

**CITY OF FLORENCE
RESOLUTION NO. 11, SERIES 2008**

A RESOLUTION UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF A CONDITIONAL USE PERMIT TO CONSTRUCT A SEAWALL ON LOTS THREE THROUGH TEN OF MARINE MANOR PUD LOCATED BETWEEN THE SIUSLAW RIVER AND RHODODENDRON DRIVE AT SITE ADDRESSES: 3215, 3225, 3265, 3285, 3305, AND 3315 RHODODENDRON DRIVE AND LOTS 3 AND 4 OF MARINE MANOR PUD, AS SHOWN ON EXHIBIT B.

WHEREAS, application was made by the Marine Manor Lot Owners' Association, as required by FCC 10-1-1-4, FCC 10-2-1, FCC 10-19-4 (D), and FCC 10-4-3; and

WHEREAS, the Planning Commission/Design Review Board met in a duly advertised public hearing on February 5, 2008 to consider the application, evidence in the record and testimony received as per FCC 10-1-1-5, and

WHEREAS, the Planning Commission/Design Review Board determined per FCC 10-6-5, after review of the application, testimony and evidence in the record, that the application meets the applicable criteria, or can meet the criteria through compliance with certain Conditions of Approval and adopted Resolution PC 07 47 CUP 08; and

WHEREAS, the Marine Manor Lot Owners' Association filed an appeal of the Planning Commission's decision per FCC 10-1-1-7 stating the seawall should be considered as a non-conforming use and therefore did not require a conditional use permit and that if a conditional use permit is indeed required, that certain conditions of approval were not valid; and

WHEREAS, the City Council met in a properly noticed public hearing on April 21 and has considered the appeal, the evidence in the record including the staff report dated April 14, and the testimony presented;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Florence finds as follows:

Section 1. Based on the findings attached hereto as Exhibit A, the construction of a new seawall requires a conditional use permit.

Section 2. The conditions of approval required by the Planning Commission are amended by removing Condition of Approval #4 and modifying Conditions #6 and #7 based on the findings in Exhibit A. Council further finds that with these modifications to the conditions of approval, the application, as presented, meets or can meet the applicable City codes and requirements, provided that the following Conditions of Approval are met:

1. The Applicant agrees to comply with all regulations and requirements of the Florence City Code which are current as of the date of the application.

Approval shall be shown on the Findings of Fact and the Site Plan. Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except changes relating to the subsurface structural design or those regulated by the building codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. Regardless of the content of material presented, including application text and exhibits, staff reports, testimony and/or discussions, the Applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission or Council action as documented by the record of those hearings and/or the associated Conditions of Approval.
3. The applicant will apply for a building permit and, as part of that process, will submit detailed design specifications and construction methods that demonstrate that, during and following construction, the following performance measures will be achieved to the maximum extent practical:
 - maintain soil stability,
 - preserve natural habitat,
 - protect native vegetation,
 - protect riparian vegetation, and
 - maintain scenic qualities.
4. This condition has been removed.
5. As part of the construction permit process, the applicant shall be required to address problems with the 36-inch stormwater culvert. The Lot Owners' Association will work with the Public Works Department on the work to replace the existing 36-inch culvert. In addition, the construction permit will include correction of the condition of the open ditch from the driveway that crosses the culvert to the box culvert on Rhododendron Drive where plywood is being used as a retaining wall, which is close to failure (the plywood is deteriorating), and is being held in place by light weight metal fence posts.
6. Applicant shall be required to provide coordinated maintenance of the new seawall, as well as continued maintenance of the existing seawall, and the Condition of Approval #8 from the 2001 Planning Commission Resolution

01-09-11-33 shall be modified by this Condition. Continued maintenance of the existing seawall shall include provisions for reducing the environmental impacts on the estuary caused by the eventual failure of the current seawall and the sloughing of the seawall and bank materials into the estuary.

7. This approval is for a Conditional Use Permit for a seawall only and makes no guarantee as to the service life, function, or design of the seawall or its adequacy in meeting the stated purpose.

Section 3. This decision shall be final and conclusive per FCC 10-1-1-7-H.

PASSED BY THE CITY COUNCIL THIS 5TH DAY OF MAY, 2008.

Phil Brubaker, Mayor

ATTEST:

Barbara Miller, City Recorder