 1) We are continuing to look for candidates to serve on the
16 Planning Commission. There are two (2) vacancies.

17
18 Sherman announced 1) January was his first meeting as chair. He called for a verbal "Aye" or
19 "Nay" vote. Based on his conversation with the City Planner, going forward the voting method
20 for any motions on the floor will be by roll call.

21
22 III. APPROVAL OF MINUTES

23
24 There were none.

25
26 IV. PUBLIC HEARINGS

27
28 Sherman announced that the following statement applies to all public hearings heard at
29 tonight's meeting.

30
31 The testimony and evidence must be directed toward the code sections, citations, and criteria
32 established by the Depoe Bay City staff report or other criteria in the code the party believes to
33 apply to the subject request. The failure to raise an issue accompanied by statements or
34 evidence sufficient to afford the Commission and the parties an opportunity to respond to the
35 issue precludes an appeal to the State Land Use Board of Appeals on that issue. Application
36 materials and other evidence relied upon by the applicant have been provided to the City and
37 have been made available to the public.

38
39 Sherman stated the procedures used for the public hearings heard tonight will be as follows:
40 First, there will be a staff report. The applicant will present his or her testimony. There will be
41 testimony from those in favor of the application. There will be testimony from those in opposition
42 to the application. There will be a rebuttal from the applicant. He will then ask if there is anyone
43 who would request that the record remain open for final additional written testimony. If none,
44 at that time the public hearing will be closed. There will be Commission deliberation and
45 decision. There will be no further input from the public during deliberations.

46

1 A. Case File: #4-GEO-PC-23 (Continued from January 10, 2024)
2 Applicant: C.A. White, Jr.
3 Owner: Same as Applicant
4 Application: Geotechnical Report Review
5 Zone, Map and Tax Lot: Residential R-5, 09-11-05-DD Tax Lot #00300
6 Location: 565 NE Stanley Street
7

8 Sherman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare.
9

10 Imbrie declared that he had ex-parte contact. The City's reviewer called him to ask questions.
11 He didn't realize until further into the conversation that it was regarding a project in Depoe Bay.
12 He felt it best that he recuse himself.
13

14 Discussion followed regarding the "Rule of Necessity." In conclusion, the Commission invoked
15 the "Rule of Necessity." Imbrie would participate for the purpose of having a quorum. He
16 would be allowed to vote but not allowed to participate in any discussion or deliberations on
17 the matter.
18

19 There was no objection to any Planning Commissioner hearing the case.
20

21 The City Planner summarized the staff report (copy attached to original of these minutes). The
22 Depoe Bay Salmon Enhancement Commission submitted a memo in support of the proposal
23 (copy attached to original of these minutes).
24

25 C.A. White, Jr. stated that their documents are complete, and they hope to receive approval.
26

27 There was no testimony in favor or opposition to the application.
28

29 There was no rebuttal from the applicant.
30

31 There was no request to keep the record open.
32

33 The public hearing was closed, and the Commission entered deliberations.
34

35 Discussion included 1) Comfortable with the report and recommendations; 2) This is the first
36 geologic hazard report subjected to third-party/peer review and the City Planner is satisfied that
37 all the items were addressed; 3) Per Council direction last year as a matter of policy when an
38 application falls within the corridor or appears to have an effect on North Depoe Bay Creek or
39 South Depoe Bay Creek and their various tributaries the Salmon Enhancement Commission will
40 be notified.
41

42 **Motion:** Moreland moved to approve Case File#4-GEO-PC-23 (Geotechnical Report Review)
43 and adopt Conditions of Approval (1. thru 10.) as prepared by the City Planner and City
44 Engineer. Sherman seconded.
45

1 **Vote:** Motion passed.
2 **Ayes:** Moreland, Sherman
3 **Abstain:** Imbrie
4

5 V. UNFINISHED BUSINESS
6

7 There was none.
8

9 VI. NEW BUSINESS
10

11 A. Case File #5-C1-PC-23

12 Applicant: Bay View Investments, LLC

13 Owner: Same as Applicant

14 Application: Building Permit

15 Zone, Map, and Tax Lot: Retail Commercial C-1, 09-11-05-CA Tax Lot #17802
16

17 The City Planner summarized the staff report (copy attached to original of these minutes). No
18 written testimony was received.
19

20 Discussion followed regarding the procedure. In conclusion, the City Planner advised the
21 Commission that even though the proceeding was not a quasi-judicial public hearing if any
22 Commissioner felt that they had ex-parte contact, conflict of interest, or bias it would be
23 incumbent on them to disclose that information.
24

25 Sherman asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare.
26 There was none.
27

28 Vinish "Vinny" Shaw, the applicant, stated that they were ready to build per the guidelines and
29 conditions and hoped their application would be approved.
30

31 There was no testimony in favor or opposition to the application.
32

33 There was no rebuttal from the applicant.
34

35 There was no request to keep the record open.
36

37 The Commission entered deliberations.
38

39 Discussion followed regarding 1) *The project proposes to provide one (1) garage parking space*
40 *and one (1) driveway parking space for each unit (4 parking spaces total), which satisfies the*
41 *project's off-street parking requirement; 2) The project will provide a 5-foot-wide sidewalk along*
42 *NE Williams Avenue, as required pursuant to DBZO Section 152.031(H)(1); 3) How the City's code*
43 *enforcement program addresses complaints and/or issues regarding violations; 4) The City*
44 *subscribes to a service that monitors tourist accommodations; how staff utilizes the on-line tool*
45 *to do live inquiries.*
46

47 **Motion:** Imbrie moved to approve Case File #5-C1-PC-23 (Building Permit) and adopt the
48 Conditions of Approval (1. thru 7.) as prepared by the City Planner. Moreland seconded.

1 **Vote:** Motion passed.
2 **Ayes:** Sherman, Imbrie, Moreland

- 3
4 B. Case File #1-C1-PC-24
5 Applicant: Harry Napier
6 Owner: Same as Applicant
7 Application: Building Permit
8 Zone, Map, and Tax Lot: Retail Commercial C-1, 09-11-08-BD Tax Lots #00900, #01000
9

10 The City Planner summarized the staff report (copy attached to original of these minutes). No
11 written testimony was received.

12
13 No ex-parte contact, conflict of interest, or bias was declared.

14
15 Harry Napier stated that replacing the former pump canopy and installing the pumps at the
16 front of the service station building is the last step in the process of restoring the 1930s Richfield
17 gas station. He shared photographs of a similar facility and gas pumps (copy attached to
18 original of these minutes). Testimony included: 1) He spoke with someone who worked for the
19 company that removed the gas tanks from the subject property; 2) He removed the vent pipes
20 when he had asphalt laid.

21
22 Discussion followed regarding 1) The building looks fantastic and is an attractive addition to the
23 South of the Bridge area; 2) Installing "No Gas" signage; 3) The fencing is permanent; 4) The
24 restored Richfield pumps are expensive; 5) The existing awning will be removed.

25
26 There was no testimony in favor or opposition to the application.

27
28 There was no rebuttal from the applicant.

29
30 There was no request to keep the record open.

31
32 The Commission entered deliberations.

33
34 The Commission agreed it is a wonderful use of the property.

35
36 **Motion:** Moreland moved to approve Case File #1-C1-PC-24 (Building Permit) and adopt the
37 Conditions of Approval (1. thru 4.) as prepared by the City Planner. Imbrie seconded.

38
39 **Vote:** Motion passed.
40 **Ayes:** Imbrie, Moreland, Sherman

41
42 VII. PUBLIC COMMENTS – ITEMS NOT ON TONIGHT'S AGENDA

43
44 There was none.

45
46 Sherman thanked everyone for attending a meeting on Valentine's Day.

47
48 VIII. CITY COUNCIL LIAISON REPORT

1 There was no request from the City Council that a liaison attend a meeting.

2
3 The City Planner reminded the Commission that meetings can be attended in person or via
4 Zoom.

5
6 IX. CITY PLANNER AND CITY RECORDER REPORTS
7

8 The City Planner summarized the January 2024, Land Use and Building Permit Activity Report
9 (copy attached to the original of these minutes).

10
11 Discussion followed regarding 1) Initiation of vacation of Cove View right-of-way ("Big Tire Park")
12 on North Point; 2) Inn at Arch Rock sign permit.

13
14 The City Planner announced that he anticipates Whale Watch Phase II preliminary plan, Depoe
15 Hills Phase 1 amendment, and a review of a wetland delineation for a new, single-family
16 dwelling in the Little Whale Cove community to be on the March 13, 2024, Planning Commission
17 agenda.

18
19 Discussion followed regarding 1) The Depoe Hills Planned Development; and 2) Wetlands in Little
20 Whale Cove.

21
22 The Deputy City Recorder announced that the City Council will be interviewing a Planning
23 Commission applicant at their next meeting.

24
25 X. PLANNING COMMISSION CONCERNS
26

27 Imbrie: I'm embarrassed to admit that I am not familiar with the geologic hazard guidelines. Do
28 we have language that says that the report should include these geologic hazards but not
29 limited to them? So, if there is something that is not in the guidelines it is still addressed by the
30 consultant. Tonight was a very effective and streamlined meeting.

31
32 The City Planner responded that the Depoe Bay Zoning Code has specific requirements for
33 geologic hazard reports.

34
35 Discussion followed regarding 1) The improved geologic hazards report review process; and 2)
36 The last amendment to Development Guidelines Section 152.225 through 152.235 was in 2010.

37
38 Moreland: I have a general concern about the concept of the City vacating public access
39 property. Has anybody ever gotten hurt on that property? Does the State's decision regarding
40 recreational immunity have anything to do with it?

41
42 The City Planner cautioned the Commission from getting into a discussion about a specific piece
43 of property. He explained 1) In general vacation of rights of way there are a number of policies
44 and provisions in the City's Comprehensive Plan and Zoning Regulations on both sides; 2) The
45 City Council has to weigh all those competing interests, goals, and objectives and determine
46 what is in the best interest of the community as a whole; 3) The City has taken a wait and see
47 approach to the matter of recreational immunity; 4) There is a bill that has been introduced in
48 the short legislative session regarding recreational immunity; when the legislature convenes

1 again in 2025 the expectation is that there will be a more comprehensive bill regarding the
2 matter.

3
4 Sherman: I will not be able to attend the November 13, 2024, Planning Commission meeting.
5 The power outage brought emergency preparedness to the forefront. Residents are used to
6 power outages lasting a few hours or a day. The City needs to be looking into resiliency for long-
7 term power outages, and wind and ice storms. City water, sanitary sewer, and backup power
8 need to be a priority in emergency preparedness planning.

9
10 The City Planner announced: 1) The April meeting will be held on Wednesday, April 17th; 2) The
11 July meeting date may need to be changed; 3) Another item that will be on the March 13th
12 agenda is the planning process for reviewing the placement of emergency supply caches.

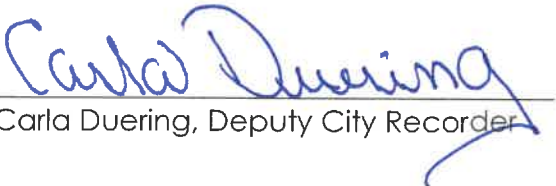
13
14 Discussion followed regarding 1) Emergency short-term and long-term assembly areas; 2)
15 Damage caused by fire sprinkler systems in the Portland area during the ice storm; 3) At the
16 February 6, 2024, City Council meeting there was a presentation from the Little Whale Cove
17 Community regarding renewable energy grant funding opportunities.

18
19 XI. ADJOURN

20
21 There being no further business, the meeting was adjourned at 7:20 PM.

22
23
24 

Eric Sherman, President

25
26
27 
28
29 Carla Duering, Deputy City Recorder