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**City of Florence  
Planning Commission Meeting Minutes  
250 Hwy 101, Florence, OR 97439  
March 12, 2024**

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**CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE**

Meeting called to order at 5:33 PM.

Commissioners Present: Chair Sandra Young, Vice Chair Kevin Harris, Commission Eric Hauptman, Commissioner Debbie Ubnoske, Commissioner Renee LoPilato, Commissioner Laurie Green

Commissioners Excused Absence: Commissioner Wendy Krause

Staff Present: Planning Director Wendy FarleyCampbell, Associate Planner Clare Kurth

At 5:33 PM, Chair Young opened the meeting, Clare Kurth gave the Roll call. Commissioner Ubnoske led the flag salute.

**1. APPROVAL OF THE AGENDA**

Start Time: 5: 34 PM  
Action: Approve agenda as presented.  
Motion: Comm. Green  
Second: Comm. LoPilato  
Vote: Unanimous

**2. APPROVAL OF MINUTES OF February 27, 2024**

Start Time: 5:35  
Action: Approve minutes as presented.  
Motion: Comm. LoPilato  
Second: VC Harris  
Vote: Unanimous

**3. PUBLIC COMMENT**

This is an opportunity for members of the audience to bring to the Commission's attention any item not otherwise listed on the agenda. Comments will be limited to three (3) minutes per person, with a maximum time of 15 minutes for all items. Speakers may not yield their time to others.

Start Time: 5:33 PM  
Commenter: Roger Center

He had a comment about his property at 2013 10<sup>th</sup> St. which is across the street from the old public works building. He plans on selling his house soon and he has read that the old public works is going to be turned into a park and that he doesn't see any evidence that there is any maintenance being done on the building at this location he is wondering if there is a plan for the City to clean it up building and the lot. Mr. Center presented a picture of building into the record.

Chair Young thanked Mr. Center and asked if there were any other comments for items not on the agenda.

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Chair Sandra Young relayed basic instructions regarding the proceedings and asked if any member wished to disclose a conflict of interest, ex-parte contact, or biases and the right of the public to challenge any commissioner's ability to hear this matter.

Chair Young asked the Commissioners if they would like to declare a conflict of interest, ex-parte contacts/communications, or bias. There were no declarations of conflicts of interest.

Chair Young stated that a long time ago when she worked for the City of Florence, as Planning Director, and the beginnings of the Estuary Trail discussion began to show up in some of the Planning documents. The project has been around for a long time and that she is familiar with the project. And that it shouldn't make any difference in her decision, but that if someone wants to challenge her qualifications then it is their right to do so. We will move on, then, to the public hearing.

Comm. Hauptman: Asked the Chair if Mr. Miller could answer Mr. Center's question about the disposition of the old Public Works building.

Chair Young asked Mr. Miller if he would like to answer now or would he like to meet with Mr. Center for a longer discussion.

Director Miller explained that the old public works site has been identified for expansion of Gallagher Park, but that what that will look like is undetermined. Not sure if the water tower stays or goes has not been determined, with the biggest question for the community is what it will actually look like. Public Works had planned to be out of the site sooner but with all the remodeling of other facility locations and covid it has taken longer than expected. The City will need to reengage with the community to actually talk about what the community wants. The buildings need to be demolished and will require lead and asbestos abatement. We need to talk to the community and see what they want to do. the Council has made that commitment to the community.

Chair Young asked if Mr. Center could have a longer conversation at some point.

Mr. Miller said that he and Mr. Center could talk afterward.

Chair Young read the information regarding tonight's hearing into the record. Item #4 on the Agenda is a Continuation of public hearing Resolution PC 24 03 CUP 03/PC 24 03 DR 01 – Estuary Trail with Parking at Hwy 126 & Spruce Street.

**4. RESOLUTION PC 24 03 CUP 03– Estuary Trail with Parking at Hwy 126 & Spruce Street: Continued from February 27, 2024....** Of a Design Review for PC 24 03 CUP 03 A Conditional Use Permit application submitted by Public Works Director Mike Miller on behalf of the City of Florence to develop an estuary trail constructed of compressed gravel with associated parking area and trail head located at the southwest corner of the Spruce St. and Hwy 126 intersection and with an access point on Quince Street. Proposed trail amenities to include benches and interpretative signs. This project is located on Lane County Assessor's Map and Tax Lots 18-12-26-33-00904 and 18-12-26-32-08000 and 07800. The Estuary trail will be located in Mainstreet Area A as regulated by Florence City Code (FCC) 10-27 and Old Town District C as regulated by FCC 10-17 and located within the Natural Estuary Management Unit and Natural Resource Conservation Management Unit as regulated by FCC 10-19.

Chair: I will now reopen the hearing for Resolution PC 24 03 CUP 03/PC 24 03 DR 01

Re-Opened hearing: 5:48 PM  
Close Hearing: 7:11 PM  
Discussion: As follows

Director FarleyCampbell began the staff report explaining that at the February 27, 2024 hearing the Planning Commission left the hearing open to allow CTCLUSI or the public, the opportunity to provide additional testimony and for staff to research the location of the 50' riparian setback. Slides for a site plan, trail plan, and parking lot plan was shown on the screen and explained as:

- The area that staff is talking about is east of the FURA property which is possibly the home of the future Microtel.
- The proposed trail extends from developed Redwood St. on the north side to Quince St.
- The trail is proposed to skirt along the base of the bank and then with an improved parking lot east of the Munsel Creek and southwest of Spruce Street and Hwy 126 intersection.
- The one thing of note for tonight's hearing are the location of the contours on Munsel Creek as it abuts the parking lot to the west.
- Farley pointed out that Mr. Miller provided updated documents locating a partition that was done dedicating some of the right of way in Quince Street and modified some lot lines this is not applicable to the conversation tonight. Also included, were additional contour lines on the parking lot site Sheet C-10 within the original materials.
- The trail plan includes circles that represent the trees that are proposed to be removed and it also includes the parking lot plan.

Planner Kurth pointed out that as Director FarleyCampbell mentioned a revised parking lot plan that was received. The plan on the screen is a previous plan and that some of the things that are important to note are:

- The parking lot lights that are in the same location the bottom left corner of the parking lot, one in the top right near the Spruce Street right of way.

- There was also mention on the plan of the evergreen hedge, to screen headlights along HWY 126.
- Other than those two items the parking lot plan largely remained unchanged.
- Some additional details related to the striping and the type of paint used for the ADA signage.

Kurth also mentioned that the Findings of Fact and the staff report that was distributed on Friday had some revisions Page 2 through 4 added the public testimony and staff responses.

- The public testimony that was received before the February 27<sup>th</sup> public hearing was received after the staff report was published so staff hadn't had an opportunity to respond prior to the meeting but staff did respond during the meeting.
- Page 5 of the Findings included the CTCLUSI, referral comments and a staff response.
- Page 8 and 9 of the Findings provides clarity on the parking and that Title 10 Chapter 3 states there are no minimum parking standard set out by City Code for parks and open space. The parking is determined by the Planning Commission and there was a statement clarifying that it wasn't addressed in either the TSP or the Siuslaw Vision Plan.
- 21 parking spaces are proposed, one being ADA, so it appears that would be adequate parking at the Planning Commission's discretion.
- A street view picture was displayed in response to public testimony concerns of screening on the vacant lot to the west and the screening of headlights required for residential uses or zoning, the lot is currently zoned Main Street Area A, and doesn't have a residential use so it is not required to have screening but this picture is just to illustrate that there is screening and that was added in the Findings on page 21 and just kind of issues and decision points.
- Additional testimony from Mr. Hoberg today and it has been placed on the dais and is regarding his concerns about transient activity around the property and about the City spending money to improve an area that it doesn't have the legal right to maintain. He also pointed out that the old public works area, Gallagher Park are all the entrance to the city and that they need to be presentable. There were photos provided.
- CTCLUSI did not provide additional comments.
- Chief Schick provided additional comments this morning mentioning that, that ATV access over the future bridge is more of a wish list item and that if needed, access can be made on foot by emergency personnel.
- Chief Schick's comments were included as Exhibit 1 and distributed earlier to the Planning Commission via email.

FarleyCampbell explained the riparian map and the setback requirements for proposed projects location as having 50' setback, measured from top of bank. Top of bank is where the vegetation line is in the water. It's not the top of the top of the bank. It's down in the creek channel.

- This project is not subject to the riparian reach setback as laid out in Title 10, Chapter 7.
- The hazards map was displayed and explained as to where the cut banks are located.
- Cut bank used to be measured from the thread of the creek, and then it changed in 2013 to be measured from top of bank.
- Proposed project is not located adjacent to a cut bank.
- The 50' river cut bank setback does not apply to this project because it does not prohibit parking lots, trails or things like that, it only prohibits buildings in that area.

- The 50' setback that does apply to this project is in Chapter 19 under the Natural Resource Conservation Shoreline Management unit. Specifically, 10-19-10. And then specifically the parking lot falls under Section C.
- The trail is a permitted use under the direction of the Natural Resource District. the water part, as a permitted use.
- The parking lot is covered as a special use under the base zoning district and is allowed.
- There is a buffer zone, the 50' buffer zone, is in addition to the regular setback for the zone.
- The Main Street District has zero setbacks which means that there's just a 50' setback.
- The other items that it covers is that vegetation clearing needs to be to an absolute minimum on the site. Native vegetation clearing. You can clear all of the scotch broom and Himalayan Blackberry that you want to.
- The project is proposing clearing very little vegetation.
- There cannot be any topographical modification in that 50' buffer zone.
- There will be somewhat a bit of topographical modification proposed for the parking lot but it is minimal, but there is topographic modification and the 50' is measured from the mean high tide.
- In looking at the Exhibit I, on the dais, of the parking lot, Sheet 9, staff has determined that the 50' setback lies 5' beyond the striping of the most westerly parking lot parking lot spaces.
- The district overlay does specify that the shoreland overlay does apply and is not intended to eliminate any permitted use in that zone.
- What that says then, that if you cannot meet the upper criteria, then you can still do it, but that you need a variance and then you will then evaluate stormwater and vegetation preservation
- Staff has determined that the parking lot needs a variance.
- That's an oversight that was not identified earlier in the process.
- Staffed noticed the hearing for a Conditional Use Permit and then determined that it should have only been a Design Review but now have determined that it will also need a Variance.
- The applicable criteria were not included in that CUP noticing, which means staff will need to notice for a variance with the conditions.
- The Resolution already has Mr. Miller coming back to the Commission to present the lighting plan, and screening.
- Staff does its best to lump those items in together under one process but for tonight with your decision as a recommendation, we would then recommend that you approve the Resolution for the trail portion of the project and come back for Variance on the parking lot part to make sure that the proper noticing has been performed.
- Director Miller has provided most of the materials that would be required for the Variance procedure.
- There are a few criteria that would be listed under 10-5 that would need to be addressed and those would be covered. Those additional items would be covered under a separate hearing.

Comm. Green asked if the applicant would still need a variance if parking spaces are eliminated on the western side.

- FarleyCampbell said no because the 50' would go roughly where ever the mean high tideline is located.
- Comm. Green asked if that would be a feasible option.

- FarleyCampbell explained that the Commission could ask Mr. Miller or they could approve half the parking lot now and then he could come back and get the other half of the parking lot under a Variance.
- Comm. Green said that she is thinking of Exploding Whale Park and that there are about a half dozen parking spaces there.
- FarleyCampbell said that as Planner Kurth mentioned there are no standards for parking and that she is not sure how that would impact the grant receipt of grant money. But that is something she would check on.

Chair Young asked Director Miller is he would like to come back up to the microphone.

Director Miller displayed his presentation from the February 27<sup>th</sup> meeting. He first addressed the question about Exploding Whale Park and the City squeezed in as much parking as they possible could due to the seasonal stream that runs through there and meeting the criteria and setback requirements and the addition fill that need to go in that area. The park has a great example of a trailhead and some amenities that are highly used. There are people parking on Rhododendron Drive and other areas, and have installed bridge railing to prevent people from going into the wetland and riparian area.

- Applicant could easily go and eliminate the parking on the west side and that he would have to go double check our grant agreement for the recreational trails program to see if we identified 21 spaces or not and see if we could eliminate the parking on the west side.
- Direct Miller thinks that it would be best if the City would pursue the variance so that we could establish parking and have it available because the area is in desperate need of parking. It's out of the Old Town corridor, but it would be a place where people could park and they could walk and have a nice walk down to Old Town if they so choose.
- Miller thinks having the parking and having those additional parking spots are probably a good thing for them to pursue.
- The materials were gone over a lot at the last meeting and he feels that they are pretty much there but is making adjustments to their plans to follow the recommendations that are before the Commission.
- Miller does not have any problems with the Conditions that have been set, and is looking forward to getting the project under construction.

Chair Young asked for questions.

Comm. Ubnoske asked if in the parking is there landscaping in the parking lot to shade the parking spaces.

Director Miller said no, but that it is one of the things that they will be bringing back to the Commission is the landscaping plan for that. Currently the lot is bare but that they will provide screen and accommodate additional trees to soften the image of the parking lot.

- Comm. Green asked if any part of the trail or the parking lot be subject to inundation during king tides and if it is will there be a plan for reconstruction if things get washed away.
- Miller said that the area is not subject to king tides because the site is upland and high, and that the only inundation would only possibly be during a Cascadia event.

- Comm. Hauptman asked if the trail could be lighted because he thinks that it would be safer for people to use the trail at night.
- Miller said this was addressed at the last meeting, and that the nature of the estuary trail is to be harmonious with the environment.
- *There was some additional discussion about the cost of lighting the trail.*
- Comm. LoPilato asked that when the hotel is finished will there be lights on the back perimeter of the property that might reflect onto the trail.
- Miller explained that the hotel will have lighting in the parking lot that will be shedding towards the building, but they are trying to preserve the buffer area and not disturb the wildlife and the vegetation below. There may be some ambient lighting that goes down and filters down in that area but they do have to contain their light within their property lines.
- Comm. Harris asked that in regards to the parking lot, if there are natural barriers or plans for barriers to stop people from parking and taking a shortcut through this section to get to the trail.
- Miller said that the parking lot will have a standing curb all the way around it and Munsel Creek is a huge barrier.

FarleyCampbell reminded the Commission that Chief Pitcher is here for the meeting tonight and to answer any questions they might have regarding people that are experiencing homelessness in the area.

Chief Pitcher explained that the City can't afford to patrol the area 24/7 but that they will patrol the trail when there is a problem down there and that when talking to Mr. Hoberg regarding the potential passing of a camping ordinance will provide the department more tools to use.

- Comm. Green asked if the parking lot is gated so that it can be gated off at night.
- Miller said that had not been discussed but is something that could happen.
- Comm. Harris asked Chief Pitcher what the conditions are like at Gallagher Park.
- Chief Pitcher said that the police department definitely gets some calls for the Gallagher Park/Munsel Creek bypass for transient camps and they are aware that there are transient camps in the area. But with the 9<sup>th</sup> Circuits Court of Appeals ruling, they are limited to what they can do until a camping ordinance is put into place.
- Comm. Harris asked if the officers partake in foot patrols on a regular basis.
- Pitcher said that they do at times do foot patrols but that they don't have bikes in those areas but at times the officers do walk the paths. The Code Enforcement Officer also walks the paths.

Chair Young began taking testimony from the citizens that submitted speaker's cards.

Jim Hoberg said that he submitted testimony again and that he would like to go over the questions that he has and wanted to expand on a few things to make sure that they are on the same page. He thinks that the Commission needs to see an overview of the proposed realignment of Hwy 126 and see the changes in the traffic pattern and in everything in the whole corridor. He wants the Commission to be aware that before they make a decision that they review the master road plan. He said that he submitted more pictures that he walked the path today and the situation there is the same as it was 2 weeks ago. He has been complaining to the City for 2 years regarding the camps that are near his property and that now the City is going to create another beautiful area that we cannot use because the current status of enforcement.

Chair Young asked if there were any questions for Mr. Hoberg.

- Comm. Hauptman how does Mr. Hoberg feel that the trail would increase the problem transients?
- Mr. Hoberg said that if you walk Munsel Creek bike path or Gallagher Park, when you create an open space for people to walk, it is easier to navigate. It makes it easier for them to access a nice walking path.

Terry Duman explained that his property is the probably the most affected by this proposal, and that Mike Miller has never come to him and asked he they could talk about driveway cutouts they were mentioned once but have not been presented.

- Duman wants the Commission to know that any development is going to condemn his property and it will eventually be a homeless camp.
- Duman would like the Commission to take consideration and to read the materials that he presented at the last meeting regarding the 50' riparian setback.
- Duman fills that the report condemns a portion of his property and that he does not feel that this project is a good fit for his property.
- Duman thinks that the Commission's decision should be based on future legislation regarding diminished public immunity.
- Duman said that the state highway department is not going to come through and put a box culvert under a perfectly good bridge so you can make your sidewalk ADA accessible.
- Duman said that another point that he would like to make is the use of Redwood Street. You're talking about doing half a parking lot. Where's the fire truck going to turn around? There's not even a dedicated turnaround area for them. There's no turnaround lane. There's nothing there.
- Duman said that if a private developer brought you this project, it would not get to this point. Here is what my point is. Just because it's the City, don't let them determine where their 50' setbacks may lie.
- Do it like they do to us. I had to provide you a map, and that's a staff report that I attached to that. And if you read that narrative, it will explain the 50' riparian area to it as it was explained to me.
- In short, the only way you're going to do this is to bend or break the rules. Just remember, you represent property owners. My property, for one.
- It does have potential residential uses, so why wouldn't it get a screening? Those cars are going to pull into that parking lot and shoot their headlights straight out over my property with the only screening there being the natural vegetation that you can't touch.
- Anyway, please do consideration on this question.

Mr. Miller said that regarding recreational immunity that in the short session of the legislature that the legislation was introduced and has been approved. It is a temporary fix that reestablishes recreational immunity to public agencies. It is a temporary fix but currently the City has does have the rights of recreational immunity.

- In regards to Mr. Duman's property, if he lets us know the type of driveway and how he wants to develop his property they would be able to accommodate him.
- When we made the plans for this project, we did our best to identify and put in, whether it's water services or sewer stubs or driveway aprons and approaches.



- Without plans from Mr. Duman it's very speculative as to what is needed to be added.
- To the best of his knowledge the sidewalks on Hwy 126 meet ADA requirements, and that they just wrapped up revision Florence and those sideways were looked at by ODOT and no problems were found. A 5' wide sidewalk is ADA accessible.

Chair Young asked the Commission if they have any questions about the camping ordinance or understand what the lack of the ability to enforce is and what are the camping regulations.

Chief Pitcher said that the 9<sup>th</sup> Crt of appeals did a ruling that limits what can and cannot be done on public property. The only no camping that the police can enforce now is on private property. You cannot camp on private property; the police can enforce that today. He does know that the City Council has a work session coming up to work on the camping ordinance.

Comm. LoPilato asked if there was any sense as to where the ordinance was at with the City Council and what is needed.

- Comm. LoPilato asked if the trail was planning to be open in September, and if it would be feasible to dovetail the passing of the ordinance by the City Council and the opening of the trail.
- Chief Pitcher says that we can't say you can't come anywhere in Florence because the law says it has to be reasonable and that we have to provide a place.

FarleyCampbell said that she had a couple comments that relates to the parking lot area and the setbacks, requisite setbacks in that area. Mr. Duman's testimony that he provided, the pages from that he referred to, they were from a 2014 application that staff got for responding to vegetation clearing. FarleyCampbell said that there wasn't any development proposed for that property. It was just vegetation clearing.

- And the image in the record that was provided shows the mean high-water line as it applies to the east. the mean high water goes on both sides of a creek. There's not just one side of a creek that has a mean high water.
- FarleyCampbell said we're not referring to Mr. Duman's property for this, but the image that he provided and how it illustrates the mean high water. That's where I'll note that it mentions mean high water and the criteria. Within FCC Title 10 Chapter 19 and the criteria within the comp plan.
- I'll just mention that nowhere does it mention mean high water. That's not mentioned except as it relates to lakes. There's no lake here. The mean high tide for the estuary is out in the estuary, it's not along the parking lot property.
- The riparian area reach is north of Hwy 126 I think the code writing and the comp plan writing could have been better back when this was created to make it easier to interpret.
- Because it's not clear. I'm presenting recommendation to proceed with the most stringent interpretation because it is consistent with city code that city services are almost always Conditional Use Permits because we hold ourselves to a higher standard and it's the right way to go.
- At this point. I won't say that by the time that we get to a variance hearing for the parking lot, we won't arrive at a different decision. By that time that I've met with legal counsel and perhaps the authors of this code and had the opportunity to explain it more to me.

- The information that Mr. Duman provide was from 2014 and from an interpretation in 2014. I'm not saying it doesn't apply here, but nothing about that applies to his property. And his was for an application for his property of vegetation clearing.
- FarleyCampbell said that I just wanted to kind of conclude with those thoughts but will say Exploding Whale is different zone and it's a residential shoreland, which is a different measuring point.
- We would recommend approval of the pathway. We would remove the portion related, we could either remove the finding elements related to the parking lot, or we would do that and just then say that what is approved, is the trail components and the trailhead components at Redwood and the sidewalk along Redwood, and then the Spruce Street could be approved as well because it's not in the 50 foot setback area, the improvement of Spruce Street, which doesn't even really need land use review because it's in the TSP for approval.
- It is just the parking lot we're looking at with this associated stormwater and other amenities that we would recommend be denied at this point.
- You could deny it or just say, here is what is approved, and then we can indicate in the Findings that the project needs the variance.

Comm. Green asked if going through the Variance process is going to affect the acceptance of the grant.

Miller said that there are deadlines with the grant and that they will be asking for extensions to accommodate this and that there will be a slight delay for construction but they think they can finesse it and get this project done within the extended grant timelines.

- Comm. Green asked if they could begin construction of the trail before beginning the construction of the parking lot.
- Miller said that they could phase it.
- Comm. Ubnoske asked Director Campbell if staff could make the findings for a variance and if they are comfortable making the finding for a variance for the parking lot?
- FarleyCampbell said no because staff did not advertise for a variance.
- Comm. Ubnoske said that she meant going forward to approve a variance that staff could basically have to say that this project is being deprived opportunities that other projects in the area have. She is also wondering if staff can make the finding so that staff could move forward to approve the variance.
- FarleyCampbell said that she is not prepared to answer this question because the need for a variance was just discovered minutes before coming into the hearing.

Chair Young asked if there were any more questions of staff.

- Comm. Ubnoske asked Director Miller if they were not to do the variance would it impact the parking lot to lose some of the parking spaces on the western portion of the parking lot, and will it affect they grant funding.
- Miller said that he would have to go back and look at the specifics of the grant.
- Planner Kurth said that because the comment about fire access and turnaround in the parking lot came up in Exhibit O, from Fire Chief Schick the fire department did respond and said that

the parking lot, as proposed, does meet fire turnaround standards, and it meets minimum width for access as proposed.

- FarleyCampbell said that another option could be to approve half the parking lot and then that part can go forward and staff could navigate the other part that may or may not need a variance depending on the interpretation.

Chair Young asked the Commission if they wanted to close the public hearing or leave it open or leave the record open.

Comm. Hauptman said that he would like to continue the public hearing to a date certain because he thinks there is a lot of information that the Commission needs, and that he would like to see the new ordinance get passed so that the police are allowed to police the area.

- Comm. Green said that this could be months.
- Comm. Hauptman said that is about September and that the ordinance should be passed by then.
- Chair Young said that would mess up the grant.
- FarleyCampbell as a point of order that a land use deadline is 120 days, which means there is no pushing this out to September unless the applicant agrees.

Chair Young said that she wanted to clarify and that she understands that Comm. Hauptman wants to push this proposal out until the ordinance is done, but that can't happen, but would the Commissioner like to continue for other reason.

- Comm. Hauptman said that he gets it and that the applicant Mike Miller could withdraw the application and resubmit it, once the Commission has some of the answers.

Comm. Green said that she would hate to risk losing the ground, amenity that this project has the potential to be knowing that the camping ordinance will come up and the trail, even if it starts on schedule, won't be completed before September.

Comm. Hauptman said that the bigger picture is we've got the transient issue and the homeless issue that is not being addressed by the City Council, but that it is going to need to be.

Comm. Ubnoske said that she has concerns about the variance, and that she would like to see if the Commission could move forward without the need for a variance, and that staff might need some extra time to determine whether we can make the Finding of Approval for a variance and Director Miller to see if the funding is tied to the number of parking space. If the applicant could remove some of the parking spaces on the western part of the parking lot, then she would be comfortable moving forward without the variance.

- Comm. Green said that she things that the Director raised a good point and that she thinks it sounds like we are mostly good with moving forward with the trail aspect.
- Comm. Ubnoske said she is comfortable with doing that.
- Comm. Green asked if all the western parking lot spaces were in jeopardy.
- FarleyCampbell said no just the 5<sup>th</sup> one to the south.
- Comm. Green asked if they could go ahead with approving all the parking spaces that are outside the limitation.
- FarleyCampbell said yes.

The Commission all said they were comfortable with closing the hearing.

FarleyCampbell had another idea that instead of just half of the lot we could just say that the parking lot is approved except for the area that's in the mean high tide 50' buffer and then staff will establish the line through research.

Comm. Harris that if they were to approve it without those particular locations that are outside, how does the topographical modifications. does that still come into play with the parking lot.

FarleyCampbell said that it comes into play for the area in the buffer zone subject to the topographic modification.

Terry Duman asked if he could ask another question.

Chair Young said that he could.

Terry Duman asked what happens if the Commission does approve half of a parking lot and then they find out that it doesn't fit any of it in there. And that the area should be staked out so the Commission can see what it will look like.

Miller said that he would like to move forward with the stipulation that Director FarleyCampbell mentioned and approve everything except the areas that are inside the 50' buffer area and that he can make some modifications on the plans if he needs more spaces than he will go the way of a variance.

Hearing was closed at 7:11 pm.

Deliberations:

- Comm. Ubnoske said the Commission needs to do everything they can to avoid approving a variance. They should just address the parking lot issues with conditions of future exhibits.
- Chair Young said that earlier people were saying they were comfortable approving the trail and the part of the parking that that was above the 50' buffer. I think everybody except for Commissioner Hauptman.
- Comm. Green said that she agrees with Director Miller that moving the infiltration basin around might get them the additional spaces that can work without having to invoke the variance.

FarleyCampbell said that the first thing that she is interested in recommending is on page 2 of the Resolution. Condition 9 where it lists things that the applicant will be requested to perform, the recommendation is to add number 4 to say submit a survey illustrating the mean high water and mean high tide. The applicant has already done that for the mean high tide and it is in the materials as 6.5. what we are talking about is just extending the survey northward towards the parking lot to include as far as mean high tide goes.

FarleyCampbell thinks that Condition 10 would need to be reworded a little bit to say trail area instead of high tide for this area.

Comm. Ubnoske asked if staff could specifically mention the parking lot in that condition so that the conditions addressing the mean high tide and the mean high water as relates to the parking lot?

FarleyCampbell said that she thinks the mean high tide is further south and that the Commission would benefit from seeing some language that say that you measure from the estuary due to the problems of trying to interpret this.

- The benefit would be having additional language or additional imagery.
- There is on Sheet C-10, the mean high tide is illustrated but then it stops, it goes as far as the white spots on the image and then it just stops and doesn't go any further and it's illustrated at 6.5.
- The contours on the plans were not numbered, so I am unable to see what the lowest level of Munsel Creek is, or where Mean High Tide turns into Mean High Water.
- Condition 10, adding additional language to that condition that the applicant "shall". What is proposed is to add is that second part of Condition 9, or that # 4 of number nine because it kind of conflicts with #10.
- Staff will reword #10 to say the project trail and parking lot shall be outside the 50' buffer area for the Natural Resource Conservation Shorelands Management unit. And then that'll be number 10.
- Strike the first sentence, "mean high type for this area is a 6.5 elevation".
- Strike the next sentence, "the lowest level of disturbance illustrated on the plans as Sheet C-4, 7.8". And then keep. "The applicant shall either illustrate on a contour map the location of the mean high tide whereby the point is 15' or more from the project trail".
- The trail is 15' or more from the trail or prior to site disturbance flag the 6.5ft, mean high tide point to ensure there's no disturbance of the required 50' buffer area.
- To reiterate, adding section #4 to the end of Condition #9.
- Condition #9 says to submit a survey illustrating the mean high water and mean high tide.
- Condition #10 striking the first two sentences. Adding a sentence that says the parking lot shall be outside the 50' buffer area for the NRC Shoreland management unit.
- Staff would also amend the Finding for the NRC section starting on page 30 which is the conversation exclusively about the trail. Which would add to the discussion about the parking lot to affect eh condition that is there for Condition 9 and Condition 10.

Chair Young asked the application if they wanted to speak to the new conditions.

Mr. Miller said that they are agreeable.

Chair Young asked for a motion.

Comm. Ubnoske motioned I will recommend that we approve Resolution PC 24 03 DR 01 Estuary Trail with Parking at Highway 126 and Spruce Street with the Conditions as amended by the Community Development Director and the Findings as amended by the Community Development Director to be consistent with the amended Conditions.

