

CITY OF FLORENCE PLANNING COMMISSION
September 13, 2011 ** MEETING MINUTES DRAFT**

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

Chairperson Nieberlein opened the meeting at 7:00 pm. Roll call: All Commissioners were present except Commissioner Bare (excused) and Commissioner Peters (excused). Also present: Community Development Director (CDD) Sandra Belson, Building Official (BO) Carl Dependahl, and Senior Planner (SP) Wendy Farley-Campbell.

1. APPROVAL OF THE AGENDA

The Agenda was approved as presented.

2. PUBLIC COMMENTS

Chairperson Nieberlein read the following into the record: *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.

3. APPROVAL OF THE MINUTES

Commissioner Muilenburg made the motion to approve the 08/09/2011 Planning Commission meeting minutes as presented. Commissioner Hoile seconded the motion. The motion passed by vote of 2 ayes and 2 abstains (Commissioner Tilton and Commissioner Wise).

Commissioner Muilenburg made the motion to approve the 08/23/2011 Planning Commission meeting minutes as presented. Commissioner Wise seconded the motion. The motion passed by vote of 3 ayes and 1 abstain (Commissioner Hoile).

4. PUBLIC HEARING

Resolution PC 11 08 ZC 02 and PC 11 09 TA 01

Chairperson Nieberlein stated that they will hold one Public Hearing tonight. She stated that the hearing is on Resolution PC 11 08 ZC 02 and PC 11 09 TA 01, a proposal to create a new Coast Village Zoning District as Title 10 Chapter 29 and re-zone the Coast Village Development from Single-Family Residential District (east side of Spruce Street) and Highway Commercial District (west side of Spruce Street) to Coast Village District and other related text changes in the Florence Realization 2020 Comprehensive Plan and to the zoning code in Title 10 of the Florence City Code.

Before we begin, I would like to ask all those in attendance to turn off their cell phones.

Chair Nieberlein read the following into the record:

These proceedings will be recorded. These hearings will be held in accordance with the land use procedures required by the City and the State of Oregon.

Prior to the hearing 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 the City and parties involved an opportunity to respond to the issue, would preclude an appeal based on that issue. Prior to the conclusion of this initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application.

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 Nieberlein asked if there is any Commissioner who wishes to declare a conflict of interest, bias, ex-parte contact, or a site visit and all Commissioners stated that they had a site visit.

Chairperson Nieberlein asked if there is any member of the public who wishes to challenge a Commissioner's impartiality and no one spoke.

Chairperson Nieberlein opened the public hearing at 7:09 pm.

PRESENTATION OF STAFF REPORT

SP Farley-Campbell stated that before the Commission this evening is a quasi-judicial and legislative public hearing for proposed amendments to Coast Village and this is the second step in the land use process. There are a number of other steps that have been completed up to this point and for the benefit of the people who are present and the people who are watching on television, she will reiterate. Back in April and June, staff met with the Coast Village residents regarding this process. This has been a collaborative process between the Coast Village Home Owners Association, the residents, and the City where they have worked together to come to a resolution that is beneficial for all. The Planning Commission held a public hearing and a work session on 06/28/2011 and at that public hearing the Planning Commission initiated the proposed amendments to the Coast Village Zoning District, other ancillary amendments to city code, and the proposed amendments to the zoning map. On 07/12/2011, the Planning Commission went on a tour of the Coast Village properties to view the development layout. There were members of the Homeowners Association present and there was no deliberation during this tour. After the initiation process, they began the notification process which requires a 45-day notice to the Department of Land Conservation and Development (DLCD). At the end of August the property owner notices were mailed which included both property owners that are directly affected by this (meaning the people that own property within Coast

Village) and as required by the State, the property owners within 300-feet of the Coast Village boundary. Land Use signs were posted at each of the Coast Village entrances. These signs included the notice and the proposed amendments. On 09/07/2011 there was a notice published in the Siuslaw Newspaper that also announced this public hearing and the amendments that are proposed in general.

SP Farley-Campbell stated that tonight will be the first evidentiary hearing of a quasi-judicial process and legislative process so the Planning Commission will hear testimony and consider making a recommendation to City Council for proposed amendments to code and the City's Comprehensive Plan. Following that recommendation there will be a City Council public hearing. This will allow for another opportunity to testify on this matter and the date of this hearing is to be determined but will be a minimum of 20-days after the Planning Commission makes their announcement.

SP Farley-Campbell read the following into the record: *There are multiple criteria that are involved in this matter. The City criteria applicable to the proposed changes include the Florence City Code (FCC) Title 10 Zoning Regulations, specifically Chapter 1, Sections 1-3-B and Section 1-1-5 and Section 1-2-2. City criteria includes the Florence Realization 2020 Comprehensive Plan and there are additional chapters that have been added since this was initiated. The chapters include Chapter 1-Citizen Involvement, Chapter 2-Land Use, Chapter 5-Open Spaces and Scenic, Historic, and Natural Resources, Chapter 10-Housing Opportunities, Chapter 12-Transportation, Chapter 13-Energy Facilities and Conservation. There are also some state criteria that are applicable which include the are Statewide Planning Goals and these are applicable because there are some Comprehensive Plan amendments proposed. The applicable goals include: Goal 1-Citizen Involvement, Goal 2-Land Use, and Goal 10-Housing. Finally, there are three Oregon Revised Statutes (ORS) that are applicable to this proposal. These include ORS 197.610, ORS 197.763, and ORS 227.186.*

SP Farley-Campbell said that the proposal will add a new Coast Village District. It was re-numbered from Chapter 37 since the initiation. After consultation with the City Recorder they decided to assume Chapter 29. SP Farley-Campbell stated that the proposal will re-zone the properties. The eastern part of Coast Village would be re-zoned from Single-Family Residential to Coast Village District and the western part would be re-zoned from Highway District to Coast Village District.

She said that the proposal also includes ancillary amendments. These include changing the definition of recreational vehicle in Chapter 10. Presently, it says it is a "temporary structure" and they will incorporate "except as permitted in Coast Village" into that language. In FCC 10-2-9, the proposal would remove some language related to manufactured home regulations because it is obsolete. In FCC 10-12-2-3, the proposal would remove language that is inconsistent with state law regulating manufactured homes and revises and relocates text regarding emergency housing siting. In the Comprehensive Plan under Chapter 2, the proposal will amend the Medium Density section to include Coast Village as an implementing district.

SP Farley-Campbell stated that Coast Village is a unique place that was developed as a campground through five different plats that were recorded between the years 1970 and 1982. There are roughly 259 lots as platted and they are sized between 21,500 square feet and 3,500 square feet. Of those 259 lots, there are about 73 lots (28%) that meet the current zoning requirement for size. The proposal would allow site built homes on any lot, it would allow

manufactured homes without regards to size, and it would permit motor homes, recreation vehicles and park models both permanently and temporarily.

SP Farley-Campbell summarized the proposal stating that the setbacks would be 20-feet in the front with parking to be allowed in the front yard, 8-foot side yards with a 5-foot wide native vegetation greenbelt (minimum 6-foot in height) and 3-foot fire access as required between the greenbelt and the dwelling, and 10-feet in the rear yard with a 5-foot wide native vegetation greenbelt (minimum 6-foot in height) and fire access. She stated that these setbacks are only for the dwelling as accessory structures can be built up against the greenbelt.

SP Farley-Campbell said that the proposal will have the dwelling structure height reduced from 28-feet to 16-feet as measured to the highest point of the roof.

SP Farley-Campbell said the proposal will have all the perimeter signs and fences regulated under the FCC. The Covenants, Conditions, and Restrictions (CC&R's) presently do not permit any signs and they have their own fence standards.

SP Farley-Campbell stated since this process was initiated on 06/28/2011, there have been some changes that were done to the code and those are included in Exhibit F. These were done to address some concerns that the Commissioners had and also to address some concerns received from the public. These included creating a definition for the word "lot" and adding two definitions for dwellings, making the permitted uses section briefer. They moved the guest section to what is permitted rather than having it as what is prohibited and to clarify they can have one permanent or temporary dwelling per lot and if they so desire, they can have an additional mobile structure on the site as a guest quarters. Lot coverage had the word "structures" under the 35% rule and in looking at Coast Village regulations, they used the word "enclosed structures" so they modified the proposal to include the word "enclosed." They received some testimony that expressed concern over street encroachments so they also excluded calculating street pavement in that 65% coverage. They changed measuring the front setback beginning at the pavement rather than from the lot line. They clarified that parking can be gravel or paved.

SP Farley-Campbell referenced Exhibit A stating that there was concern over the "as platted" language use and it was recommended that they use the term "as developed." The Police had some concerns over addressing, which will be handled during the permitting process. Tom Nicholson, Attorney for Coast Village Home Owners Association has requested 10-foot vision clearance for Coast Village. He cites the 10 mph speed limits, narrow street widths (20'platted) and one-way traffic pattern as reasons for the reduction. Regarding accessory dwelling units, to make the intent clear, FCC 10-29-4-A was added to disallow accessory dwelling units while provision for guests staying in an additional RV was added as an allowed use to FCC 10-29-3. Regarding parking and service vehicles and visitors, she included language from the FCC in the "Issues" section of the staff report. Regarding the removal of wheels and tongue, staff came up with the definitions of permanent and temporary and specifically removed references to wheel and tongue in the definition of permanent.

SP Farley-Campbell stated that there have been some additional changes that have come up since the packet has come out. The homeowner's association requested to change the "lot" definition to nearly match what is in the CC&R's. There was also some reference to joined lots in the CC&R's where the City does not have them as joined and will leave them as such so

they could be developed in the future. They removed all references to “self contained.” Under lot coverage they took out “privately platted streets” and added “homeowners association” before streets. They also addressed setback concerns. They added the provision to allow lot line adjustments. They kept the disallowing of partitions. They also would remove the definition of “dwelling” under Title 10, Chapter 1.

Commissioner Wise asked if the term “dwelling” is used anywhere else under Title 10. SP Farley-Campbell responded that she is sure the term is used in other areas under Title 10. Commissioner Wise asked how they could reconcile this. SP Farley-Campbell responded that there are specific definitions of “dwelling” so they would go to one of those definitions to whichever the case applies. Commissioner Muilenburg stated that he does not understand why they are deleting the word “dwelling.” SP Farley-Campbell said this is because the definitions proposed are more inclusive. Commissioner Wise said 10-1 is the foundation document for definitions and he does not know why they didn’t just redefine it in the code that they are putting in place for Coast Village instead of removing it from all of the zoning documents. SP Farley-Campbell responded that this suggestion came up within the last 24-hours and they are open to suggestions of re-wording.

Commissioner Muilenburg said there are two definitions, one is “permanent dwelling” and one is “temporary dwelling,” not just the word “dwelling.” SP Farley-Campbell stated that “dwelling” is only under FCC 10-1-4 and under Coast Village; it is “permanent dwelling” and “temporary dwelling.” These two terms are not used anywhere else in the FCC but under Title 10, Chapter 1 there is more specificity to also include multi-family, duplex and single-family. Commissioner Wise stated that it would seem the most direct way of doing this would be to say that for the purposes of the title that deals with Coast Village that the definition of “dwelling” in 10-1 does not apply. Commissioner Tilton stated he was concerned about this as well and maybe the cleanest way would be to include the term “this is applicable to every part of the City except for the Coast Village Zone.”

Commissioner Muilenburg stated that he is concerned that they received this change only within the last 24-hours and SP Farley-Campbell clarified that the Commission will make a decision after they have had the opportunity to hear the testimony.

Chairperson Nieberlein asked if any of the Commissioners had any questions of staff.

Commissioner Tilton stated he had a question about the reduction of vision clearance. When he looked at Exhibit L, it states that it was Mr. Nicholson’s understanding that both the Police and the Fire Department had no objection to the 10-foot reduction but when he looked through the rest of the material, he could not find any evidence of this and he (Commissioner Tilton) just wondered if they could get some more information on this.

SP Farley-Campbell stated that Fire Marshall (FM) Sean Barrett is here this evening and he is planning to testify and he has verbally stated that he did not have a problem with this and he knew that they were requesting this. The Chief of Police did not specifically address this because his statement came in before the 10-foot request.

Commissioner Muilenburg asked if the 5-foot greenbelt is part of the 8-foot side yard and 10-foot rear yard setbacks or is it in addition. SP Farley-Campbell stated that it is included as part of the setback measurement.

Commissioner Muilenburg referenced Exhibit F, under Permitted Buildings and Uses item “C”, stating that this language does not make it clear. He referenced the next page, item C, at the top, the yard and buffer regulations stating he is curious if they need to define pavement or do they need to define the edge of pavement. SP Farley-Campbell handed out the code that the homeowners association has been looking at. She stated that “the front edge of the pavement” has been added.

Commissioner Muilenburg stated he has some big issues but he does not know when to bring them up. Chairperson Nieberlein suggested Commissioner Muilenburg’s issues be addressed under discussion. He agreed with Chairperson Nieberlein. He asked if they know how many properties are affected by this street issue and SP Farley-Campbell responded that she does not know the specific number. Commissioner Muilenburg stated that it seems to him that their numbers are getting skewed a little bit because it is more of a minority than a majority that these issues are dealt with and maybe that is the point of it all but he will discuss this during the discussion period.

Chairperson Nieberlein asked if there are any other questions for staff.

Commissioner Wise stated that in the findings-of-fact on page 3, item number 14, it says only signage and fences that are located along the perimeter of the entire development are regulated under the FCC because the Coast Village CC&R’s already have standards for fences and CC&R’s do not allow signs within the development. Commissioner Wise said he does not think this is true. The reason that we only do the perimeter is because that is the only place where the City has jurisdiction. We are not recognized in any kind of association as having authority to implement city law, city code, or anything else. The code for signs FCC 4-7-4 *Exempt Signs* says “signs not visible from the public right-of-way or from public property.” There are no public right’s-of-way in Coast Village. We do not have the authority to implement this, what they do is not part of the FCC and he wants to recognize their association as having some partnership with the City in enforcing the code. He would rather they just stopped by saying “only signage and fences that are located along the perimeter of the entire development are regulated under the City Code.” He does not see any purpose in including the rest. This is on page 3, item 14 under the summary of proposed changes. We make reference to the Coast Village Association somehow having control over signage that the City would have control over. We do not delegate those authorities to anybody.

SP Farley-Campbell said that if it states in the sign code that Coast Village falls under the exempt category, then by having this in here, signs shall be in accordance with Title 4, Chapter 7 of this title and you go to exemptions and it says it is exempt, then they are exempt but they would not want to take it out.

Commissioner Wise said he wants to take out “because the Coast Village CC&R’s already... (to the end of the sentence.)” Chairperson Nieberlein clarified that the sentence would read as follows: “Only signage and fences that are located along the perimeter of the entire development are regulated under the City Code.” SP Farley-Campbell suggested it reads “only signage within visibility of the public right-of-way or public property is subject to City Code....” rather than saying perimeter and that the fences is a perimeter issue.

Commissioner Wise referenced page 4 line 2 under referrals. He wonders if they ever receive an acknowledgement of receipt or if they ever receive anything back from Central Lincoln PUD, Lane County Land Management, or State of Oregon Department of Land Conservation and Development. SP Farley-Campbell stated that she does receive comment from these entities. She did hear back verbally from the Oregon Department of Transportation and Lane County Land Management, and neither one had any concerns. Commissioner Wise stated that they should have a note for the record that they did respond.

Commissioner Wise referenced page 6 regarding vision clearances. The reference Title 10-35-2-13 says in its last paragraph “vision clearance requirements may be modified by the Public Works Director on finding that more or less site distance is required. For example, due to traffic speeds, roadway alignments, etc.” He sees this to say that they can turn over the decision about this whole issue of vision clearance to Public Works Director (PWD) Mike Miller and allow him to make the judgment rather than all of these hoops and other things that they are trying to resolve. Chairperson Nieberlein stated that she thinks this should come up under discussion.

Commissioner Wise referenced page 15, paragraph 4 that states “as of June 2011 the average sales price for the Florence area was \$177,700. During the same timeframe, Coast Village’s average sales price was \$61,600. He asked what the source of that information is.

SP Farley-Campbell stated they receive these periodically from a real estate agent named Steve Earnshaw. She stated that she will add this information.

Commissioner Wise stated he did not understand why they were moving emergency housing. SP Farley-Campbell responded that this was an opportunity to discover far reaches of code that have not been touched in 20-years. She said that moving it out of Chapter 12 and to Chapter 2 makes emergency housing applicable city-wide.

Commissioner Wise referenced Exhibit F under Permitted Building and Uses, 10-29-3-B where it states “guests may stay in an additional self contained mobile structure for up to 6-months in any 12-month period.” He was not sure what Coast Village is trying to accomplish here or whether or not there was some slight of hand that could go on where they could say “well really it is three people but they’ve only stayed 3-months each.” He asked if they are trying to restrict any other person living on that property for 6-months out of the year. SP Farley-Campbell stated that she would let the applicants respond to this question.

Commissioner Wise referenced Exhibit F, page 3, 10-29-5-C-3 where it references the accessory structures. It appears that they can be on the line of the greenbelt but there doesn’t appear to be any limit on the size of these accessory structures and therefore they lack a 3-foot fire buffer between them and the green zone where they require this properly everywhere else. SP Farley-Campbell stated that it is her understanding that the fire code requires the 3-foot buffer on an occupied space, a dwelling space, and accessory structures are not intended for dwellings. SP Farley-Campbell stated this information came from the Fire Marshal and perhaps he could clarify what the fire code specifically regulates. Commissioner Wise said he thought earlier that someone made a mention of somebody actually bunking out there during the summer so if someone is going to actually be physically living in there, then he would like to hear the Fire Marshal’s opinion on the buffer.

TESTIMONY OF PROPONENTS

Chairperson Nieberlein stated that they will be taking testimony from the applicants, proponents, and opponents. Copies of the written comments received have been distributed to the Planning Commission.

Tom Nicholson (Applicant's Representative) – PO Box 308 – Florence, OR 97439

Mr. Nicholson stated that the consensus of the Coast Village community is that Exhibit F as revised and distributed at the hearing is in acceptable form and his purpose here tonight is to say thank you and encourage the adoption of this which is a much better fix in comparison to the existing situation. He has requested by email for the record that the community is requesting the 10-foot vision clearance reduction from the standard 20-feet. The reason for this is that it is a one-way street, it has a 10 mph speed limit and things are quite condensed. The 20-foot setback is really not necessary. There was also come concern regarding unnecessary removal or damage to the existing vegetation and part of the amenities of Coast Village is when you walk in there, it feels cozy because of this vegetation and if you establish 20-foot vision corridors throughout, it would cause too much vegetation removal and it would destroy the harmony and ambience of the neighborhood. His understanding is that the Fire Marshal and the Police have approved this. In general, the membership is in favor of this proposed change. The only text changes that they are suggesting is on page 1 of Exhibit F under the definition of "Lot," the third line down right now states "all lots" and they would insert the words "all numerical lots" because all the private lots in Coast Village are numerical. On page 2 under 10-29-3 Permitted Buildings and Uses, under item B, Guest Structures, he proposes because of the definitions of a permanent dwelling and a temporary dwelling, his understanding is that if you have a kitchen facility, this puts you into the definition of a dwelling which the goal of Coast Village is to have one primary dwelling and then have some other arrangement where guests can come and stay up to but not exceeding 6-months a year. He suggests under item B that they add "in addition to "A" above...guests may stay in an additional mobile structure for up to 6-months in any 12-month period" and then adding the additional language "which structure shall not be deemed to be a temporary dwelling." The code prohibits two dwellings on one lot and the typical example of a guest facility will most likely be a fifth wheel. Because many fifth wheels have a sink and an oven, one could argue that it could be considered a dwelling. His fix was to exempt out the guest structure as not deeming it as a dwelling unit.

Commissioner Wise asked for the intent of the 6-month limit. Mr. Nicholson responded that this is covered in the declaration. They have tried to make the Coast Village CC&R's and the FCC as close as possible but it is impossible to make them identical. The CC&R's regulations focus on occupancy whereas the City has their focus on the structures. The idea is to preclude two living situations on one lot.

Commissioner Wise asked if they could get a commitment from Coast Village to have all of their houses have addresses posted by a certain date. He would like to see them make an effort to place proper house numbers up for Fire and Police. Mr. Nicholson stated this is a great idea but he does not know if it is within the four corners of the issue before them. He thinks if this question is presented to the president that they could initiate this procedure. It makes sense for fire and safety purposes.

Ms. McGann stated that she is the President of the Board of Directors for Coast Village. About four weeks ago, they started a walk about program where members of the architectural review committee and members of the board, walk one morning per week around the village to make sure that things are as they would like them to be. One of the items they are checking on is the signage to make sure that every lot has a number on it and that this number is visible. This is in their rules and regulations. They are about 1/3 of the way through and she is committing to the Commission tonight that there will be numbers placed on every lot within the next couple of months.

Mr. Nicholson stated under 10-29-3-C dealing with accessory structures, he agrees that the language is ambiguous.

Commissioner Muilenburg stated he was thinking all along that they already had the 20-foot vision clearance and the comments made tonight lead him to believe that the intersections may not have a 20-foot clearance now and this is why they want to not have this because they may be going in there and cutting brush out. Mr. Nicholson said this is correct.

Commissioner Muilenburg asked if anyone has checked to see if there is a 10-foot clearance on all of them. Mr. Nicholson said he does not know if anyone has done this. If the Fire Marshal and Police believe this should be done then they will follow up on it. Commissioner Muilenburg said if it is part of the code changes then it would have to be done. Regarding Exhibit F, there is some language that includes some lots where they are combining two parcels and he wants to understand what he is or is not approving and he does not know how many lots this deals with. Mr. Nicholson said they are not doing anything. They are simply going forward and trying to make FCC consistent with what is already in the CC&R's. The CC&R's state that several lots in past history were allowed to be treated as one large lot. This was prior to 1997 and in 1997 the definition of a lot was "any private platted numerical lot." But all of a sudden they have some lots that are really two separate lots but are being treated as one lot. They are trying to make the City's definition of a lot the same as Coast Village's definition of a lot.

Commissioner Muilenburg spoke in regards to the dwelling issue that they have discussed tonight. They wanted to take out "self contained" and he understands the problem of trying to make this work but he does not think the intent is to have someone throw up a cot in the shed and allow them to stay for 6-months. Mr. Nicholson stated that the CC&R's prohibit this.

Commissioner Muilenburg asked if a shed would fall under an accessory structure and Mr. Nicholson said yes. Mr. Nicholson stated that any structure that is not a dwelling or a guest facility would be deemed an accessory structure. Before you could build a shed, you would need approval of the City and you would need approval of the Architectural Review Committee (ARC). Commissioner Muilenburg asked if the review would still be required if the accessory structure was under 200 sq ft. Mr. Nicholson stated the ARC would control this. A gentleman from the audience stated that the ARC has to approve any structure. Commissioner Muilenburg stated that they would upfront deem it as either a shed or living quarters. Self contained means that someone could have a cot out there but may not have a restroom or a sink. If you allow someone to build a structure and have someone throw a cot in

it, he would see this as another dwelling. CDD Belson stated that guests can only stay in a mobile structure so a shed would not fit the definition of a mobile structure.

Commissioner Muilenburg asked if they have a definition of a mobile structure and a person spoke stating that they do not have that definition. CDD Belson stated that “mobile” means to be “moveable” so she does not see how the lack of a definition would affect this. CDD Belson stated the definition of temporary dwelling references mobile structure such as park model, recreational vehicle and motor home so those are examples of mobile structures.

Commissioner Muilenburg asked if Mr. Nicholson knows how many properties are affected by the streets running through their properties. Mr. Nicholson said he could only estimate because they wouldn’t know about certain ones without a survey.

Commissioner Muilenburg stated when you look at how many homes will be affected by these changes; he comes up with 50 or less. He stated that the change would allow a temporary dwelling for these 50 when they do not even require a parking space. Mr. Nicholson stated his understanding was that the current code prohibits development on most of the lots and so if someone were to walk in right now to try to obtain a building permit, the application would be turned down. The idea was to allow everybody a fair ability to make their lots developable down to these standards. He was personally not involved in the first round where the number of parking spaces came up. He does know the goal is to allow these lots to be utilized. Commissioner Muilenburg stated he does not have a problem with this and he thinks this will be possible but there are over 198 lots that have two parking spaces and now there is a potential that 20-25 lots will only have one. Mr. Nicholson stated that if a lot is too small to handle two spaces, then why not allow them to develop it with only one space. Commissioner Muilenburg responded his point is that this could be handled differently than allowing the whole Coast Village to go down to only one parking spot when it is only affecting a half a dozen properties.

A woman spoke from the audience stating that she does not understand what Commissioner Muilenburg’s concern is about the parking spaces. Commissioner Muilenburg said he has a concern with this and it is an issue for him. He brought it up before and he will bring it up again and they will discuss it during discussion. He just wanted to see if they could give him an explanation that could help him understand why they are going to allow maybe a half a dozen properties or maybe even eleven properties to only have one parking spot when the majority of the owners have two or more spots and then they are going to allow those 11 properties to have a dwelling there that someone could stay in but now there is no parking spot for them.

Chairperson Nieberlein asked the woman speaking from the audience to state her name for the record. Mary McGann stated her name. She said she still does not see Commissioner Muilenburg’s problem. There are some lots that do not have enough room for more than one car. Commissioner Muilenburg responded that his problem is that there will be no place for visitors or service vehicles. He knows the Fire Marshal and Police Chief say this is ok but they are not the ones making this decision and if there is a truck or service vehicle parked in that 20-foot road and there is a fire, it would be a problem for the fire truck.

BO Carl Dependahl stated that he thinks he can offer a bit of a compromise for this. Part of the idea for this is to allow permitting that really was not allowed at all under the current

standards and he thinks Commissioner Muilenburg has a very valid point. You do not want to create a situation that is going to cause a chronic or potential traffic problem. He thinks if they look at this as a permitting thing, which may be a little odd in terms of creating code but they are not forcing people to only have one space and he thinks they could work out a way to review this at the time of application for new development and encourage two parking spaces but if they could demonstrate that only one could be placed on the lot because of the odd shaping of the lots, it may be such that this mechanism to allow only one may only come up a couple of times. Instead of putting it into the law, they could make it subject to review at the time of application. Commissioner Muilenburg said he likes BO Carl Dependahl's idea but he would like to go the other way with this. He would like to require two spaces and then they could prove that they could only fit one. If they can show just cause to only have one space then let them have only one space.

Alta Taylor – 84955 Hwy 101 – Florence, OR 97439

Mrs. Taylor stated she had a granddaughter who was living in an unsafe situation with a baby and she financed a unit in the Village to put her in something that she felt was safe. Her granddaughter lived there three years and she is now married and moved on. Mrs. Taylor said she now has this unit. She would like it to go into the record that from the way she measures, she believes she has the 8-foot on the side of the house where the greenway is and so they have the 5-foot for the greenway and they have the 3-foot for the firemen to get in. Across the back, there is a tall wooden fence and she does not know if she has quite enough setback there and there is not any greenway but it is on the edge of the Coast Village property. This is on the west side. She hopes that having the tall wooden fence is sufficient enough as opposed to a greenway because it would take up part of the yard. On the west property boundary she is fearful that the garage might sit on the property line. There is a garage, a storage unit, and a tool shed and she is fearful it sits on the property line but it's been there a long time and she thinks it should fall under the grandfathering clause. It was that way for 20-years, she is not asking to make any changes, but she just doesn't want to have to move the garage or tear it down. They have at least three parking spaces and maybe four so they do not have any breaking of the rules regarding the spaces. They have a lot of cement blocks laid to keep from tracking sand indoors. These blocks were there when she purchased the property but with the situation of impervious, she does not know if cement blocks constitutes not being impervious for the rainwater to soak into the ground. She just wants it to be on the record that they have these items and she feels it has been this way long enough that it should be able to stay as it is. She is trying to sell this and may have a buyer.

Chairperson Nieberlein asked that because this is the proponent sections, is Mrs. Taylor in favor of the proposal. Mrs. Taylor responded that she is neither in favor of it or opposed to it. She lives in the county so all she cares about is that this lot can stay the way it is with that manufactured home, with those cement surfaces, with that garage, the storage room, and tool shed with lots of room for parking.

Commissioner Muilenburg said, because of something Mrs. Taylor mentioned, he now has a question for Mr. Nicholson. He wants to clarify that there is no issue of structures on or even over the property lines. Mr. Nicholson agreed with this.

CDD Belson responded about Mrs. Taylor's concerns. If the City issued a building permit and if the structures were built accordingly, then they would be grandfathered in. If they were not

issued a City permit, the City cannot state whether they are or are not alright according to code because the City has not approved them.

Ginger Anderlohr – 22 Sand Dollar – Florence, OR 97439

Ms. Anderlohr stated that she was the Chair for four years on the ARC. The ARC is basically the police of the Village. If they saw someone staying in a second unit for over 6-months, the ARC was required to take the issue to the Board of Directors and the unit would be removed out of the Village.

Chairperson Nieberlein stated that this is the proponent section and asked if Ms. Anderlohr is in favor of the proposal. Ms. Anderlohr responded that he started this and is in favor of it.

TESTIMONY OF OPPONENTS

SP Farley-Campbell stated for the record that Anita Vincent had submitted written testimony that is included in the packet; however, it was received after the assimilation of the packet and therefore does not have an exhibit label. She lives at 933 30th Way Florence, OR 97439. She is an opponent for the proposed amendments to the Coast Village Zoning District. She specifically cited that she disagrees or is against anything where re-zoning of land to allow infractions of the regular standards of building regulations. Presently, the City is not proposing anything that goes against building regulations.

TESTIMONY OF NEUTRAL

There was no testimony given by anyone neither for nor against the proposal.

Chairperson Nieberlein requested that FM Sean Barrett approach the Commission.

Chairperson Nieberlein stated that there were some questions regarding the 10-foot vision clearance as opposed to the 20-foot clearance. They have been told that FM Barrett agrees with this and FM Barrett said this is correct.

Commissioner Wise said that he brought up earlier that they have accessory buildings which acknowledge someone might be staying in. His experience in other states is when you have a structure where someone is going to sleep there, that you must have at least two forms of egress from the building. His concern is that someone could be trapped in one of these buildings because it is right up against the greenbelt. He wonders if FM Barrett believes there should be a buffer between the building and the greenbelt. FM Barrett said in any residential structure you are supposed to have two ways out of sleeping quarters such as a door and window. He did give the blessing to have accessory structures closer but, because of the current concern raised, he will speak to staff. CDD Belson stated that currently the code states “non-residential” structures. This is the intent but there is the question of people abiding by this. FM Barrett stated that the code is vague. They have to have access to residential structures but it does not speak of accessory type structures. It also does not give a specific dimension either. He picked 3-foot because this is what was in the old code.

Commissioner Tilton asked FM Barrett for his thoughts of a single parking space causing the road to be blocked in the case of an emergency. FM Barrett stated that he once lived in Coast

Village, but for the last couple of months he has been driving through quite a bit. There have been a few cars that were close but from everything he has seen they would be able to get around the cars. Commissioner Muilenburg asked if FM Barrett has taken the fire truck through there and FM Barrett said yes. FM Barrett pointed out that even though there are one-way streets, in the case of an emergency, they would go down the wrong way. Commissioner Muilenburg asked if FM Barrett is really going up to the intersections to make sure there is enough vision clearance for the fire truck to go around. FM Barrett said that they took the ladder truck through there so if they could get that in there, they can get anything in there. He has gone to every intersection and used a truck with a nose on it and the vision distance is adequate.

BO Carl Dependahl stated he would like to assure the Commissioners that any application that comes in is always going to be subject to building code regulation and this new and improved zoning code documents as well. It will be reviewed under all of those standards which also include the fire code provisions. If something is submitted as a dwelling unit, they are going to ask that there be emergency escape and rescue such as a window or door. To clarify, a small house can just have one door out. They do not have to have two doors but it is required that they have an emergency escape and rescue opening which is typically a window.

Commissioner Wise said there are some illusions that in order to get a building permit that a person must have some form of written permission from the association of Coast Village. He was wondering if this is true. BO Carl Dependahl stated he did not see this as part of the law but as a HOA policy and courtesy, the City has requested of the places that have gated communities, that they provide some form of approval. In some cases it is a very formal approval from their ARC. For Coast Village they have always had an informal approval to make sure that it is in compliance with their own standards.

STAFF RESPONSE AND RECOMMENDATION

CDD Belson stated they have a suggestion regarding the mobile structure that is available for guests and a suggestion regarding Commission Muilenburg's parking concern.

Commissioner Tilton asked if this is the temporary dwelling definition and CDD Belson stated no. CDD Belson referenced 10-29-2-B where it speaks of guest and how they word the guests. Commissioner Hoile asked if this even needs to be in there. CDD Belson stated it crossed her mind as well. They can just be silent on the issue. If there was a complaint that there were two RV's on the lot or a stick built and an RV that seemed to be permanent dwellings, the City would check into it because they do not allow more than one dwelling on the lot.

CDD Belson spoke regarding Commissioner Wise's comments on vision clearance. If you left it to the Public Works Director, it would be on a case by case basis so they would require him to review the building permits that came in. If it is set in code then it is clear.

SP Farley-Campbell stated that the Commissioner's have had some dialogue about removing the definition of "dwelling." If there is any additional testimony that would aid in their deliberation, it would need to be added before they closed the hearing.

Commission Tilton stated he wondered if it would be useful to ask the chairman of the board if they decided to be silent on the guest occupancy, if the chairman saw this as any kind of a problem. It sounds like they already have this under control.

Mary McGann said she does not see a problem with it not being in the code. This is something they look into during their walk about.

Mr. Nicholson asked if there is a provision in the FCC that simply says an RV used as a guest facility is ok. SP Farley-Campbell stated that there is nothing that states this.

CDD Belson stated many people have RV's in Florence and sometimes they try them out before they go on a trip. Sometimes people will visit in an RV. Most places in the City do not have regular hookups for an RV. Coast Village is different in that respect in that there are hookups because it was a campground. You are more likely to have this situation in Coast Village than you would in the rest of the City. If they get complaints about someone living in an RV on a property, which they sometimes do receive, then they check into it and if it looks like they are really living there, then this is addressed.

Mr. Nicholson stated that by being silent, using an RV as a guest facility under the City's code is a conflict. Without this exception for a guest facility, they have a problem.

Chairperson Nieberlein closed the public hearing at 9:14 pm.

DELIBERATION

Commissioner Muilenburg stated he would like to hear what the CDD Belson has for language regarding the parking issue.

CDD Belson said they could decide who the decision maker is but they will allow one permanent parking space if the second parking space is not physically feasible. If they are concerned about the guests, they could add on if they do have guests, they need to have at least two parking spaces.

Commissioner Muilenburg reiterated CDD Belson's suggestion stating that they could have a guest dwelling only if they have at least two parking spaces. He asked who CDD Belson believes should be the decision maker. She said she thinks they should leave PWD Miller out of it because he deals with public facilities and there are no public facilities affected by this. Commissioner Muilenburg stated that he believes the Building Official would be the best qualified to know what will or will not fit. CDD Belson responded she believes the Building Official should review it but if the Commission would like two people then they could include the Planning Director. BO Carl Dependahl said he thinks they would be perfectly capable of rendering a fair decision on these.

The Commission came to a consensus to have the Building Official review the permits and decide on whether or not one parking space would be allowed as opposed to two or more parking spaces.

Commissioner Muilenburg said he no longer has a concern on the vision clearance. Commissioner Tilton stated he also no longer has that concern.

The Commission came to a consensus that they do not have a concern over the vision clearance.

Commissioner Muilenburg stated that he thinks the Fire Marshal is going to go back and re-think the 3-foot clearance on any guest dwelling. CDD Belson stated if the Fire Marshal wants to change his opinion on this, he can do so and present it when it goes to the Council. Commissioner Muilenburg said he wonders if the secondary access should be included as part of this. CDD Belson stated you are increasing the density and you could argue that it is a concern or they can state that they received input from the Fire Marshal and the Commission feels it has been adequately addressed. SP Farley-Campbell stated that the Fire Marshal indicated that if they do not continue making positive progression towards resolving the issue that there would have to be in and essence, a moratorium on construction in there. A gentleman spoke from the audience stating that it does not need to be part of the Commission's decision because it will be done regardless.

Commissioner Wise stated one of his concerns is the power that homeowner associations have over the residents of those developments. There are now somewhere around 110 million people in this country who are living in developments with homeowner associations and there are a lot of rules being implemented by them in the guise of implementing city ordinances. He wants to draw that line. He would like to make it explicit that the City is not empowering any Coast Village association to have the authority to implement City Code or to enforce City Code. The City is not in any way delegating to any Coast Village association any interest that is currently an interest of the City of Florence. He presented a written summary of what he is speaking on.

Commissioner Wise said what he is proposing is the following within the code for Coast Village. "The City of Florence, by establishing this new land use zone does not create any right or benefit substantive or procedural enforceable by any Coast Village association nor does it delegate, convey, or transfer to any Coast Village association rights, responsibilities, or interests currently held by the City of Florence."

CDD Belson stated that instead of putting this language into the code, that they could add it as a "where as" statement in the resolution. This way it is documenting the intent of why they are doing this zoning district. She has never seen something like this placed into the code. Commissioner Wise said that he likes CDD Belson's suggestion. Chairperson Nieberlein said she has no problem with it but she would like to have the City's Attorney review it. CDD Belson stated that if the City Attorney reviews it, the Commission could not make a decision tonight. Chairperson Nieberlein stated they can make a decision based on it being in the resolution subject to approval of the attorney. She is not comfortable at slapping legal language into the document without a review by the City Attorney. CDD Belson stated she does not think there is a lot of legal risk to doing this which is why she is comfortable placing it in the resolution and not as comfortable placing it into the code.

Commissioner Wise stated that for the record he is not an attorney.

CDD Belson recommended they pass the resolution without the language but in a separate motion state that they would like the issue addressed prior to Council decision.

Commissioner Wise moved that they propose to the City Council that they examine this language for either inclusion in the code associated with Coast Village or in the intent section of the resolution to say “The City of Florence, by establishing this new land use zone does not create any right or benefit substantive or procedural enforceable by any Coast Village association nor does it delegate, convey, or transfer to any Coast Village association rights, responsibilities, or interests currently held by the City of Florence.” Commissioner Tilton seconded the motion. The motion passed by unanimous vote.

CDD Belson stated she asked SP Farley-Campbell to start with Exhibit F and then put a list of items that will be changed that have been discussed so that it can be used in the form of a motion.

SP Farley-Campbell read the following changes:

- Under 10-29-2 Definitions, for lot adding the word “numerical” to the third line. It shall state “All lots modified by lot line adjustments” shall read “all numerical lots modified by lot line adjustments.”
- Under 10-29-3 Permitted Buildings and Uses, item B striking from the proposal as it is written and replacing with “In addition to the dwelling allowed by A above one mobile structure may be permitted for use as guest quarters for up to 6-months in a 12-month period if there are at least two parking spaces on lot in addition to the parking area for the mobile structure.”
- Under 10-29-3-C, add the word “in conjunction with” in place of the word “use.”
- Under 10-29-6-D Permanent Parking, replacing the requirement for one permanent parking space with two permanent parking spaces and adding the language after the second sentence “The Building Official may allow one permanent parking space if he determines that a second parking space is not physically feasible...”
- Leave the definition of dwelling in Chapter 1 but add the exception to Coast Village.
- On page 3 item number 14, take out signage and fences and stop after the phrase “are regulated under City Code.”
- On page 15, section 5, under the findings; cite the source of the property values information.
- Exhibit A is modified on page 3, item number 14 regarding signage and fences, amend section to break out signage and fences and clarify the visible vs. perimeter (CC&R’s need to be gone with a period after City Code and signs could be visible beyond the perimeter).
- Under item number 2 on page 4, amend FCC 10-1-4 and add the definition including that an exception is allowed in Coast Village.
- Under item number 3, amend FCC 10-2-9 change the word “removes” to “replaces.”
- On page number 4, under Exhibit A, under referrals, add whether they responded or not and the method used to respond such as e-mail or telephone.

Commissioner Wise moved approval of Resolution PC 11 08 ZC 02 and PC 11 09 TA 01, a proposal to create a new Coast Village Zoning District as Title 10 Chapter 29 and re-zone the Coast Village Development from Single-Family Residential District (east side of Spruce Street) and Highway Commercial District (west side of Spruce Street) to Coast Village District and other related text changes in the Florence Realization 2020 Comprehensive Plan and to the zoning code in Title 10 of the Florence City Code. Commissioner Tilton seconded the motion. The motion passed by unanimous vote.

5. PLANNING COMMISSION DISCUSSION ITEMS

Commissioner Wise spoke regarding a follow-up to the discussion during the last meeting when they were trying to say how to empower staff to reject applications that did not have the proper landscaping plan plans or site maps. He would like to have agreement that the planning department will supply a copy of FCC 10-6, which defines what the design review board requirements are. He would like the Planning Commission to supply this to each applicant and require an acknowledgment of receipt. This will empower the applicant to know its requirements and the Planning Commission will be able to easily call the applicant to that behavior.

Commissioner Tilton asked the staff what the procedure currently is and how the applicant is informed of with regards to an appropriate application.

SP Farley-Campbell stated that they have a land use application that is all encompassing other than zone changes. It lists all of the drawings and information that is needed for a complete application. There are boxes that you would check off. In the past they included them as exhibits but because there is contact information on the form, they discontinued that practice. Whenever the City sends a letter of completion, it references FCC section 10-5-E which is the land use hearing's section. This section specifically places the burden on the applicant to provide all of the necessary information. Commissioner Wise stated that the planning staff can advise the applicant on what they should do but they have the right to just move ahead anyways and he thinks this particular title clearly says that the site plan must be included along with the criteria the commission will use in examining the request.

SP Farley-Campbell said the Design Review section of code is not the criteria, but rather, it is just a list of items. The presumption is that you scout about the rest of the code to figure out what the code requirements are.

Commissioner Wise said he is looking for a way to put the applicant on notice that they will look at these items closely. CDD Belson said that the Commission would state that they do not have enough evidence before them to show that the application meets the current city code and then the Commission would deny the request. The applicant would then most likely ask for more time to submit the material at which point the City would request the applicant waive the 120-rule. Generally this works best if this is done before the meeting so that the applicant is prepared for the situation.

Commissioner Wise asked when the 120-day timeline begins. CDD Belson responded that the 120-day rule begins when the application is deemed complete. They have 180-days to make the application complete and the 180-days begins once the application is paid for. CDD Belson said she would speak with staff on how to approach this.

Commissioner Hoile stated that Wilbur Ternyik and his wife deserve a thank you for the landscaping that they are taking care of along Highway 101.

6. DIRECTOR'S REPORT

CDD Belson submitted a written Director's report. She stated in addition to her report, she did go to the Council and report on the land use approvals that have been active but will be expiring soon. A few years ago the Council had given a 2-year extension on most land use approvals because of the economy and this extension is coming to an end. The Council did not ask to do anything differently but there is an opportunity to extend these per the code and in some cases there are no more extension options. This will be reviewed on a case-by-case basis. The Cannery Station will expire first. A letter has been sent stating they have a 6-month extension option. Spruce Village Phase II is expiring unless they come in for their final plat by the end of this year. The Middle School site for the design review will expire in the middle of next year. The Quality Childcare will expire in the middle of next year. Further out, there is Ocean Dunes Planned Unit Development (PUD) and Munsel Lakes Village PUD.

SP Farley-Campbell stated that the Sandpines preliminary approvals are expired and the Oregon Coast Military Heritage Museum was going to expire but they are ok because they poured their foundation.

CDD Belson stated there is a development group out of Portland and they have applied for state funding to support housing but they didn't get funding in the round that was awarded in August. The Dialysis Center is not approved because they do not meet code so they stated they will apply for a variance. Assuming they complete their application, the Planning Commission will consider this at the October 11, 2011 meeting.

7. CALENDAR

Tuesday, September 27, 2011 at 7:00 pm – Regular Meeting (Cancelled)
Tuesday, October 11, 2011 at 7:00 pm – Regular Meeting

ADJOURNMENT

There being no further business to come before the Florence Planning Commission, Chairperson Nieberlein adjourned the meeting at 10:26 pm.

APPROVED BY THE FLORENCE PLANNING COMMISSION ON THE ____ DAY OF _____ 2011.

JAN NIEBERLEIN, CHAIRPERSON
FLORENCE PLANNING COMMISSION