

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, March 14, 2007 - 6:00 PM
4 Depoe Bay City Hall

5
6 PRESENT: President C. Connors, S. McGavock, D. Goddard, B. Taunton, V. Sovern, E. Hough

7
8 ABSENT: B. Bruce

9
10 STAFF: City Planner L. Lewis, Recording Secretary C. Duering

11
12 I. CALL MEETING TO ORDER

13 Connors called the meeting to order and established a quorum at 6:02 PM.

14
15 II. APPROVAL OF MINUTES: February 14, 2007 Regular Meeting.

16
17 Motion: Hough moved to approve the Minutes of the February 14, 2007 Regular Meeting as written.
18 McGavock seconded the Motion.

19
20 Connors said it was moved and seconded, and called for discussion. There was none.

21
22 Vote: Motion passed.

23 Ayes: McGavock, Goddard, Taunton, Sovern, Connors, Hough

24
25 III ITEMS FROM THE AUDIENCE

26 There were no items from the Audience.

27
28 IV. PUBLIC HEARING ITEMS

29 Connors explained the Public Hearing procedure, noting that this procedure applies to all Public Hearing
30 Items (Agenda Items B. through E.) that will be heard this evening. Connors said Testimony and
31 evidence given must be directed toward criteria described by the City Planner, or other criteria in the
32 code that the Testifier believes applies to the request. Failure to raise an issue, accompanied by
33 statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to
34 the issue precludes appeal to the State Land Use Board of Appeals on that issue. Application materials
35 or other evidence relied upon by the Applicant had been provided to the City and made available to the
36 Public. Commissioners will be asked for any declaration of ex-parte contact, conflict of interest, or bias
37 to declare. The Public will have the opportunity to state objection to any Planning Commissioner
38 hearing the Case. Applicants will have the opportunity to present information relevant to their
39 Application, followed by Testimony in support of the Application, then Testimony in opposition, with
40 the Applicant having the opportunity for rebuttal. Unless there is a request to hold the Record Open,
41 Testimony will be closed and the Commission will enter into Deliberations on the Application. Connors
42 asked the Audience to identify the Public Hearing Items they were here for and suggested that the order
43 of the Public Hearing Items be rearranged to accommodate the Applicants and/or those who are here to
44 provide Public Testimony. The Commission concurred.

1 B. Case File: #1-PAR-PC-07 Applicant: Thomas Chavez
2 Application: 3-Lot Partition
3 Map and Tax Lot: 09-11-08-AC #00942
4 Location: South end of Hazelton Place
5

6 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
7 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.
8 There was no objection. Lewis summarized the Staff Report (copy attached to original of these
9 Minutes). Connors asked if the Commissioners had any questions to address to the City Planner. There
10 was none. The Applicant was given an opportunity to testify and answer questions from
11 Commissioners. Thomas Chavez, 275 S.E. Hazelton Place, testified that Mr. Lewis adequately
12 described his intentions. Connors asked if he had discussed Legal Access Approval from the Property
13 Owner just south of the Bay View Avenue Right-A-Way. Chavez deferred the question to Lewis. Lewis
14 illustrated Access to the West Lot is proposed to be from an extended Bay View Avenue. Currently, the
15 land fronting the proposed Westerly Lot is Private Property (Owner may be developing in the near future
16 an additional 8 or 9 acres which shows an extension of Bay View Ave. for their Access which could be
17 platted as a Private or Public Street). Connors asked Lewis to verify when Mr. Chavez would need to
18 obtain Legal Access. Lewis replied prior to Final Approval and recording of the Plat. A Commissioner
19 asked Staff to confirm that the Neighboring Property Owners have been notified of the 3-Lot Partition
20 Application and that no Written Testimony has been received. Lewis replied yes. A Commissioner
21 reiterated that the East Lot is proposed to be Accessed at the south end of Hazelton Place through a 25'
22 wide Easement across the middle Lot. There was no Testimony in support of the Application and no
23 Testimony in opposition. There was no request to keep the Record Open. The Public Hearing was
24 closed and Deliberations began.
25

26 Motion: Goddard moved to approve Case File #1-PAR-PC-07 and adopt the Conditions of Approval,
27 Items 1. thru 4. as recommended by the City Planner. Sovern seconded the Motion.
28

29 Connors said it was moved and seconded, and called for discussion. There was none.
30

31 Vote: Motion passed.

32 Ayes: Goddard, Taunton, Sovern, Connors, Hough, McGavock
33

34 C. Case File: #1-VAR-PC-07 Applicant: Bruce Silver
35 Application: Variance
36 Map and Tax Lot: 09-11-07-DD #00305
37 Location: 420 S.W. Cardinal Street
38

39 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
40 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.
41 There was no objection. Lewis summarized the Staff Report (copy attached to original of these
42 Minutes). Connors asked if the Commissioners had any questions to address to the City Planner. There
43 was none. The Applicant was given an opportunity to testify and answer questions from
44 Commissioners. Bruce Silver, 420 S.W. Cardinal Street, respectively requested that the Relevant
45 Criteria include the entire definition of Building Height – Insert b. and c. (*Section 1.030 Definitions,*
46 *Item 19. Building Height b. For Height Limitation on Residential Lots With 20% Slope or Greater: On*

1 Residential Lots where the average Pre-Construction Elevation of the ground within the Building
2 Footprint slopes more than 20%, the height is measured from the Average Finished Grade around the
3 Building to the highest point of the Building, or the Average Pre-Construction Elevation of the land
4 within the Building Footprint to the Highest Point of the Building, whichever results in the Lowest
5 Elevation for the top of the Building. The Property Owner is responsible for submitting Documentation
6 of Pre-Construction Elevations. c. For Establishing Setbacks: The Setback from Structures to Property
7 Lines shall be based on the Height of the Building on the side in question. The Height of the Side shall
8 be measured from the Lowest Grade to the Highest Point of the Building). He felt the Application is
9 fairly self explanatory and was here to answer questions. Connors asked if he had talked to the Neighbor
10 on the east side about whether they feel there is any infringement on their Property (aware that they
11 haven't submitted any Testimony). Silver replied yes (they did not express any concerns) 5' East Side-
12 Yard Setback proposed – Required 10'. A Commissioner asked if he had started on this Project. He
13 answered a Cement Pad and a Retaining Wall (less than 4' - no Building Permit required) are
14 constructed. A Commissioner asked Silver to clarify if the trees (Pictured in the Photograph provided by
15 Applicant) distinguish the Property Line. Silver identified a thin line in the photo (a rope he used to
16 delineate the Property Line). A Commissioner asked about the berm between the Properties and is it
17 natural. He stated that it is a change in Elevation (accentuated by the excavation, but there was a bank –
18 the Neighbor to the east is higher than his Property). There was no Testimony in support of the
19 Application and no Testimony in opposition. There was no request to keep the Record Open. The
20 Public Hearing was closed and Deliberations began.

21
22 Motion: McGavock moved to approve Case File #1-VAR-PC-07 and adopt the Conditions of Approval,
23 Items 1. thru 2. as recommended by the City Planner and include the entire definition of Building Height
24 in the Relevant Criteria as requested by the Applicant. He acknowledged that all of the Criteria for
25 granting a Variance have been satisfied. Hough seconded the Motion.

26
27 Connors said it was moved and seconded, and called for discussion. A Commissioner stated her
28 uncertainty that the Application meets all of the Circumstances for Granting a Variance (specifically 4.
29 *The hardship is not self-imposed and the Variance requested is the minimum Variance which would*
30 *alleviate the hardship*).

31
32 Vote: Motion passed.
33 Ayes: Taunton, Sovern, Connors, Hough, McGavock
34 Noes: Goddard

35
36 D. Case File: #1-GEO-PC-07 Applicant: Gene Benzel and Greg Morrow
37 Application: Geologic Hazards Permit and Variance
38 Map and Tax Lot: 09-11-05-DC #10100
39 Location: 115 N.E. Spring Avenue
40

41 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
42 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.
43 There was no objection. Lewis summarized the Staff Report (copy attached to original of these
44 Minutes). Connors asked if the Commissioners had any questions to address to the City Planner. There
45 was none. The Applicant was given an opportunity to testify and answer questions from
46 Commissioners. Greg Morrow, P.O. Box 88, Newport, reiterated that the Lot is wide enough to adhere

1 to the Setback Standards and their intention to be in conformance with the Engineering Geologist's
2 Recommendations. There was no Testimony in support of the Application and no Testimony in
3 opposition. There was no request to keep the Record Open. The Public Hearing was closed and
4 Deliberations began.

5
6 Motion: Goddard moved to approve Case File #1-GEO-PC-07 and adopt the Conditions of Approval,
7 Items 1. thru 8. as recommended by the City Planner. Taunton seconded the Motion.

8
9 Connors said it was moved and seconded, and called for discussion. There was none.

10
11 Vote: Motion passed.

12 Ayes: Sovern, Connors, Hough, McGavock, Goddard, Taunton

13
14 E. Case File: #1-PD-PC-07 Applicant: J. Squared, Inc. and Avalon Architecture
15 Application: Planned Development, Geologic Hazards, Variance, and Zone Change
16 Map and Tax Lot: 09-11-05-B #01109
17 Location: North end of Depoe Bay City Limits on east side of Highway 101
18

19 Connors asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. There
20 was none. Connors then asked if anyone had objection to any Planning Commissioner hearing the Case.
21 There was no objection. Connors announced that Written Testimony was received requesting to Keep
22 the Record Open for one month. She recommended continuing the Public Hearing to the next Regular
23 Meeting to allow the Public ample opportunity to respond to additional revised information that the
24 Applicant may be asked to provide. The Commission agreed. Lewis summarized the Staff Report (copy
25 attached to original of these Minutes). Written Testimony was received after preparation of the Staff
26 Report from Amy Twileagar, Gordon Priedeman, and Mary Ajamain, Secretary, for The Village at North
27 Pointe Board of Directors (copies attached to original of these Minutes). For the benefit of the Audience
28 who arrived late Connors restated that the Public Hearing will be continued to the April 11th Regular
29 Meeting. Connors asked if the Commissioners had any questions to address to the City Planner. There
30 was none. The Applicant was given an opportunity to testify and answer questions from
31 Commissioners. John France, President, J. Squared, Inc., 36870 Honey Sign Drive, Lebanon, stated he
32 was surprised that there were only 20 Recommended Conditions of Approval normally there is a ton
33 more, and he is trying to figure out what we all missed. He noted that the proposed Whale Watch
34 Planned Development is well under the permitted Density (The Gross Area of the R-1 Zoned portion of
35 the Site is approximately 32.16 Acres which allows a maximum of 280 Single-Family Dwellings – 145
36 Single-Family Dwellings are proposed) and is presenting a Design based upon the consensus of the
37 Community (been preparing over the last 2½ - 3 years). He acknowledged receiving copies of the
38 Written Testimony. He stated that they are simply asking this evening for the Planning Commission to
39 approve the idea in principal so they can move forward with the studies – Already invested \$493,000
40 into the Project and not willing to spend approximately 2 million dollars more (Site Specific Geologic
41 Hazards Reports, detailed O.D.O.T. Traffic Study – in order to determine impact requires Preliminary
42 Plan Approval, etc.). He summarized: Preliminary Archaeological Survey results identified Midden
43 Sites on the Subject Property (Tribes have been notified) all the State Requirements will be adhered to;
44 provided Access for Emergency Vehicles where Topography permitted; large Water Tower will be
45 constructed in an Open Space (Fire Protection for Development and surrounding properties, an
46 outstanding staging area in the event of a wild fire); justified the Height Variance Request for the

1 Residential Dwellings and Hotel – will not impair Views; essentially for placement of Home’s piers; and
2 the only way to build an impressive, attractive landmark Hotel with nautical features (Cupola, Spire);
3 stressed that they have no intention to compete with existing Downtown Businesses (considering a
4 Grocery Store as Sentry Market is 5-6 miles north of Depoe Bay); City would benefit from the Hotel
5 Lodging (Room Tax) and Lounge (Liquor Tax); acknowledged his responsibility (as Developer) for
6 Water, Sewer, Storm Drainage, and Street Improvements (Storm Drainage and Streets would be
7 privately maintained by Home Owner’s Association – CC&Rs); Pedestrian Trails would be available to
8 the Public during the day – Playground, Benches, Water Fountain; Gated Community - Emergency
9 vehicles would gain Access through the same technology that allows them to change the street lights at
10 intersections to green. He reiterated that at this stage they are looking for an approval of the Conceptual
11 Planned Development Design (assurance for the Investors) from the Planning Commission (realizes
12 prior to construction the Final Plan for each Phase will be reviewed for approval by the Planning
13 Commission through a Public Hearing Process). It was the consensus of the Commission to withhold
14 their questions for the Applicant until after the Public had an opportunity to Testify. Connors called for
15 Testimony in favor of the Application. Jon Lynch, 169 S.E. View Drive, Newport recapped the history
16 and his relationship with the Subject Property – 1972 Flaming Ridge platted 165 Lot Subdivision; Miller
17 Bros. Lumber Company purchased for timber and future investment; 1984 sold to Toci which later
18 become Depoe Bay, L.L.C. (City is aware that this Property is destined for Development thus the 400’ of
19 depth of Commercial in the front and the 30+ acres Residential). It has always been the Toci’s desire to
20 sell the Property to a responsible Developer (due diligence and Development is costly) with an
21 Approved Plan (both Toci and Depoe Bay could be proud of). His perspective is John has put a lot of
22 time, effort and care into Designing a Development that is appealing, accounts for Traffic Control, and
23 that the City can be very, very proud of. He restated that the Density of the Proposed Plan is
24 considerably less than what is allowed in an outright Subdivision. Greg Morrow, P.O. Box 88, Newport,
25 testified he was involved with a Development (Mariners Village) in Lincoln County. People are
26 resistant to change. It goes far more than building houses, its quality of life – a Development of this size
27 will alleviate some of the exiting coastal living concerns – creating quality jobs, schools will benefit,
28 affordable housing for families. Change is hard but it is a reality. Mitch Wright, Partners with John
29 France, emphasized the quality of Consultants that are participating in the Project. Roger Rosen (the
30 original Consultant for Trendwest – across Highway 101) has completed 6 billion dollars of Hotel
31 Construction in the last 10 years and is the Hotel Consultant for this Project. There was no further
32 Testimony in favor of the Application. Connors called for Testimony in opposition to the Application.
33 John Harmsen, 37939 Camp Creek Rd., Springfield, expressed his concern regarding Access to the three
34 Lots (currently owns one Lot; brother owns one Lot, another ½ Acre Parcel surrounded by Oregon State
35 Park) not included in the Planned Development It appears from the Topographic Map (supplied by
36 Avalon Architecture) that he will not benefit from the Development. He referenced the Staff Report,
37 Page 11. Item 16a. *APPLICANT RESPONSE: The 35’-0” height restriction in this zone will not allow
38 for the Development of a significant regional Hotel therefore the Hotel will need to exceed the base
39 height. The Applicant is requesting a 70’-0” height for the proposed Hotel. Reasons for the additional
40 height are financial feasibility, smaller footprint (more natural topography), and the want for regional
41 landmark significance. The proposed site is located on a Property which has a considerable sloped
42 condition. This slope rises up behind the intended Hotel location. The Site is also located Adjacent to
43 the Boiler Bay State Wayside. These topographical conditions will not impair or affect Adjacent
44 Property View from the surrounding Properties. It appears that the Land Elevation varies between 130’
45 and 190’ with the addition of a 70’ tall Hotel the Elevation would be 200’-260’. His Property’s
46 Elevation is between 192’ and 260’. The Commission asked him to describe the location of the*

1 Property. He demonstrated (using the Applicant's Drawing) the approximate location of Tax Lot #1122
2 and #1110. Donna Beckham, 624 N.E. Lillian Lane, said her family maintains documented Deeded
3 Water Rights on the Subject Property (existing Spring fed Water Tank provides water for 4 families).
4 The Applicant's Exhibit does not acknowledge the Water Tank. Beckham asked the Planning
5 Commission to include a Condition of Approval recommending that some sort of resolution needs to be
6 made as to what is going to happen to the Water Tank and the people that it serves. Her father owns
7 Lillian Lane and has asked her to state that there will be no permission given for this Development to
8 enter off the Highway on Lillian Lane. She asked if the proposed Zone Change is for the Subject
9 Property only. Connors answered yes. She respectively commented that the Proposed Development will
10 not be offering affordable housing (it will be very high-end and doubts that very many families with
11 young children will be living there). Connors asked for her father's name. She replied Tony
12 Wisniewski. A Commissioner asked how many families live on Lillian Lane and are they in agreement
13 with the decision to not allow Lillian Lane as an Access for the Planned Development. She responded at
14 this time, four families and the decision is her fathers (who owns Lillian Lane). A Commissioner asked
15 Beckham to verify which Property Owners are using the Water Rights. She responded her father and a
16 cousin (on Lillian Lane) and an uncle and brother (not on Lillian Lane). Fran Recht, 66 N.E. Williams
17 Avenue, testified that she is opposed to the Application and believes it should be denied because it
18 doesn't meet the Standards of the Depoe Bay Code and specifically voiced her concerns regarding the
19 Re-Zoning to a Planned Development and the Variance Request: The purpose of the Planned
20 Development Procedure is to encourage and promote creativity and innovation, making sure it is
21 consistent with the Comprehensive Plan Goals and Policies and to provide amenities at a higher level
22 than would otherwise be provided under Conventional Land Development Procedure. The Subdivision
23 Standard for Open Space is 35%, the Developer has provided 36% Open Space for a higher density
24 Development and a request for a reduced Side Yard Setback (35' Structure requires 11.6' requesting 5')
25 with no more amenities than a normal Subdivision; Water Tank in Open Space, nice park with
26 basketball courts and benches in the northeast corner (very steep topography – an area the Geologist's
27 noted concerns) would require a lot of cutting and grading that would decrease the stability; Planning
28 Commission needs to ensure that the Application is consistent with the Comprehensive Plan Goals and
29 Policies, protection of Significant Natural and Coastal Features, Resources and Wetlands, Protection of
30 Scenic and Aesthetic Qualities. As noted by Staff some of the homes are already being proposed in the
31 Wetlands Riparian Corridor (No consideration for protection of Natural Resources at a higher level in
32 fact they are intruding on the very resources a PD is supposed to be protecting); construction of a 70'
33 Hotel and a row of Townhomes would create a wall as you enter Depoe Bay and across from Boiler Bay
34 State Park (does not meet the Criteria that the Development is in substantial harmony with the area at
35 least 250 feet outside the boundary of the Proposed Development); agreed that the Record should be
36 kept open at least 21 days as permitted by law unless it is denied, which would be her preference for not
37 meeting the DBZO Standards; referenced the Comprehensive Plan Ordinance No. 69: *Goal 5 – Natural
38 and Aesthetic Resouces 1. To preserve Depoe Bay's character as a Coastal Fishing Resort Village –
39 Hotel does not preserve the character (would be two times as high as any existing building in this town);
40 Policies 1. The Depoe Bay Planning Commission shall assume at least the following functions: a. To
41 review all Development Proposals, whether Residential or Commercial, to determine if siting and major
42 Design elements are compatible with the existing character of the Depoe Bay Area. Goal 9 – The
43 Economy 1. Enhance the Economic Growth of the City while preserving Natural Resources and
44 Character that make Depoe Bay the Unique Community it is. She maintains that the Height Variance
45 (along Highway 101 with no Green Space) and the Density of the Project doesn't preserve the Natural
46 Resources and Character that makes our Community special, it is intruding and degrading. Goal 10 –*

1 *Housing 2. Housing Development Approval shall be subject to the availability of Public Services and*
2 *Facilities. Per the Staff Report no information has been received to indicate that Public Services are*
3 *adequate or can be made adequate; Goal 11 - Public Facilities and Services 4. Future Development*
4 *shall provide funding for necessary increased services. No information on the financial capabilities of*
5 *the Developer(s)/Investor(s) – No References, no List of Completed Developments/Projects or whether*
6 *they have the capacity to start and finish the Proposed Project or the funds to provide the necessary*
7 *increased services. 13. The City of Depoe Bay shall require that Plans for the Control of Surface Water*
8 *Drainage be included with all requests for Subdivisions, Major Partitions, and Planned Unit*
9 *Developments. Nothing has been furnished, that alone is enough to deny the Application. In regards to*
10 *the Variance there are 5 Requirements for Granting a Variance (all five have to be met) Section 8.020.*
11 *Circumstances for Granting a Variance. 1. Exceptional or extraordinary circumstances apply to the*
12 *Property which do not apply generally to other Properties in the same Zone or vicinity, and result from*
13 *Lot size or shape, legally existing prior to the date of this Ordinance, Topography, or other*
14 *circumstances over which the Applicant has no control. There is nothing about the Lot Size or Shape*
15 *that relates to constructing a significant, regional 70' high Hotel. A feature that will attract people to the*
16 *Area is not a reason for Granting a Variance. 2. The Variance is necessary for the preservation of a*
17 *Property Right of the Applicant substantially the same as Owners of other Property in the same Zone or*
18 *vicinity possess. We have heard Testimony tonight from a Property Owner who believes his View will*
19 *be affected. As a member of the Public and user of Boiler Bay State Park (all of us as Public Owners of*
20 *State Park Land) she also believes that her View Corridor will be adversely affected. North entrance of*
21 *Our Community – complete wall is a detriment to our Visual Corridor as well. She acknowledged there*
22 *a lot of people here tonight and felt her Testimony had encompassed the main points. If this Hearing is*
23 *continued and not denied, she will submit additional comments. An Audience Member asked if the*
24 *Written Testimony would be read. Connors responded that they will not be read out loud (Staff has*
25 *provided comment and they have been received as part of the Record). Gina Porto, 850 S.W. Coast*
26 *Avenue, asked that the Planning Commission not Grant the Variance Request (70' Hotel, 35' Single-*
27 *Family Dwellings) to the Building Height Standard and the proposed Exception (minimum 5') to the*
28 *Side Yard Requirement. She understands that there will be Development, but feels they should have to*
29 *abide by the Rules (everyone else has). Suggested it is not the Lot Size that necessitates a 70' Hotel but*
30 *the capability of having additional rooms to make more money. There was no further Testimony in*
31 *opposition to the Application. Connors called for neutral Testimony (in response to Audience request).*
32 *Joan Chambers, Attorney, 4488 N.E. Devils Lake Blvd., Lincoln City, testified on behalf of Jook*
33 *Development, L.L.C. and VDV Properties, L.L.C., who are in the early stages of doing due diligence*
34 *prior to acquisition and Development of Tax Lot #100 (80 acres located east of the Subject Lot). She*
35 *reminded the Commission that she was not in opposition of the Development, but did have a number of*
36 *concerns. She stated her support for continuing the Public Hearing to a later date (would like to submit*
37 *Written Information). She referred to the Staff Report having issues with Streets (*The Street Stub-Outs**
38 *are important to Future Development of Adjacent Land. Access to these two Easterly Properties is*
39 *needed). Access is a big issue. As Fran Recht pointed out the Planned Development Approval needs*
40 *to be reviewed and be consistent with the City Comprehensive Plan and Goals. She quoted: Goal 12 –*
41 *Transportation Subsection 3. a 2) Development Adjacent to Arterials shall provide through Access via*
42 *Collectors or Residential Rights-of-Way to Adjacent Developable Areas. Pertains exactly to this*
43 *situation (51 acre Parcel Adjacent to the major Arterial (Hwy. 101). Number of Residential Home Sites*
44 *and the unspecified number of Hotel Units (78,000 sq. ft. Hotel – rooms 300-400 sq. ft. in size could be*
45 *180-200 Units assuming the Variance is Granted). Access is a major issue. Relevant Depoe Bay Zoning*
46 *Ordinance Criteria: Section 14.040 5. Private Streets a. No Street or Road which would serve as a*

1 *Collector from existing Public Streets shall be approved as a Private Street.* The major, Main Drive
2 should be a Collector - Should not be Private and should not be Gated. Side entrances to portions of the
3 Development could be Gated. *Section 14.040 5. Private Streets c. No Road or Street shall be approved*
4 *as a Private Road in a case where such a Road or Street presently is or will in the future be needed to*
5 *provide Access to Development on Adjacent Properties or to serve as a Collector for other Subdivisions*
6 *or Partitions in the Area.* Again it is applicable. A Collector is needed and called for under the
7 Ordinance and should be provided. Should not be Gated and should provide reasonable Access. She
8 asked if the Commission ultimately approves the Application to impose the Condition that Reasonable
9 Access be provided to the Property to the east and that the Applicant is required to dedicate it as a Public
10 Road and Access and improve it as part of their Phase I Plan (if choose not to improve at least dedicate
11 at that time so it becomes a viable Access). *Section 14.070 Street Width in Subdivision and Partitions 2.*
12 *Collector Streets and all Streets other than Arterials Right of Way Width 40' to 50' and 28' to 38' in*
13 *improved surface.* Preference would be for a 50' wide Street but a minimum 40' is required per
14 Ordinance. She expressed concern that the Plan at this time does not adequately address the following
15 issues: Water Study Analysis; Parking (not sure if it is adequate); encouraged the Applicant to provide
16 more information concerning the Height Variance Request – From a legal standpoint it would be
17 difficult to write Findings in support of a decision to grant the Variance Request based on the
18 Application. They simply haven't addressed the Criteria or explained why 70' is the minimum Variance
19 needed. No one else has a 70' high building, so how are they being denied a right that someone else has
20 (certainly none of their Adjacent Neighbors). In closing she restated her primary concern is Street
21 Access and the opportunity to submit more materials in writing (cite Ordinance criteria, request that you
22 impose the requirement for a Collector Street that provides Reasonable Access to the Adjacent Property
23 and that it be dedicated at Phase I). Craig Toll, 116 N.E. Carson Street, Depoe Bay, commented that he
24 plans to be a resident of Depoe Bay a long time and certainly does not have the expertise to know if this
25 is a good thing or bad. All for developing; not so set in his way that he doesn't want to see new
26 Neighbors; emphasized that the Commission needs to do their homework in order to prevent any
27 potential disaster. This Development could really change the town. He wished the Commission the best
28 of luck. There was no further Neutral Testimony. The Applicant was given an opportunity for Rebuttal.
29 John France stated that personally he wasn't sure there is really truly anything affordable on the Oregon
30 Coast, there will be range of prices (2 bedroom, 2 bath Condominium to a 6 bedroom, 5 bath View
31 Home on 2 Lots). This Project will create jobs in the Community (Hotel, Offices, Retail - Managers,
32 Clerks, Maintenance, Janitors, Delivery, etc.). Road Access is Designed to accommodate the Lots in the
33 northeast Corner (objective is not to land lock anyone). Disagreed that this is a high density Planned
34 Development (it is a large Project, but believes they are under ½ of what is permitted). In regards to
35 Amenities: Water Tank will probably be buried in the Open Space; Private Roads, Sewer System (No
36 delegated Tax dollar gets spent on them – City and its Citizens will benefit from the upgrades to the
37 Infrastructure); there are no Inventoried Wetlands on the Subject Property (Merely water run-off - Taken
38 into account in Design and plan to capture and use the resources to maintain the Green Space); Logged-
39 off land – currently not very aesthetically pleasing – Hotel will not be seen from Boiler Bay State Park
40 (there will be a Tree Buffer and it's lower than the peak of the nob – except for the top Spire); 70' Hotel
41 Variance is for the decorative elements (keep the flavor of Depoe Bay, could construct 4-Stories within
42 the 35' Limit, remaining will be Cupola and 20' Spire; 35' Residential Variance needed to build the
43 dwellings structurally safe (hillside is steep); more than adequate Financial Partners to fully complete the
44 Project (will not furnish bonafide as Public Information – J Squared, Inc. is on the Internet); deeded
45 Water Rights will be maintained and adhered to; Underground Water Tank in Green Space will provide
46 adequate Fire Protection for PD and surrounding Properties. Derrick Swerhone, Avalon Architecture &

1 Planning, 11805 N.E. 99th Street, Suite 1380, Vancouver, Washington, has been providing Design and
2 planning in the Northwest for the last 16 years specializing in Neo-Traditional Community Planning;
3 Trained and recognize sensitivity in Communities and respect People and Communities (all about
4 Pedestrian and Community Access to various parts of the Development). He asked Lewis to confirm
5 the Open Space Density Requirement in the R-1 Zone. Lewis answered the 35% (Common Open
6 Space, does not include backyards) applies to both Subdivisions and Planned Developments. He
7 demonstrated the Plan Design (large Renderings – View Looking East Over Townhomes, View Looking
8 North to the Whale Watch Hotel with Shoppes at Whale Watch to East and West, Conceptual
9 Townhomes with Views Overlooking the Town and Ocean; Preliminary Conceptual Design; Site
10 Development Plan; Hillside and Hotel Profile; Open Space Calculations) depicting the Life-Style Center
11 (currently developing similar Project, Bridgeport Village, in Tualatin Area, outside of Portland) includes
12 upscale Retail and Office Area (essentially park outside, Pedestrian realm that encourages interaction -
13 visit with Neighbors, Coffee Shop, not competing with Downtown - different variety and element that
14 people experience); flavor of the housing is a very traditional residential style (Townhouses 1,500-1,800
15 sq. ft. – affordable, full Access to all the On-Site amenities, perfect for families) no Cul-de-sacs
16 (designed to promote connectivity throughout the Site); use of Pedestrian Trails, any significant City has
17 a landmark – a beautiful architectural element adding character and quality to the Neighborhood (i.e.
18 Hotel and Houses will be something the Community can be proud of); Custom Homes designed with
19 nice architectural elements (i.e. Dormers, Turrets, Bay Windows) not Tract Houses. John France said as
20 you can see we have a very passionate and talented Architect on board; will be discussing Emergency
21 Access with the County Sheriff, Oregon State Police, and Local Fire Department; disagreed with
22 Attorney Chamber’s interpretation and distributed two Maps (copies attached to Original of these
23 Minutes). An Audience Member questioned if this was Rebuttal Testimony. Connors repeated the
24 unique procedure for this Public Hearing (established at the beginning) questions from the
25 Commissioners would be after Public Testimony as opposed to after the Applicant’s Testimony and the
26 Public Hearing has been continued to the next Regular Meeting (April 11, 2007). She clarified that this
27 is Rebuttal Testimony to Joan Chamber’s Testimony. He identified Boiler Bay Drive (Access used for
28 logging Twileagar’s Property) and recommended using this easier, flatter route as Access as a Collector
29 or Artery (over a Ridge is unsafe, especially coming down the Hill towards Highway 101); Amy
30 Twileager proposed an Access Route to the south side of the Subject Property (see attached Written
31 Testimony); France suggested providing a Secondary Access to the Twileagar Property would be more
32 appropriate to accommodate it’s Future Density (300-600 Single-Family Dwellings); Preliminary
33 Meetings with O.D.O.T. discussed one Curb Cut (Entrance on and off Highway 101 - originally
34 proposed off Lillian Lane) to serve anticipated traffic from the Whale Watch PD; France is asking for an
35 additional Curb Cut (Hotel and Retail Area). Reiterated that they need Preliminary Approval in order to
36 proceed with a Detailed Plan, Access negotiations (resolved to everyone’s satisfaction and fairly
37 rapidly); introduced Julius Horvath, P.E., Progressive Consultants, Inc., who will answer any questions
38 the Commission may have regarding the Civil Engineering (Roads, Water, Sanitary Sewer, and Storm
39 Water Drainage Systems) on the Proposed Development. Derrick Swerhone agreed that no detailed
40 Utility Plan has been provided (in the early stages of Conceptual Planning) will be submitted based on
41 Tentative Approval. The Commission proceeded with questioning the Applicant regarding: (1) The
42 Hotel Height Variance – Conceptual Design (Consisting of a Main Floor with 10’ high Ceiling, Sleeping
43 Rooms with 8’ high Ceilings, all well within 35’; 20’ Cupola with Observation Deck – impression of a
44 Lighthouse; and a 15’-20’ Dome with a Spire); Cross Sections could be submitted to illustrate that the
45 View angles of Adjacent Properties will not be affected. (2) Retail Space (not conflicting with existing
46 Merchants i.e. our favorite Grocery Store, Sentry Market) Developer will maintain Ownership. (3) Hotel

1 will likely be sold (perhaps the Siletz Tribe or a Major Hotel Chain – Consultant is responsible for the
2 recruitment). (4) Public Access Open Space with picnic tables, View, water fountains, etc. will be
3 maintained by Homeowner’s Association by CC&Rs and will not have a basketball court (5) CC&Rs
4 will control the Design and color of the structures (still allow a great latitude of choice). (6)
5 Development is driven by the Parking Requirements – Confident they meet the Existing Parking
6 Standards, willing to decrease the number of Townhomes or Lots to accommodate Guest Parking if
7 necessary to meet a Condition of Approval. (7) Connors reiterated that the Planning Commission needs
8 to know that the Application meets the Criteria and Standards for Preliminary Plan Approval. (8)
9 CC&Rs will substantiate that the Condominiums will not be Time-Share Units. (9) Inability to grant a
10 Variance Request, Geologic Hazards Permit, Zone Change, and Preliminary Approval of a Planned
11 Development all based on a Conceptual Design – No CC&Rs, O.D.O.T. evaluation of the expected
12 impact on Hwy. 101; Fire Department recommendation or approval; address City Superintendent’s
13 concerns regarding Storm Water Drainage, Water and Sanitary Sewer Systems; Wetlands Delineation -
14 The Geologic Hazards Report identifies an “Abundance of Wetlands” on the Site. Lewis cautioned the
15 Planning Commission that they need to have a comfort level and determine that the Standards have been
16 met. (10) Willing to withdraw Variance Request for the Hotel with the understanding that the Hotel
17 Owner can re-apply at a later date. (11) Reminded the Applicant that this is an extensive, time
18 consuming process. (12) The Commission requested that the Applicant address the City
19 Superintendent’s concerns, O.D.O.T. compliance. (13) No competition to an existing business in
20 Depoe Bay. Not sure a Grocery Store (i.e. Nob Hill Foods) is considered upscale shopping. (14)
21 Preliminary Plan approval for each Phase of Development is valid for a period of three years.
22 Development of each phase may occur earlier than is noted but shall not extend beyond the specified
23 times. 6-Phase Schedule (can be completed in any order) spans from 2007 to 2024, however Developer
24 anticipates completion in a maximum of 7 years. (15) Differentiated between Water Run-Off and
25 Resources. (16) 2 Lots impinge into the Riparian Corridor (oversight, will be adjusted). It was the
26 consensus of the Commission to direct the Applicant to provide the following information prior to the
27 next Meeting for the Planning Commission and Public’s Review: Re-address the Variance Request
28 Criteria; City Field Superintendent’s concerns regarding impact on City’s Infrastructure; O.D.O.T.
29 Access issue (pre-existing Curb Cuts or relocated); Wetlands Delineation; Detailed Parking Plan
30 illustrating adherence to the Parking Requirements; re-configure the Single-Family Lots that encroach
31 into the Riparian Area; Address Geological Concerns and Existing Water Tower Rights; Resolution
32 regarding Access to Adjacent Properties. Connors reiterated that the Public Hearing will be continued to
33 the next Regular Meeting, April 11, 2007. A Commissioner recommended that the Applicant work very
34 closely with the City Planner. France stated he has been, to the point that he has his phone number
35 memorized. The Applicant offered to leave the renderings for Public consumption and thanked the
36 Commission for their time.

37
38 A. Proposed Depoe Bay Zoning Ordinance Text Amendments Regarding Parking
39 Regulations
40

41 Connors suggested continuing the Deliberations to the next Regular Meeting (April 11, 2007) starting at
42 6:00 p.m. The Commissioners concurred.

43
44 V. UNFINISHED BUSINESS:

45 There was none.

1 VI. CITY COUNCIL LIAISON REPORT

2 Goddard reported that the Council (1) Moved to direct Staff to prepare the Final Order, upholding the
3 Council's decision to approve the Variance – LUBA Final Opinion and Order (No. 2006-145): J. Grant
4 v. City of Depoe Bay Remand Hearing. (2) Moved to adopt proposed Ordinance #278 with
5 Amendments, at the first reading – Amendments to Zoning Ordinance and Inventory Map Relating to
6 Natural Resources Inventory. (3) Moved to accept and award the Urban Renewal Feasibility Study
7 Contract from Spencer & Kupper. Sovern commented that the Planning Commission needs to be aware
8 of its progress.

9

10 VII. PLANNER'S REPORT

11 Lewis reviewed his Report (copy attached to the original of these Minutes).

12

13 VIII. PLANNING COMMISSION CONCERNS

14 McGavock mentioned this was a long meeting and hope it goes better next month.

15

16 IX. ADJOURN

17 There being no further business, the meeting was adjourned at 9:20 PM.

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21

Carol Connors, President

22

23

Carla Duering, Recording Secretary