

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Tuesday, October 14, 2009 - 6:00 PM
4 Depoe Bay City Hall
5

6
7 PRESENT: S. Scopelleti, B. Taunton, R. Hageman, J. Hayes, P. Leoni (arr 6:05 PM)
8

9 ABSENT: D. Goddard
10

11 STAFF: City Planner L. Lewis, Recording Secretary E. LuMaye
12
13

14 I. CALL TO ORDER

15 Vice President Hageman called the meeting to order and established a quorum at 6:01 PM.
16

17 II. APPROVAL OF MINUTES: September 9, 2009 Regular Meeting

18 Motion: Scopelleti moved to approve the minutes of the September 9, 2009 Regular Meeting as written.
19 Taunton seconded the motion.
20

21 Vice President Hageman said it was moved and seconded, and called for discussion. There was none.
22

23 Vote: Motion passed.

24 Ayes: Scopelleti, Taunton, Hageman, Hayes
25

26 III. ITEMS FROM THE AUDIENCE

27 There were no items from the audience.
28

29 IV. PUBLIC HEARING ITEMS

30 A. Case File: #2-PAR-PC-09 (Application Withdrawn)

31 Applicant: Lisa Quealey

32 Application: Request for a Two-Lot Partition

33 Map and Tax Lot: 09-11-05-CA #02000

34 Location: 120 NE Austin Street

35 No discussion on this item because the application was withdrawn. (Copy of Villa Construction's letter
36 of withdrawal attached to original of these minutes.)
37

38 B. Case File: #3-CS-PC-09 (Findings, Conclusions, and Final Order)

39 Applicant: Jerry Hogevoll

40 Application: Request for Development in the Coastal Shorelands

41 Map and Tax Lot: 09-11-08-BD-#06900

42 Location: 335 SW Coast Avenue

43 This item was tabled until Leoni arrived.
44

45 C. Case File: #1-PAR-PC-09 (Findings, Conclusions, and Final Order)

46 Applicant: Steven J. Taylor, C. Gene Whisnant, and Josie C. Whisnant

1 Application: Request for Partition and Variance
2 Map and Tax Lot: 09-11-08-BD-#90000, #90001, and #90002
3 Location: 420 and 422 SW Coast Avenue

4 Vice President Hageman asked if any Commissioners had comments on the Findings, Conclusions, and
5 Final Order (copy attached to original of these minutes). There were no comments.

6
7 Motion: Taunton moved to approve the Findings, Conclusions, and Final Order (copy attached to the
8 original of these minutes) for the Taylor and Whisnant Request for Partition and Variance. Hayes
9 seconded the motion.

10
11 Vice President Hageman said it was moved and seconded, and called for discussion. There was none.

12
13 Vote: Motion passed.

14 Ayes: Scopelleti, Taunton, Hageman, Hayes, Leoni
15

16 Return to Agenda Item IV. B. (Hogevoll)

17 Vice President Hageman asked if any Commissioners had comments on the Findings, Conclusions, and
18 Final Order (copy attached to original of these minutes). There were no comments.

19
20 Motion: Scopelleti moved to approve the Findings, Conclusions, and Final Order for the Hogevoll
21 Request for Development in the Coastal Shorelands. Leoni seconded the motion.

22
23 Vice President Hageman said it was moved and seconded, and called for discussion. There was none.

24
25 Vote: Motion passed.

26 Ayes: Scopelleti, Taunton, Hageman, Hayes, Leoni
27

28 D. Case File: #3-PAR-PC-09

29 Applicant: Arnold K. and Nancy A. Schelske

30 Application: Request for a Two-Lot Partition

31 Map and Tax Lot: 09-11-080CA #05000

32 Location: 130 SW South Point Street

33 Vice President Hageman explained the public hearing procedure. He said testimony and evidence given
34 must be directed toward criteria described by the City Planner, or other criteria in the code that the
35 testifier believes applies to the request. Failure to raise an issue, accompanied by statements or evidence
36 sufficient to afford the Commission and the parties an opportunity to respond to the issue precludes
37 appeal to the State Land Use Board of Appeals on that issue. Application materials or other evidence
38 relied upon by the applicant had been provided to the City and made available to the public. Hageman
39 called for declarations of ex-parte contact, conflict of interest, or bias; hearing none, Hageman declared
40 that he lives four blocks away and walks by the property regularly. He asked if anyone present had an
41 objection to any Planning Commissioner hearing the case; there was no objection. Lewis reviewed the
42 Staff Report (copy attached to original of these minutes.) The applicant was given the opportunity to
43 present information relevant to the application. Mrs. Schelske said the reason for the application was that
44 she and her husband want to sell the partitioned lot and do not intent to develop it. There was no
45 testimony in support of the application. There was no testimony in opposition of the application, and no

1 need for rebuttal. There was no request to hold the record open. The public hearing was closed and the
2 Commission entered into deliberations; there was brief discussion.

3
4 Motion: Hayes moved to approve the Schelske's Request for a Two-Lot Partition. Scopelleti seconded
5 the motion.

6
7 Vice President Hageman said it was moved and seconded, and called for discussion. There was none.

8
9 Vote: Motion passed.

10 Ayes: Scopelleti, Taunton, Hageman, Hayes, Leoni

11
12 Lewis said he will prepare the Findings, Conclusions, and Final Order for Hageman's signature, with the
13 Commission's permission.

14
15 E. Case File: #4-CS-PC-09

16 Applicant: Ruth Moreland

17 Application: Request for Development in the Coastal Shorelands

18 Map and Tax Lot: 09-11-08-CA #05000

19 Location: 445 SW Coast Avenue

20 Vice President Hageman recommended postponing this item to the November meeting because an
21 updated site plan is being submitted and there was a question about setbacks. (Copy of Staff Report and
22 written testimony from the applicant attached to original of these minutes.)

23
24 Motion: Hayes moved to continue the Moreland application to the November meeting. Taunton
25 seconded the motion.

26
27 Vice President Hageman said it was moved and called for discussion. There was none.

28
29 Vote: Motion passed.

30 Ayes: Scopelleti, Taunton, Hageman, Hayes, Leoni

31
32 F. Proposed Depoe Bay Zoning Ordinance Text Amendments (Continued)

33 Copy of draft amendments and public testimonies attached to original of these minutes.

34
35 Item A. – DBZO Various Sections Referencing ORS

36 Lewis reviewed the proposed change to Item A. and explained the reason for the amendment was to
37 maintain consistency in numbering with current ORS statutes. No written public testimony was received
38 on this item. There was no public comment. It was the consensus of the Commission to approve this
39 amendment.

40
41 Item B. – Definitions – Fractional Ownership

42 Lewis reviewed the seven items of written public testimony that were received on this item. Discussion
43 included a concern about denying owners use of their property. Public comment was heard from Bruce
44 Silver 420 SW Cardinal Street, who said he was present to punctuate his written testimony from
45 September's meeting. He questioned how "compensation" could be proved, and who would be
46 responsible for this. He noted that even with one owner, the potential for abuse exists. He submitted a

1 written definition of “fractional ownership” from the internet (copy attached to original of these
2 minutes). Further Commission discussion addressed Mr. Silver’s question on determining compensation,
3 and how to limit the number of people that can be in one house. Mr. Silver suggested the requirements
4 for fractional ownership be similar to those of a transparent occupation. He also stated that his input was
5 specifically related to the R-1 zone because it has specific standards, and that other residential zones may
6 be better suited to fractional ownerships. Bette Silver 420 SW Cardinal Street, also provided public
7 comment, and said she provided written testimony prior to September’s meeting. She said she has done a
8 lot of research on fractional ownerships, and had specific knowledge about several configurations of
9 ownership, each of which was different from the others, and said that fractional ownership is different
10 from all of her examples because fractional ownership involves multiple owners each having a deed, and
11 a property manager. Hageman read a fractional ownership definition he found on the internet (copy
12 attached to original of these minutes). Mrs. Silver suggested replacing “compensation” with
13 “consideration”. Lewis was directed to incorporate the points from the discussion into a new draft and
14 bring it back to the next meeting.

15

16 Item C. – DBZO Section 1.030 Definitions – Manufactured Dwelling and DBZO Sections 3.010-3.050
17 Residential Zones R-1, R-2, R-3, R-4, and R-5

18 Lewis said “manufactured dwellings” cannot be deleted, per State statute, and that “dwellings” must be
19 changed to “homes”. There was no written public testimony received. It was the consensus of the
20 Commission to approve this amendment.

21

22 Item C. – DBZO Section 3.360 Coastal Shoreland Overlay Zone C-S, Subsection 4. Procedure
23 Lewis read the proposed amendment, and reviewed the one item of written public testimony that was
24 received. There was discussion about people doing dry rot repairs without a building permit; Lewis
25 confirmed that if dry rot repairs are structural, a building permit is needed. It was the consensus of the
26 Commission to approve this amendment.

27

28 Item E. – Flood Hazard Overlay Zone
29 This item was completed at the September meeting.

30

31 Item F. – Survey Requirements

32 Lewis said this amendment was to allow for some applications to be processed without the need of
33 submitting a survey, to be determined by the City Planner. There were two items of written public
34 testimony received and reviewed. After discussion, it was the consensus of the Commission to not
35 approve this amendment, due to potential liability issues.

36

37 Item G. – DBZO Sections 10.050 Notice of Public Hearing, and 10.050.2 Quasi-Judicial Hearings
38 Lewis said this proposed amendment is to replace text that had been inadvertently deleted. There was no
39 written public testimony received. It was the consensus of the Commission to approve this amendment.

40

41 Item H – DBZO Section 10.060 Conduct of Quasi-Judicial Public Hearings

42 Lewis said the intent of this amendment is to clarify the time limitations, and to keep extensions within a
43 one-year period. There was one item of written public testimony received and reviewed. It was the
44 consensus of the Commission to approve this amendment.

45

46 Item I. – DBZO Article 13 Development Guidelines

1 Lewis reviewed the proposed amendment and the one item of written public testimony that was received.
2 It was noted that for a new land use application, a geohazard report cannot be more than one year old
3 unless a letter from the geologist states that the property remains stable; however, once a geohazard
4 permit is approved, there currently is no expiration. It was the consensus of the Commission to approve
5 this amendment.

6
7 Item J – DBZO Section 14.040 General Requirements and Minimum Standards of Development Design
8 Lewis reviewed the proposed new subsection e. (including correction of a typo) and the one item of
9 written public testimony that was received. The amendment is to clarify the difference between city-
10 maintained streets and public thoroughfares. It was the consensus of the Commission to approve this
11 amendment.

12
13 Item K – DBZO Section 14.040 General Requirements and Minimum Standards of Development Design
14 Lewis said this amendment was to establish flag lots to avoid long, narrow lot partitions used as
15 easements (usually driveways) that can't be used by the property owner. Lewis reviewed the six items of
16 written public testimony that were received. He suggested adding "...provide *vehicular* access...".
17 Discussion included stated desires that property owners not be responsible for property they are not
18 using. It was the consensus of the Commission to approve this amendment, including the addition of
19 "vehicular".

20
21 Item L – DBZO Section 1.030 Definitions – Building Height
22 There was brief discussion about this item, but it was the consensus of the Commission to discuss it fully
23 at the November meeting. (One item of written public testimony attached to original of these minutes, as
24 well as Hageman's suggestions on this term.) Discussion included questions about grading and earth
25 movement, clarification of how much a 20% grade is, and the reason for disregarding setback variances.
26 Lewis will update this amendment and bring it to the November meeting.

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28 V. UNFINISHED BUSINESS
29 There was no unfinished business.

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31 VI. CITY COUNCIL LIAISON REPORT
32 Vice President Hageman said Commissioners should have received a notice of ethics training (copy
33 attached to original of these minutes) in their mailboxes at City Hall.

34
35 VII. PLANNER'S REPORT
36 Lewis 1) Said if anyone is interested in attending the ethics training, to let the City Recorder know by
37 this Friday. 2) Reviewed his written Land Use & Building Permit Activity report (copy attached to
38 original of these minutes), noting that Moreland's application was on the September report. 3) Will not
39 be available for the regular meeting on November 11. A new meeting date of November 4 was
40 scheduled, with the time to be determined, due to a Salmon Enhancement Commission meeting on the
41 same date.

42
43 Vice President Hageman asked Lewis to get the changes to the text amendments discussed at tonight's
44 meeting out as soon as possible for Commissioners to review, and asked the Commissioners to get their
45 feedback to Lewis as soon as possible.

46

1 VIII. PLANNING COMMISSION CONCERNS

2 Leoni had a question about a business license.

3

4 Hayes thanked the Silvers for their input.

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6 Vice President Hageman also thanked the Silvers.

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8 IX. ADJOURN

9 There being no further business, the meeting was adjourned at 8:26 PM.

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Roy Hageman, Vice President

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20 Emma "Fox" LuMaye, Recording Secretary