

CITY OF FLORENCE PLANNING COMMISSION
March 10, 2015 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Chairperson Muilenburg opened the meeting at 7:00 p.m. Roll call: Commissioners: Chic Hammon, John Murphey and Robert Bare and Chairperson Curt Muilenburg were present. Commissioner Alan Burns was absent and excused. Also present: Planning Director Wendy FarleyCampbell, Assistant Planner Glen Southerland and Planning Admin Assistant Vevie PopplewellWalker.

APPROVAL OF AGENDA

Commissioner Bare motioned to approve the Agenda, Commissioner Murphey seconded. By voice, all ayes, with the exception of Commissioner Burns, who was not present. The motion passed.

PUBLIC COMMENTS

*This is an opportunity for members of the audience to bring to the Planning Commission's attention any items **NOT** otherwise listed on the agenda. Comments will be limited to **3 minutes per person**, with a maximum time of 15 minutes for all items.*

There were no public comments.

PUBLIC HEARING:

Chairperson Muilenburg said that there were two public hearings before the Planning Commission that evening. The hearing would be held in accordance with the land use procedures required by the City in Florence City Code Title 2 Chapter 10 and the State of Oregon. Prior to the hearing(s) tonight, staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria the Planning Commission must use in making its decision. All testimony and evidence must be directed toward these criteria or other criteria in the Plan or Land Use Regulations which you believe applies to the decision per ORS 197.763 (5). Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties involved an opportunity to respond to the issue may preclude an appeal of this decision based on that issue. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval without sufficient specificity to allow the Planning Commission to respond to the issue that precludes an action for damages in circuit court. Any proponent, opponent, or other party interested in a land use matter to be heard by the Planning Commission may challenge the qualification of any Commissioner to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Commissioner's bias, prejudgment, personal interest, or other facts from which the party has concluded that the Commissioner will not make a decision in an impartial manner.

Chairperson, Muilenburg opened the hearing at 7:03 p.m.

RESOLUTION PC 15 02 CUP 01 – Port of Siuslaw Floating Restroom: A reapplication by the Port of Siuslaw for approval of a Conditional Use Permit to install a floating restroom on Mile 5 of the Siuslaw River approximately 200' south of the navigation channel. The proposed floating restroom will consist of a 12' x 24' barge anchored to two 12-inch diameter pipe pilings installed by a vibratory driver. The proposed barge will be in service from May to October. The floating restroom will be located at the following coordinates: 43.96647°, -124.09653°. The previously proposed site was approximately 800 feet to the west.

Chairperson Muilenburg asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visits, or bias. No Commissioner had anything to declare. Chairperson

Muilenburg asked if the public had any challenges to any commissioner's impartiality in making this decision. There were no challenges. Chairperson Muilenburg asked for the staff report.

Staff Report

PD FarleyCampbell delivered staff report, PC 15 02 CUP 01 – Port Floating Restroom. She presented the applicable criteria for the conditional use permit request and the modifications regarding the project. PD FarleyCampbell identified maps of the site showing the location, extent of elevations, and the applicant's level of effort to fulfill requirements for Conservation Estuary District, as well as complying with Zoning and Vision Management Plan. Staff recommended approval with conditions. See attachment.

Chairperson Muilenburg clarified the comment: 'would like' hand sanitizer available, to: hand sanitizer 'shall be' available.

Chairperson Muilenburg questioned staff regarding the lighting that was brought up by Chief Lamm. PD Farley responded that the applicant will be meeting the lighting requirements by providing a navigational beacon. PD FarleyCampbell added that it was not expected to use the restroom at night. Chairperson Muilenburg then asked if the beacon would remain on the pilings, after the barge had been moved. PD FarleyCampbell said it was her understanding that the beacons would remain on the facility.

Chairperson Muilenburg wished to clarify for the record that the site survey #3 was the proposed site that was being decided on. PD FarleyCampbell confirmed it was.

Applicant Testimony

Robert Forsythe – P.O. Box 1220, Florence, OR 97439

Mr. Forsythe, Port Manager clarified that the application was made on behalf of a request by the Oregon State Marine Board. Mr. Forsythe continued that the project is one the State has been working on for a number of years. Mr. Forsythe indicated that the State has not had many of these facilities in river ways, especially a fast moving river like the Siuslaw. He expounded that the Port will be working with the State, and that the State will be monitoring the project extremely closely. Mr. Forsythe stressed other agencies will be watching as well, including DEQ, DSL, and ODF&W.

Commissioner Hammon asked the applicant if he had started the process with the Corp of Engineers about the pilings, etc. Mr. Forsythe said they had. Commissioner Hammon asked if the process was going well. Mr. Forsythe responded that they were working through the process of permitting, with NOAA being the only agency not heard from at this time.

Commissioner Hammon asked the applicant if they had surveyed any other part of the river besides the docks. Mr. Forsythe responded that they had not. Mr. Forsythe stated that the most ideal and best possible use would be to have it closer to Cushman, however, economically it would be too costly. The requested location fulfills safety, maintenance and visibility criteria.

Commissioner Murphey questioned, that since the Marine Board owns the barge, they would be responsible for any pollution or salvage costs. Mr. Forsythe replied that as far as he understands, they will not own it. However the Marine Board will add money to the Port's MAP funding for maintenance and that sort of thing. They will also be responsible for malfunctioning equipment.

Chairperson Muilenburg asked if it would be tied down like a dock moving with the tides coming in and out. Mr. Forsythe described it will be set right between two piles and go up and down with the tide, just like a dock. It will be a sealed unit, which will be brought in just like a boat, pumped out with the Port's pump out station, and taken back out to the river.

Chairperson Muilenburg asked about what will happen to the pilings when the barge is removed. Specifically, would they somehow be identified if they were left on the river. Mr. Forsythe said that he was not positive, yet, pointed out there were thousands of pilings out in the middle of the river. He indicated that Oregon State Marine Board, the Coast Guard and Corps of Engineers would know the answer and that the Oregon State Marine Board will provide what needs to be out there to comply with their own regulations. Chairperson Muilenburg wondered if it would be out of the actual channel. Mr. Forsythe confirmed the location was out of the navigational channel.

Commissioner Hammon asked Mr. Forsythe what he considered the channel to be. Mr. Forsythe said he could provide a map of the channel however they would not be putting the barge in the proposed location if it was in the navigational channel. Mr. Forsythe assured that with the five different agencies all looking at it, they are going to make sure and all agree that it is out of the navigational channel.

Chairperson Muilenburg opened up opportunity for any proponents, opponents, or interested neutral parties that would like to speak.

Proponent Testimony

Ron Caputo – 87729 Sand Drift Street, Florence, OR 97439

Mr. Caputo shared his association with STEP and stated that on behalf of the Florence STEP group, they felt the floating bathroom would help to keep the river cleaner and were all in favor of the project. Mr. Caputo continued to express his support towards the project by stating he felt it would be convenient, good for the river, the economy, and the Florence area.

Nancy Rickard – Port Commissioner, Position 2

Ms. Rickard stated her concern in keeping the people included, regardless of what something may look like. Making it safe, easy to access, and she echoed Mr. Caputo's statement about keeping the river clean.

Roger Emigh – 76 Castaway Cove, Florence, OR 97439

Mr. Emigh expressed what he had witnessed at the boat launch area of Harbor Street when it is crowded and busy. Mr. Emigh stated that boaters who are just coming in to use the restroom cut in, causing confusion that often results in altercations.

Opponent Testimony

Walter Wikeroad – 1600 Rhododendron Drive, Florence, OR 97439

Mr. Wikeroad said that he opposed the project last time and he opposes it this time for the same reason, being that he felt it was an eye sore, a navigational hazard, there were too many unanswered questions about spills and clean up, and he felt it would cost the port more money to take care of because it is farther away than it was last time.

There were no other opposed and no neutral.

Applicant Rebuttal

There was no applicant rebuttal.

Chairperson Muilenburg asked for recommendation from Staff.

PD FarleyCampbell referred back to the Condition of Approval #6: Navigational lighting to prevent collisions. PD FarleyCampbell stated she wanted to make sure there were no questions regarding any labeling in that regard.

Chairperson Muilenburg asked the applicant if he had read and agreed to all of the conditions. Applicant answered, yes.

Chairperson Muilenburg asked Staff to restate recommendation. PD FarleyCampbell stated that Staff found that the application met the city code and the Florence Realization 2020 Comprehensive Plan, and subject to the conditions of approval as listed in the resolution, should be approved.

There were no other Commission questions for staff.

Chairperson Muilenburg closed hearing at 7:49 p.m.

Commission Discussion

Chairperson Muilenburg asked Commission for any added comments. Commissioner Hammon stated that he ties up at the dock, uses the restroom, and buys another soda, a quick meal, and so forth. He added that he believed the economy would be losing, by having the restroom out in the river. He expressed that he wished that it could have been located farther up the river, where there are no other restrooms available.

Commissioner Bare motioned to approve Resolution PC 15 02 CUP 01. Commissioner Murphey seconded the motion. By roll call vote: Commissioner Hammon “no”; Commissioner Bare “yes”; Commisioner Murphey “yes”; Chairperson Muilenburg “yes”, Commissioner Burns was absent. The motion passed.

Chairperson Muilenburg opened the Public Hearing at 7:52 p.m.

FILE PC 15 06 VAC 01 – 76 STATION ALLEY VACATION: An application by Ron LaFranchi of Ron’s Oil Company requesting the vacation of an undeveloped alley between 15th and 16th Streets east of Highway 101. The alley extends for the length of Block 23 of Plat of Gallagher’s Part of the City of Florence. The applicant proposes that the City vacate and sell this area to the abutting property owner in order to propose a 24-hour convenience store in the future.

Chairperson Muilenburg asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visits, or bias. No Commissioner had anything to declare. Chairperson Muilenburg asked if the public had any challenges to any commissioner’s impartiality in making this decision. There were no challenges.

Staff Report

Chairperson Muilenburg asked for the staff report.

AP Southerland presented an introduction, applicable criteria, an aerial of the site, the purpose of hearing, the current use of site, and utilities & access. AP Southerland added the applicant would be required to call for utility locates. AP Southerland concluded with the Staff recommendation supporting the vacation with conditions.

Commissioner Hammon asked if permits would be required, because of a change of access to Highway 101. AP Southerland indicated he thought that would be something they would do when they redevelop the property, but was not certain if there would be any additional accesses granted. Commissioner Hammon responded that it did not matter, because it would be a change of activity on the parking lot. He added that it is just a hassle, if you don’t do it first.

Commissioner Bare asked if Staff had any suggestions to address the issue of locates. PD Southerland said that he would work something out. Commissioner Hammon added that it was a law to call for locates before you dig. AP Southerland commented that after discussion with Central Lincoln and PUD and depending on the extent of applicant's plans for redevelopment, it may involve a removal only. Commissioner Bare concluded that if he was on the City Council, he would want to have that addressed.

Chairperson Muilenburg requested clarification that the applicant would have to produce the remainder of signatures needed to fulfill the conditions in order to proceed. AP Southerland confirmed that was correct. Chairperson Muilenburg then asked about what kind of time frame they would be facing. AP Southerland explained that it was not a normal land use issue, so he was uncertain of the exact time line.

Chairperson Muilenburg asked the applicant to come forward and make their presentation, or answer any questions.

Applicant Testimony

Josh LaFranchi – 580 North Central, Coquille, OR 97423

Mr. LaFranchi said he was employed with Ron's Oil and would answer any questions.

There were no questions from the Commissioners.

Chairperson Muilenburg asked Mr. LaFranchi if applicant had had the opportunity to read through all of the conditions and if he agreed to those conditions. Mr. LaFranchi responded on behalf of the applicant and said that he had read the conditions and agreed. Chairperson Muilenburg indicated there may be another condition to send to the applicant at some point.

There was no opposed or neutral testimony.

Chairperson Muilenburg asked for recommendation from Staff.

AP Southerland began by expressing that if the Commissioners wanted, Staff could add a Condition #4, that the applicant shall call for and schedule a locate prior to the City Council meeting finalizing the alley vacation. Staff agreed to settle on language during the Commission deliberation.

Chairperson Muilenburg closed hearing at 8:05 p.m.

Chairperson Muilenburg asked the Commission for any added comments. Chairperson Muilenburg then indicated he would like to see the applicant schedule the utility locates prior to the City Council meeting. The request was unanimous.

There were no other Commission questions for Staff.

Commissioner Bare motioned to approve Resolution PC 15 06 VAC 01 with Condition #4. Commissioner Murphey seconded the motion. By roll call vote: Commissioner Hammon "yes"; Commissioner Murphey "yes"; Commissioner Bare "yes"; Chairperson Muilenburg "yes." Commissioner Burns was absent. The motion was approved.

PLANNING COMMISSION DISCUSSION ITEMS

Commissioner Murphey asked Staff if there had been any feedback on whether or not City Council was going to consider expanding the Commission. PD FarleyCampbell responded yes, the recommendation to add two Commission members had been submitted to the City Manager's office to be added to the March 16th packet. Chairperson Muilenburg questioned for clarification. PD FarleyCampbell informed it would be going to the City Council meeting on March 16th and explained that since it was an ordinance, it would be a voting item.

PD FarleyCampbell updated Commission with the next March 24th Planning Commission Agenda.

Commissioner Hammon brought up his concern over the growing danger of people being injured or killed at intersections and the need for cross walk safety and education. PD FarleyCampbell indicated she would take his concerns to the department head meeting with consideration of different appropriate possibilities and venues for school resource education and support.

Chairperson Muilenburg adjourned the meeting at 8:13 p.m.

Curt Muilenburg, Planning Commission Chairperson