

STAFF REPORT & FINDINGS OF FACT
FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT
Exhibit "A"

Application: AR 16 18 VEG 05 **Planner:** Glen Southerland
Date of Report: September 23, 2016

I. PROPOSAL DESCRIPTION

Proposal: An application for a Vegetation Clearing permit required to review already cleared vegetation along Highway 101 at 33rd Street.

Applicant: Wesley Wells

Property Owner: Wesley Wells

Location: Assessor's Map 18-12-23-22, Tax lot 08800
General Location: Tax lot north of undeveloped 33rd Street right-of-way, west of Highway 101

Comprehensive Plan Map Designation: Highway

Zone Map Classification: Highway District (H)

Surrounding Land Use / Zoning:

Site: Vacant Natural Vegetation / H
North: Single Family Residence/Commercial Storage / H
South: Lumberyard / H
East: Highway/Commercial Storage / H
West: Vacant Natural Vegetation/Concrete Plant / H

Streets/Classification:

West – None; East – Highway 101 / Major Arterial; North – 34th Street / Local; South – 33rd Street (Undeveloped) / Local

II. BACKGROUND/NARRATIVE

The applicant is requesting a vegetation clearing permit to permit previously cleared vegetation on Taxlot 8800. The applicant applied for a vegetation clearing permit on August 29, 2016.

As the applicant limbed trees and cleared underbrush from the property on April 2, 2016, the work was noticed by off-duty staff and reported to Dan Frazier, Code Enforcement Officer. CEO Frazier then posted a stop work order on the lot adjacent to its access off of undeveloped 33rd Street. The applicant, Wes Wells, came into

the Planning Department on April 5, 2016 to speak to CEO Frazier and Planning staff in order to resolve the situation. A vegetation clearing permit application was received that same day and deemed complete on April 15, 2016. Decision AR 16 07 VEG 03 was issued on May 5, 2016. Mr. Wells returned a signed Agreement of Acceptance of the terms of this approval on May 13, 2016.

Brush and tree limbs and trunks from the original brush removal were piled up to the rear of the property. The applicant stated that he intended to mulch this brush in order cover the property for sand management and haul off the excess.

Mr. Wells called staff on May 24, 2016 and June 3, 2016 in order to discuss extensions for the disposal of stockpiled dead vegetation on the site. Staff gave Mr. Wells a deadline date for the disposal of stockpiled vegetation of June 8, 2016. Staff visited the site on June 9, 2016 and determined that a number of other trees had been removed following the completion of work on the site. A stop work order was issued on June 9, 2016 and a letter hand-delivered to the applicant on June 10, 2016. This letter is included as part of Exhibit D. During this time, the applicant also brought vegetation from other sites to be disposed of on the property, creating a fire hazard.

Mr. Wells was required to submit a replanting plan with the number and type of trees that had been removed, as well as chip all dead vegetative materials on the site. The applicant arranged for the vegetative materials to be chipped on June 12, 2016. Staff made another site visit on June 13, 2016.

At this site visit, staff determined that there were nineteen removed trees, some from the property and some from the 33rd Street right-of-way without permission from the City. Mr. Wells was required to submit another vegetation clearing permit application and provide a replanting plan for the 19 trees through a follow-up letter issued on July 1, 2016 (Letter included as Exhibit D).

The current application was received on August 29, 2016 and deemed complete on September 8, 2016.

III. NOTICES & REFERRALS

Notice: Noticing was performed in accordance with FCC 10-1-1-6-D. Notice was sent to surrounding property owners within 100 feet of the property on September 8, 2016.

As of this writing, the City has received no testimony.

Referrals: Referrals were sent on September 12, 2016 to the Oregon Department of Transportation, Siuslaw Valley Fire and Rescue, and Florence Public Works.

As of the date of this writing, the City had received the following referral comments:

IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

Title 4: Chapter 1: Building Regulations, Section 15-3 Securing Loose, Open or Raw Sand

Chapter 6: Vegetation Preservation, Sections 2 through 4 and 6

Title 10:

Chapter 1: Zoning Administration, Section 1 through 6

Chapter 16: Highway District, Sections 1, 5, 7-C-1 through 7-C-3, and 7-H

V. FINDINGS

The criteria are listed in bold followed by the findings of fact.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ADMINISTRATIVE REVIEW

10-1-1-6: ADMINISTRATIVE REVIEW

- A. The Planning Director, or designated planning staff may make administrative decisions. The administrative procedure is used when there are clear and objective approval criteria and applying City standards require no use of discretion.**
- B. Administrative Decisions are based upon clear compliance with specific standards. Such decisions include, but are not limited to the following:**
- 1. Vegetation clearing permits.**

The applicant has mechanically cleared underbrush and nineteen trees in order to display a lot for sale. A site visit illustrates that at least 19 live trees were cut as evidenced by the photos in Exhibit D. The applicant has applied for a vegetation clearing permit to review the work already completed.

Title 4 of City Code also states that the vegetation clearing permits shall go before the Design Review Board for decision. Title 10, Chapter 1 was amended in 2008 and Title 4, Chapter 6 was amended in 1994; therefore, Title 10, Chapter 1 is the current process for Vegetation Clearing Permits.

TITLE 10: CHAPTER 16: HIGHWAY DISTRICT

10-16-1: PURPOSE: The Highway District includes the area adjacent to Highways 101 and 126. Highway frontage is recognized as an item of major concern that needs individual attention in order to serve the public interest and deal with its special nature and character. The principal concerns are:

- A. The need to create an attractive community appearance.
- D. The need to provide adequate area for new commercial, limited industrial and multiple-family development.
- E. The need to recognize that a pattern of land valuation and subsequent taxation has evolved over many years which has anticipated a high intensity of use.
- F. The need to recognize that there are activities and uses whose survival is dependent upon highway access and visibility.
- G. To recognize the pre-existing development pattern of highway property and to insure it has continued use and value whenever possible and consistent with other concerns.

These concerns are addressed in the Highway District with a multiple use concept that can enlist the personal and financial energies of a broad diversity of interests. The multiple use concept requires careful restraint and employs a design review procedure that encourages highway enterprises to blend harmoniously with the scenic and aesthetic features at the entrances to the City.

It is intended that the economic potential of this District should be developed, but in a manner than enhances our coastal village atmosphere and is consistent with the Florence Comprehensive Plan. (Ord. 625, 6-30-80)

The applicant has not proposed a use for the lot. The applicant intends to clear the lot in order to demonstrate the lot's building potential to possible buyers. The applicant has left much of the vegetation along the Highway intact. The lot will retain its perimeter vegetated appearance until developed.

10-16-7: DESIGN SPECIFICATIONS:

- C. **Visual Barrier:** A fence, wall, hedge, natural vegetation or landscape planting may be required by the City. Such a barrier must include a vision clearance area for driveways to promote vehicle safety. Guidelines (not intended to limit optional solutions) for such a visual barrier are listed below:
 - 1. **Commercial:** At least thirty inches (30") high along entire highway frontage except at points of ingress and egress.
 - 2. **Multiple Residential:** At least twenty feet (20') deep and six feet (6') tall along entire highway frontage. All vehicles and at least two-thirds (2/3) of the buildings should be obscured from highway view.

In the absence of native vegetation on the site, a solid fence should be installed along with the planting of a vegetative screen on the highway side. Such a fence should obstruct the view of all vehicles and buildings up to a height of six feet (6') above grade.

3. **Light Industrial: At least twenty feet (20') deep and six feet (6') tall along entire highway frontage. All vehicles and at least two-thirds (2/3) of the buildings should be obscured from highway view.**

In the absence of native vegetation on the site, a solid fence should be installed along with the planting of a vegetative screen. Such a fence should obstruct the view of all vehicles and buildings up to a height of six feet (6') above grade.

As stated previously, the applicant has not proposed a use for the site. The applicant has cleared the interior of the lot, and has left a section of trees and underbrush uncleared adjacent to the Highway 101 right-of-way. This will allow the applicant in the future to meet the visual barrier requirements for each type of development listed as part of FCC 10-16-7-C. These criteria are met.

H. General Provisions:

1. **Yards and open areas shall not be used for the storage, display or sale of used building materials, scrap or salvage.**

The applicant has not proposed to use this area for storage, display or sale of used building materials, scrap or salvage. This criterion is met.

TITLE 4, CHAPTER 6: VEGETATION PRESERVATION

4-6-3: VEGETATION CLEARING PERMIT REQUIRED:

- A. **A vegetation clearing permit shall be required in any of the following circumstances:**

1. **Clearing native vegetation from any property within 120 feet or within the direct line of sight from Highway 101, Highway 126, Munsel Lake Road, 9th Street, Bay Street, Rhododendron Drive, and areas which have been designated by the City as a riparian corridor, wetland, greenbelt, or view corridor.**
2. **Removing native vegetation from any parcel for which a valid building permit has not been issued.**

The property owner has applied for a vegetation clearing permit. The vegetation proposed to be removed requires a vegetation clearing permit as the site does not have a building permit and it is also located within 120 feet of Highway 101.

4-6-4: PROCEDURE FOR OBTAINING A VEGETATION CLEARING PERMIT:

- A. A vegetation clearing permit application is required unless the application includes a concurrent application for a building permit or Conditional Use Permit, except that the criteria in FCC 4-6-4 C shall also apply to any removal of native vegetation from a significant riparian or wetland buffer zone requested as part of a setback adjustment granted under FCC 10-7-4.**

As discussed earlier, the applicant has not proposed construction or a conditional use upon the site. The property is not within a significant riparian or wetland buffer zone; therefore the remainder of this criterion does not apply.

- B. All requests for a Vegetation Clearing Permit shall be submitted to the Planning on a form available from that department, and containing the following minimum information. (See FCC 10-7-4 for additional submission requirements for areas within significant wetland or riparian buffer zones):**
- 1. Name, address, telephone number of applicant, property description and date;**
 - 2. Lot dimensions and footprint of structure(s) drawn to scale;**
 - 3. A plot plan showing trees or native vegetation to be removed and reason for clearing or felling, and location of proposed structures and other improvements;**
 - 4. A description of any plan to replace, landscape, or otherwise reduce the effect of removal of vegetation and time of implementation.**

The applicant has provided an application for their Vegetation Clearing Permit request, but has not provided the requested minimum information. The applicant has provided their name, address, telephone number, property description and date, a placement plan for all replaced trees. Staff has determined the number of trees felled.

- C. The Planning Department shall process the Vegetation Removal Permit application through the Administrative Review Procedures in FCC Title 10 Chapter 1 within thirty (30) days of filing a complete application. Review and approval shall be based on the following criteria, as applicable to the request:**
- 1. The necessity to remove native vegetation in order to construct proposed improvements or otherwise utilize the property in a reasonable manner consistent with the City Code and policies;**

The applicant completed all vegetation clearing prior to applying for a Vegetation Removal Permit. Unfortunately, this did not allow staff the opportunity the review the application prior to work being done on the site and vegetation being removed. The removal, as completed, is reasonably consistent with the City Code and policies, however, no further vegetation removal will be permitted until development of this lot. (Condition 3)

2. **The environmental and physical impacts such clearing may have, including visual drainage, wind erosion, protection of adjoining property and structures, and impacts on significant riparian corridors or wetland buffer zones. Impacts on any affected significant wetland or riparian buffer zones shall be supported by a qualified professional or through consultation with staff from the Soil and Water Conservation District, Siuslaw Watershed Council, Oregon Department of Fish and Wildlife (ODFW), Oregon State University (OSU), or another person or agency with knowledge or experience with the affected resource.**

As stated earlier, the area is undeveloped but relatively flat. The applicant has placed brush grindings over the property to secure disturbed sand from the effects of wind and stormwater erosion. There are also no nearby significant riparian corridors or wetland areas which affected by the clearing project.

FCC Title 9 Chapter 5 requires sites larger than 10,000 sq. ft. and involving more than 50 cubic yards of grade or fill to meet advanced stormwater requirements. This site is smaller in size and did not involve grading or filling, and therefore met the requirement for small projects. The applicant has used an approved method to cover their cleared property and minimize the erosion on the lot by wind and stormwater.

3. **The adequacy of the applicant's proposed landscaping or revegetation plan, including plant selection, staking, irrigation, and other maintenance provisions. (This section amended by Ordinance No. 22 Series 1994).**

The applicant provided a replanting plan as required through enforcement letter dated July 1, 2016. Review of this replanting plan will be conducted as part of staff review of FCC 10-34: Landscaping later within this report.

Replanting shall be completed within three months of issuance of this administrative review decision (December 22, 2016). (Condition 4)

Noxious vegetation is not permitted to grow on the site at any time. (Condition 5)

4-6-6: PENALTIES: Failure to obtain a permit, or comply with a condition or requirement of this Chapter shall be deemed a violation of City Code and subject to one or more of the following penalties:

- A. **Replacement of damaged or removed vegetation which approximates the site condition prior to the offense;**

- B. Replacement of damaged or removed vegetation which has been determined by the Planning Commission to provide sufficient mitigation of the offense within a reasonable time-frame;**
- C. Pursuant to the General Penalty clause contained in Code Section 1-4-1, each offense shall be punishable by a fine not to exceed five hundred dollars (\$500.00), each day constituting a separate offense.**
- D. Withholding or revocation of a business license, final PUD or subdivision approval, building permits, and suspension of building inspections until each offense has been satisfactorily mitigated. (This section amended by Ordinance No. 22 Series 1994).**

The applicant applied for a Vegetation Clearing Permit, albeit after clearing work had been done. Condition 5 above requires the applicant to re-vegetate the lot within three months pursuant to FCC 4-6-6-A and 4-6-6-B. Should the applicant fail to meet the conditions of approval of this decision, they may be subject to the other penalties of this section.

TITLE 4, CHAPTER 1: BUILDING REGULATIONS

1-15-3: SECURING LOOSE, OPEN OR RAW SAND

- A. Prior to taking any of the following actions, any person, firm, corporation, or public agency (city, special district, county, state or federal) shall contact the Community Development Department staff to determine if such actions are likely to cause off-site movement or displacement of loose sand in ways that would damage adjacent properties or create unsafe traffic conditions:**

- 2. Removal of any natural or planted ground cover, trees, shrubs, grass**

If determination is made that there is a real possibility that movement of sand would cause damage to adjacent properties or create unsafe traffic conditions, then a Sand Management Plan will be required.

The applicant has stated that they intend to control bare sand with a bark mulch cover. This work has been completed and is currently acceptable.

The applicant shall ensure that the cleared areas of the lot do not present a sand management issue in the future and shall monitor the property in order to ensure that sand is not leaving the property in a manner to damage adjacent properties or create unsafe traffic conditions. (Condition 6)

TITLE 10, CHAPTER 34: LANDSCAPING

10-34-3-4: Landscape Materials. Permitted landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, existing native vegetation, outdoor hardscape features and storm water features, as described below.

A. Plant Selection. A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used, consistent with the purpose of this Chapter. A suggested Tree and Plant List for the City of Florence and the Sunset Western Garden Book are available at City Hall. The selection of plant and tree species shall be based upon site conditions such as wind and sun exposure, space limitations, water availability, and drainage conditions. The use of indigenous plants is encouraged, and may be required where exposure, slope or soil conditions warrant.

3. Trees. Evergreen and deciduous tree species shall meet the following minimum standards: deciduous trees shall be a minimum of 1 ¾ inch caliper (diameter) measured 6 inches above grade, and evergreen trees shall be a minimum of 5 feet tall (Nursery Grade 5/6).

The applicant has selected Wax Myrtle to replace the trees removed from the site. The 19 trees which were removed were mainly Coast/Shore Pines. Wax Myrtles are not of sufficient size to be counted towards a required number of trees (see Note 1 – Tree and Plant List for the City of Florence).

The applicant shall replace nineteen plants of the varieties which were removed or plant nineteen Coast/Shore or Austrian Pines of at least the minimum listed size according to the Tree and Plant List for the City of Florence and FCC 10-34-3-4. (Condition 7)

10-34-3-5: Irrigation. Permanent, underground irrigation is required for all landscaping, except existing native vegetation that is preserved in accordance with the specifications of Section 10-34-2-2 and new drought tolerant plants which must have temporary irrigation for plant establishment. All irrigation systems require an irrigation permit and shall be installed with a backflow prevention device per FCC 9-2-3-5.

The applicant has not indicated whether or not irrigation will be provided for the proposed plantings. Both the proposed planting and the required plantings would have only required temporary irrigation for establishment.

The applicant shall provide temporary irrigation for plant establishment and during dry periods as needed. (Condition 8)

VI. CONCLUSION

Staff finds the request for a Vegetation Clearing Permit to remove vegetation meets the applicable criteria in Florence City Code with the conditions outlined below.

VII. CONDITIONS OF APPROVAL

1. Approval for shall be shown on:

"A" Findings of Fact
"B" Site Plan & Land Use Application

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 those changes relating to the interior or ADA access which are regulated by Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. Regardless of the content of material presented for this application, including text and exhibits, staff reports, testimony and/or discussions, the property owners agree 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 action as documented by the records of this decision and/or the associated Conditions of Approval. The property owner shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of building permit.
3. No further vegetation removal will be permitted until development of this lot.
4. Replanting shall be completed within three months of issuance of this administrative review decision (December 22, 2016).
5. Noxious vegetation is not permitted to grow on the site at any time.
6. The applicant shall ensure that the cleared areas of the lot do not present a sand management issue in the future and shall monitor the property in order to ensure that sand is not leaving the property in a manner to damage adjacent properties or create unsafe traffic conditions.

7. The applicant shall replace nineteen plants of the varieties which were removed or plant nineteen Coast/Shore or Austrian Pines of at least the minimum listed size according to the Tree and Plant List for the City of Florence and FCC 10-34-3-4.
8. The applicant shall provide temporary irrigation for plant establishment and during dry periods as needed.

Informational

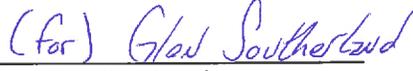
1. Development and construction of residences, commercial buildings, or streets require land use, building, and public infrastructure permits respectively.

VIII. EXHIBITS

- "A" Findings of Fact
- "B" Site Plan & Land Use Application
- "C" Site Visit Photos
- "D" Enforcement Letters

APPROVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, this 23rd day of September, 2016.


Wendy Farley Campbell
Planning Director


Glen Southerland
Assistant Planner