

**CITY OF COOS BAY
PLANNING COMMISSION MINUTES**

Tuesday, May 8, 2007
6:00 P.M. CITY COUNCIL CHAMBERS

ATTENDANCE

COMMISSIONERS: Chairman Bruce Harlan, Commissioners, Chris Coles, Steve Donovan, Chris Hood, Jeff Marineau, Rex Miller

ABSENT: Commissioner Jim Berg

STAFF: Laura Barron, Planning Administrator
Debbie Erler, Code/Planning Tech

SIGNED-IN GUESTS: Kevin Black, 324 Ackerman #A-9, Coos Bay, OR
David Koch, PO Box 1006, North Bend, OR
Ralph A. Shaw, 385 N. Wasson, Coos Bay, OR
Bill Summerville, 674 Harris, Coos Bay, OR
Camby Collier, PO Box 181, Coos Bay, OR
Jody McCaffree, PO Box 1113, North Bend, OR
Debra Graham, 1295 Winsor Avenue, North Bend, OR

APPROVAL OF MINUTES

Approve Planning Commission minutes of Tuesday, April 10, 2007.

MOTION: Commissioner Coles - Approve Planning Commission minutes of Tuesday, April 10, 2007, as submitted

SECOND: Commissioner Miller

VOTE: Unanimous **ABSTAIN:** Commissioner Marineau

CCI/PUBLIC COMMENTS

PUBLIC HEARINGS

ITEM A: Revocation of Home Occupation Variance (MIS98-00309): The City is requesting a public hearing regarding the revocation of a Home Occupation Permit. The business is being operated by Mr. Ken Bywater, 612 Harris Street, Coos Bay. A continuance to the public hearing has been requested to June 12, 2007.

Chairman Harlan asked if there were any objections to the Planning Commission hearing the item on jurisdictional grounds. He asked if the Planning Commission had exparte contact or conflict of interest to report.

Chairman Harlan opened the public hearing.

Laura Barron read the disclosure statement and summarized the Staff Report. She stated the City received a letter dated May 1, 2007 from the applicant's attorney David Koch requesting a continuance to the June 12, 2007 Planning Commissioner hearing. Mrs. Barron outlined the applicant's original Home Occupation application for a mobile diesel engine repair business and letter of approval with the condition that vehicles associated with the business not be stored on the premises. She stated the City has received citizen concerns regarding issues related to the automotive repair business being conducted on the premises and the accumulation of inoperable vehicles. She outlined the findings for the site inspections and letters sent to the owner informing him of the violations.

Commissioner Hood asked about inoperable vehicle on residential lots. Mrs. Barron stated the ordinance (No. 99) states that inoperable vehicles must be fully enclosed within a building.

David Koch, attorney for Mr. Bywater, stated they put in the request for a continuance because Mr. Bywater was scheduled to under go some medical procedures. He stated the procedures were postponed and Mr. Bywater is in attendance. He stated that they have submitted another "Home Occupation" application for a diesel engine repair business from the property that would meet the criteria of a "Home Occupation". Mr. Koch stated it would be a scaled down version of the existing business.

Kenneth Bywater, 612 Harris, Coos Bay stated he would like the City to reconsider revoking his Home Occupation because he is trying to support his family. He described family health issues. He stated he thought he was filling out the paperwork right, but filled out the application in a manner that was damaging to his livelihood. He said he did not know what he was doing. He was just trying to get the heat off and the pressure away from himself. He stated he went house to house in the neighborhood. He said he had a list of all the residents he talked to and there were only two people in the neighborhood that do not support him making a living out of his house or that he bothered. Mr. Bywater outlined past problems he has had with the two residents. He stated he is not doing this deliberately.

Commission Hood asked Mr. Koch what was the intent of the new application. Mr. Koch stated he would like the new application to be heard on June 12, 2007 before the Planning Commission takes final action on the revocation.

Kevin Black, 324 Ackerman, Apt A-9, Coos Bay stated he is one of Mr. Bywater's customers. He stated Mr. Bywater has saved him a lot of money on repairs and sometimes things have to sit awhile because of his health. He stated that most people in his condition would not be working. He stated some of Mr. Bywater's customers are small business owners, they may have only one dump truck and they need someone to do a good job for less money. He added that if it is a matter of the property not looking good, he could get some of Mr. Bywater's customers together to build a fence around the property. He would like the Planning Commission to consider leniency in this matter. He stated if you go one block from Ken's house there are inoperable vehicles that are growing weeds.

Ralph A. Shaw Sr., 385 N, Wasson Coos Bay stated he has lived at this location for 29 years. He said Mr. Bywater has always been helpful to his neighbors. He doesn't think its right to take a man's living away by shutting down his business. He stated the people that are complaining don't pay Mr. Bywater's taxes or the upkeep on this house, but they want him to quit working. He stated Mr. Bywater has never done anything wrong. He added that it may be a little crowded at times with cars waiting to be work on, but he is trying to make a living for his family and he has a right to make a living.

Bill Summerville, 674 Harris, Coos Bay stated he has lived next to Mr. Bywater for eleven years and sees the place everyday. He stated he has absolutely no problems with Mr. Bywater. He said Mr. Bywater makes his living there and nothing from his business has ever caused him any type of problem or distraction.

Commissioner Hood asked Mr. Summerville for the record, there is absolutely no problem with noise? Mr. Summerville stated nothing that bothers him. He said there are times when the noise coming from Mr. Bywater place is equivalent to someone mowing their lawn.

Chairman Harlan closed the public hearing.

Laura Barron stated that the agenda indicated a request for a continuance was requested.

- MOTION:** Commissioner Marineau – Continue the hearing on land use file #MIS98-00309 to the June 12, 2007 hearing.
- SECOND:** Commissioner Coles
- DISCUSSION:** Chairman Harlan stated that he does not disagree with the motion to continue, but it was clear to him when he drove by the site that the operation is totally out of character in a residential area and it does not belong in a residential zone.
- VOTE:** Unanimous

ITEM B: Estuarine Use (ZON2007-00034): Oregon International Port of Coos Bay, PO Box 1215, Coos Bay. The applicant is requesting verification that proposed mitigation in Coos Bay Estuary Management Plan Aquatic Unit 52-NA, located in the area south/southwest of the airport, is permitted by the Plan. The purpose of the mitigation is to compensate for impacts to eelgrass expected to occur during dredging between a proposed multi-purpose marine shipping berth and the existing navigation channel.

Chairman Harlan asked if there were any objections to the Planning Commission hearing the item on jurisdictional grounds. He asked if the Planning Commission had ex parte contact or conflict of interest to report.

Commission Hood declared that Stuntzner Engineering has worked for the Port in the past on other projects, but it would not affect his ability to make an impartial decision. Commissioner Marineau stated he is a nearby property owner, but that would not affect his ability to make an impartial decision. Commissioner Donovan stated his employer works with the Port of Coos Bay regarding the North Spit property, but that would not affect his ability to make an impartial decision.

Chairman Harlan opened the public hearing.

Laura Barron read the disclosure statement and outlined the applicant's requests. Mrs. Barron stated the City received four written testimonies after the staff report was mailed. She read into the record the following documents: A letter from Marcella Weaver letter dated May 4, 2007 indicating her concerns regarding the future proposed LNG line (*Exhibit 1*); An E-mail received May 7, 2007 from Dennis Phillips indicating his concerns regarding the proposed mitigation (*Exhibit 2A*); An E-mail received May 8, 2007 from Dennis Phillips further expressing his concerns (*Exhibit 2B*); A letter received from David Lohman, Attorney at Law, 823 Alder Creek Drive, Medford, Oregon dated May 8, 2007 outlined concerns regarding the proposed mitigation (*Exhibit 3*); Mailing list (*Exhibit 4*); Proposed changes by the applicants dated May 8, 2007 (*Exhibit 5*). She stated the applicants are talking about a conceptual map included in the notice.

Mrs. Barron stated the proposed use (mitigation) is allowed in the zone, but all uses must be verified through the "Estuarine Use" application process. Proposed future uses of the area will be reviewed at the time the use is proposed by the appropriate jurisdiction. A decision regarding the proposed mitigation would normally be an administrative decision (staff decision); however, staff brought the matter to the Planning Commission in order to give the public an opportunity to comment. The final determination for method and location of mitigation will be made through the "Joint Permit Application" between Department of State Lands and Army Corp. of Engineers. These agencies have the expert Biologist on staff.

Mark Whitlow, Perkins Coie, 1120 NW Couch Street, 10th Floor, Portland, Oregon, spoke on behalf of the Port of Coos Bay. He stated he is pleased to be before the Planning Commission. He thanked Laura Barron for all the work she did in the presentation and on the Staff Report. He stated they support being before the Planning Commission with the caveat that it creates the impression that they are requesting something more than what they are requesting. He stated they are not asking for the Planning Commission to approve the activity that is proposed in the "Joint Permit" with the Corp of Engineers and DSL. He summarized the project; explained the need for the mitigation; and outlined permit process with other agencies. He added the proposed mitigation is an allowed activity in district 52-NA and the map provided is conceptual only.

The Planning Commission discussed the proposed use and general location. The "Joint Permit" application with DSL and Army Corp. of Engineers will determine the precise location of the mitigation. Commissioner Hood stated that while the application could have been reviewed and approved by staff, the public voiced concerns at a prior hearing about being left out of any process that may lead to future LNG uses.

Commissioner Donovan asked if the airport was notified of the proposed mitigation. Mrs. Barron stated the airport was notified and no comments were received.

Commissioner Marineau stated the application shows general areas in the 52-NA zone. He stated the exact location and size of the mitigation will be determined through the "Joint Permit" process. The applicant is aware that if the size or the location of the mitigation changes dramatically they will need to submit a new application.

Camby Collier, 90768 Travis Lane (PO Box 181), Coos Bay thanked the Commission for having the hearing. She stated the packet indicates the "Old Hatchery" is being considered as one of the mitigation sites. She stated there are clams beds between buoies 11 and 14 that should be preserved. She would like the "Old Hatchery" to be removed from consideration as a mitigation site (*Exhibit 7*).

Jody McCaffree, P.O. Box 1113, North Bend stated they would not be here tonight if the proposed mitigation was not indirectly connected to LNG. She stated she now understands that the hearing is to determine if mitigation is permitted in the proposed zone and that no other hearings are required. She is concerned that after approval the scope of the project could be change dramatically. She said she thinks the Airport Manager should have been present. She asked if it is wise to allow mitigation in an area that may be needed for future airport expansion. She added that clam beds should not be destroyed to mitigate for something else.

Commissioner Hood stated we brought this to the Planning Commission only to determine if mitigation is allowed in the zone. There is another process with DSL and the Army Corp. of Engineers.

Dana Siegfried, David Evans & Associates, Portland, spoke on behalf of Mr. Whitlow. She stated the proposed site under review is the preferred site for the mitigation. If DSL & Corp. of Engineers determines the proposed site is not adequate they will recommend another site.

Mr. Whitlow stated the "Joint Permit" process is a public process. He understands that there is a request to have the record left open for seven days. He stated they will use that time for any rebuttal.

Chairman Harlan closed the public hearing.

Laura Barron outlines the process for the request to leave the record open for seven days. She stated the Planning Commission will review any new information and make a decision at the June 12, 2007 Planning Commission hearing.

Commissioner Marineau clarified that the proposed use is permitted in the zone. He stated in his 17 years on the Planning Commission this type of application has never coming before the Planning Commission.

- MOTION:** Commissioner Hood – Continue to the June 12, 2007 Planning Commission hearing leaving the record open for seven days to allow new information to be submitted for Estuarine Use application #ZON2007-00034 allowing the proposed mitigation in Coos Bay Estuary Management Plan aquatic unit 52-NA, located in the area south/southwest of the airport.
- SECOND:** Commissioner Marineau
- VOTE:** Unanimous

ITEM C: Architectural Design Review (ZON2007-00033): Ms. Edna Ryzebol, PO Box 3268, Coos Bay. The applicant is requesting approval of the architectural design for a two-story addition to the Empire Café building located at 525 Newmark Avenue. The property lies in the Empire Waterfront Settlement Design Area.

Chairman Harlan asked if there were any objections to the Planning Commission hearing the item on jurisdictional grounds. He asked if the Planning Commission had exparte contact or conflict of interest to report.

Jeff Marineau declared a conflict of interest as his firm is doing work for the applicant.

Chairman Harlan opened the public hearing.

Laura Barron read the disclosure statement and outlined the applicant's request and past design review approvals for the property.

Chairman Harlan closed the public hearing.

- MOTION:** Commissioner Coles – Adopted the Statements of Facts, Findings, Conclusions and Conditions as submitted and approve Architectural Design Review application #ZON2007-00033, allowing the proposed two-story addition to the Empire Café building located at 525 Newmark Avenue.
- SECOND:** Commissioner Hood
- VOTE:** Unanimous

ITEM D: Conditional Use (ZON2007-00041): Mr. Richard Swenson, 522 11th Avenue, Coos Bay. The applicant is requesting approval of a single-family dwelling in the “Multiple Residential (R-3)” zoning district at 522 11th Avenue.

Chairman Harlan asked if there were any objections to the Planning Commission hearing the item on jurisdictional grounds. He asked if the Planning Commission had ex parte contact or conflict of interest to report.

Chairman Harlan opened the public hearing.

Laura Barron read the disclosure statement, outlined the applicant’s request.

Chairman Harlan closed the public hearing.

- MOTION:** Commissioner Coles – Adopted the Statements of Facts, Findings, Conclusions and Conditions as submitted and approve Conditional Use application #ZON2007-00041, allowing the placement of a single-family dwelling in the “Multiple Residential (R-3)” zoning district at 522 11th Avenue.
- SECOND:** Commissioner Hood
- VOTE:** Unanimous

ITEM E: Zone Change (ZON2007-00031): Mr. and Mrs. Steven Graham, 1295 Winsor Avenue, North Bend. The applicants are proposing to change the zone designation for the property at 845 W. Anderson Avenue from “Multiple Residential (R-3)” to “Residential Professional (R-4P).”

Chairman Harlan asked if there were any objections to the Planning Commission hearing the item on jurisdictional grounds. He asked if the Planning Commission had ex parte contact or conflict of interest to report.

Chairman Harlan opened the public hearing.

Laura Barron read the disclosure statement and outlined the applicant’s request.

Debra Graham, 1295 Winsor, North Bend stated they bought the property for an investment. She stated they would answer any questions.

Laura Barron asked if there is area for off-street parking. Mrs. Graham stated there are two off-street parking spaces. They are aware that additional off-street parking would be needed for a commercial use.

Chairman Harlan closed the public hearing.

- MOTION:** Commissioner Coles – Adopted the Statements of Facts, Findings, Conclusions and Conditions as submitted recommend the City Council approve Zone Change applications #ZON2007-00031 allowing the subject property at 845 W. Anderson Avenue to be rezoned from “Multiple Residential (R-3)” to “Residential Professional (R-4P).”
- SECOND:** Commissioner Hood
- VOTE:** Unanimous

ADMINISTRATIVE

Laura Barron updated the Planning Commission on the appeal of Home Occupation #ZON2007-00020 at 795 Patrick Street for a tow truck business. Steve Donovan questioned why the proposed Home Occupation for a tow truck business was not denied. He stated the business has out grown the residential zone.

COMMISSION COMMENTS

Commissioner Coles stated she will be attending the Oregon Downtown Business Association Conference. She stated they are planning an open house/town hall meeting on July 11, 2007 to discuss the future of the downtown area.

Commissioner Donovan stated he was looking at property in Forest Hills and he noticed a lot of slide activity in the subdivision.

ADJOURNMENT 8:15 p.m.

Bruce Harlan, Chairman
City of Coos Bay
Coos County, Oregon

ATTEST: _____
Debbie Erler, Codes/Planning Tech
City of Coos Bay

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