

## **AGENDA ITEM #4**

**November 22, 1011**

4. **RESOLUTION PC 11 13 CUP 03:** Request for Conditional Use Permit to construct a single-family replacement dwelling in a commercial zone located at 1738 20<sup>th</sup> Street, Assessors Map # 18-12-26-22 Tax lot 2800. The proposal replaces a single-family dwelling that was destroyed by a fire.

**RESOLUTION PC 11 13 CUP 03**

- A. Finding of Fact
- B. Site Plan
- C. Front Elevation and Illustration
- D. Land Use Application & Narrative
- E. Tax Map
- F. Photographs of the property
- G. Email dated November 1, 2011, Carl Dependahl, Florence Building Official
- H. Email dated November 9, 2011 from Sean Barrett, Fire Marshal, Siuslaw Valley Fire and Rescue
- I. Email dated November 10, 2011, from Mike Miller, Public Works Director

**CITY OF FLORENCE  
PLANNING COMMISSION**

**RESOLUTION PC 11 13 CUP 03**

A REQUEST FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A  
REPLACEMENT SINGLE-FAMILY DWELLING IN A COMMERCIAL ZONE  
LOCATED AT 1738 20<sup>TH</sup> STREET, ASSESSORS MAP # 18-12-26-22 TAX LOT 2800.

**WHEREAS**, application was made by Roger Center of Center Brothers Construction on behalf of Jean Mulvaney for a Conditional Use Permit as required by FCC 10-1-1-4, and FCC 10-4-3 ; and

**WHEREAS**, the Planning Commission/Design Review Board met in a public hearing on November 22, 2011 as outlined in Florence City Code 10-1-1-4-D, to consider the application, evidence in the record, and testimony received, and

**WHEREAS**, the Planning Commission/Design Review Board determined per FCC 10-4-10, after review of the application, testimony and evidence in the record, that the application meets the criteria through compliance with certain Conditions of Approval; and

**WHEREAS**, the Planning Commission/Design Review Board of the City of Florence finds, based on the Findings of Fact, staff recommendation and evidence and testimony presented to them, that the application meets the applicable criteria.

**NOW THEREFORE BE IT RESOLVED** that the Planning Commission/Design Review Board of the City of Florence finds, based on the Findings of Fact and the evidence in record that:

The request for a Conditional Use Permit to construct a single-family residential replacement dwelling can meet or meet with conditions the applicable criteria in Florence City Code and the Florence Realization 2020 Comprehensive Plan. The Planning Commission approves the conditional use permit with the conditions listed below:

**Conditions of Approval:**

1. Approval for shall be shown on:

"A" Findings of Fact
"B" Site Plan
"C" Front Elevation and Illustration
"D" Land Use Application & Narrative

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 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 Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the Owner agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission 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 within 30 days after the signing of the resolution.
3. **Prior to issuance of a certificate of occupancy:** A right-of-way permit is required for the inspection of the replacement sidewalk and driveway:
  - Sidewalks shall be constructed of concrete with 5'-0" curb tight sidewalk along the property frontage of 20th Street; sidewalk width is measured from the back of curb.
  - The driveway approach from 20<sup>th</sup> Street shall be no wider than 24 feet, constructed of concrete and designed to current City of Florence standards.
  - The driveway shall be constructed of concrete and a minimum of 20 feet in length.
4. **Prior to issuance of a certificate of occupancy:** The property owner shall record a one-foot building setback easement along the western property line on the property at 1780 20<sup>th</sup> Street.
5. **Ongoing:** To ensure visual safety considerations are maintained, vision clearing areas shall be maintained in accordance with FCC 10-35-2-13.

**ADOPTED BY THE FLORENCE PLANNING COMMISSION/DESIGN REVIEW BOARD** the 22<sup>nd</sup> day of November, 2011.

\_\_\_\_\_  
JAN NIEIBERLEIN, Chairperson  
Florence Planning Commission

\_\_\_\_\_  
DATE

**STAFF REPORT & FINDINGS**  
**FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT**  
**Planning Commission**

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**Hearing Date:** November 22, 2011  
**Date of Report:** November 15, 2011  
**Application:** PC 11 13 CUP 03

**Contract Planner:** Melissa Anderson

**I. PROPOSAL DESCRIPTION**

**Proposal:** A request for a conditional use permit to replace a single family home with a single family home in the Commercial District.

**Applicant/Property Owners:**

**Applicant** — Roger Center, Center Brothers Construction

**Property Owner** — Jane Mulvaney

**Property Owner Rep** — Roger Center

**Location:** 1738 20<sup>th</sup> St.  
Map 18-12-26-22 Tax Lot 2800

**Comprehensive Plan Map Designation:** Commercial Designation

**Zone Map Classification:** Commercial District

**Surrounding Land Use/Zoning:**

**Site:** Vacant (former Single-Family Residence) / Commercial (C)  
**North:** Single-Family Residence, Vacant/Parking & Commercial Uses / C  
**South:** Single-Family Residence, Office and Commercial Uses / C  
**East:** Commercial Use / C  
**West:** Single-Family Residence / C

**Streets/ Classification:**

20<sup>th</sup> Street – Local Street

**II. NARRATIVE**

The site is located at 1738 20<sup>th</sup> Street, between Pine Street and Highway 101 in the commercial zoning district. The site is currently vacant due to a fire that destroyed the former single-family residence which was built in 1949. The applicant requests a conditional use permit to replace the former 906 sq. ft. single family dwelling with a 2,835 square-foot single-family dwelling, garage and RV barn/shop area. The total area of the proposed building is broken to 1,100

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**Exhibit A**

square feet of living space, 335 square feet of garage space and 1,400 square feet of RV barn/shop space. The existing small shed on the rear of the property is proposed to be removed. The property can be accessed from 20<sup>th</sup> Street and a paved alley to the rear of the property. Vehicular access is proposed to be improved from 20<sup>th</sup> Street. All utilities are stubbed to the site, which used to serve the former residence; water and sewer are accessed from 20<sup>th</sup> Street and electricity is provided from a power pole located adjacent to the alley to the south. The property owner owns both the subject property and the adjacent property to the east.

### III. ISSUES

**Commercial vs. Residential Standards:** The proposed single-family residential replacement dwelling is located in the commercial zoning district. The proposal meets the lot coverage and side yard setback requirements of the commercial zoning district, but does not meet those standards for the single-family residential zoning district. FCC 10-4-10 states that *“where a proposed conditional use is permitted in another district, the Planning Commission may apply the relevant development standards from the other district.”*

- Building Coverage: Building coverage in the single-family zoning district allows up to 35% and up to 65% for all other impervious services, while the commercial zoning district allows up to 85% lot coverage. The application proposes 45.4% building coverage.
- Side Yard Setbacks: The commercial zone does not require side yard setbacks, while the side yard setbacks in the single-family zoning district are 5 feet. The application proposes a 4 foot setback on the west. The eastern side yard is proposed to be 2 feet wide, and the applicant also proposes a 1-foot wide building setback easement on the adjacent property, which is owned by the same person. The combination of the 2-foot wide building setback and a 1-foot wide building setback easement ensure a 3 foot wide building separation. This 3 foot wide separation meets the residential building code standards. The building setbacks of the original home that was destroyed are not known, but appear to have been from aerial photos and site inspection to be at least 5 feet each side yard.

Although FCC 10-4-10 allows the Planning Commission to require 5 foot side yard setbacks and a building coverage up to 35% of the lot, previous land use approvals have not always applied the standards of the single-family zoning district to single-family homes in the commercial zoning district. Examples include:

- Three single-family dwellings located in the Mainstreet Area B District, at the corner of 10<sup>th</sup> Street and Nopal received a reduction in the setbacks and adjustment in lot coverage.

- Two single-family dwellings located in the Commercial District, at the corner of 17<sup>th</sup> Street and Pine (1715 and 1735 Pine Street) received a reduction in setbacks and adjustment in the lot coverage.
- Two single-family dwellings located in the Commercial District at 1650 and 1652 18<sup>th</sup> Street received reduction in the setbacks.

Staff Recommendation: Based on previous examples listed above, it would not be consistent to require the single-family residential district side yard setback and lot coverage standard to the proposed development, which is located in the commercial zone. Therefore, staff recommends the Planning Commission apply the commercial zone standards for the side yard setback and lot coverage.

#### IV. PUBLIC NOTICE AND REFERRALS

**Notice:** Notice was sent to surrounding property owners within 300 feet of the property and a sign was posted on the property on November 2, 2011. Notice was published in the Siuslaw News on November 16, 2011. As of this writing, the City has not received any written comments.

**Referrals:** Referrals were sent to Central Lincoln PUD, Qwest, Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians, County Transfer, Central Coast Disposal, Florence Building Department, Florence Police Department, Florence Public Works, Siuslaw Valley Fire and Rescue, and Western Lane Ambulance District, Oregon Department of Transportation and Lane Regional Air Pollution Authority.

On November 1, 2011, Carl Dependahl, City of Florence Building Official made the following comment (See Exhibits): "Based on the preliminary drawings shown, it appears to be a well-designed replacement structure that presents an improvement for the site. I will ask that the plans submitted for construction show the appropriate fire separations required for residential use prior to issuance of a building permit. I will recommend to the applicant that other similar features be included that would allow a future commercial or "mixed" use after a "change-of-use" application, with a minimum of additional construction work. That the owner holds one adjacent property may ease future concerns and allow simpler compliance with building and fire code standards in that event, but the project is suitable for its current proposed stated use with little change, from a building code perspective" [*Note: The proposal is for a single-family dwelling, and if the property owner chooses to use the property for commercial purposes, a "Change of Use" application will be required, which will involve additional site improvements to meet the commercial code requirements.*]

On November 9, 2011, Sean Barrett, Fire Marshal for Siuslaw Valley Fire and Rescue responded by concurring with the Building Official and stating there are no issues with the replacement of this structure. (See Exhibits)

On November 10, 2011, Public Works commented that the department had “reviewed the submitted drawings and supports the replacement of the former single-family dwelling with the proposed replacement single-family dwelling and attached shop. The proposal does not intensify the demands upon the existing water, wastewater, stormwater or street utilities, therefore there are no additional System Development Charges necessary for this project to proceed. We do offer the following comments regarding the specific utilities:

- Water: Water to this property is from an existing 6-inch water main. The City water distribution system in this area is adequate for both domestic and fire supply needs.
- Wastewater: It appears that the existing sanitary clean out is asbestos cement pipe. We highly recommend that the applicant replace the sewer clean-out with a new one located at the property line prior to the sewer lateral entering the public right-of-way.
- Sidewalks: A right-of-way permit is required for the inspection of the replacement sidewalk and driveway. Provide sidewalks with 5'-0" curb tight sidewalk along the property frontage of 20th Street. The sidewalk width is measured from the back of curb. The driveway approach shall be designed to current City of Florence standards.” (Condition)

## **V. APPLICABLE REVIEW CRITERIA**

### **Florence City Code (FCC) Title 10**

FCC 10-1: Zoning Administration  
FCC 10-3: Off-Street Parking and Loading  
FCC 10-4: Conditional Uses  
FCC 10-15: Commercial District  
FCC 10-35: Access and Circulation

## **VI. FINDINGS AND CONCLUSION**

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

### **10-15: COMMERCIAL DISTRICT**

**10-15-1: PURPOSE:** The Commercial District is intended to preserve and enhance areas within which a wide range of retail sales and businesses will occur.

**10-15-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following:

#### **Single-Family Dwellings**

**Finding:** The proposal to construct a single-family dwelling in the commercial zone is allowed with a conditional use permit. The criteria for a conditional use are addressed in the previous section. This criterion is met.

#### **10-15-4: LOT AND YARD REQUIREMENTS:**

**A. Minimum Lot Dimensions:** The minimum lot width shall be twenty five feet (25').

**Finding:** The dimensions of the existing property and tax lot 2800 is 52 feet by 120 feet, which consists of two legally platted lots, each measuring 26 feet by 120 feet, which is greater than the minimum lot width of the commercial zoning district (25') and the single-family residential district (50' x 80'). This criterion is met.

**B. Minimum Lot Area:** The minimum lot area shall be two thousand five hundred (2,500) square feet.

**Finding:** The dimensions of the subject property are 52 feet by 120 feet for a total area of 6,240 square feet, which is greater than the minimum lot area of the commercial zoning district (2,500 s.f.) and the single-family residential district (6,000 s.f.). This criterion is met.

**C. Lot Coverage:** Eighty-five percent (85%) lot coverage, unless a preservation credit is achieved in accordance with FCC 10-34-2-4.

**Finding:** The subject property is 6,240 square feet and the proposed building coverage is 2,835 square feet or 45.4% of the lot; and the proposed hard-surface lot coverage (building and driveways) is 3,680 square feet or 59% of the subject property, which is less than the maximum lot coverage of the commercial zoning district (85%). This criterion is met.

**D. Yard Regulations:**

**1. Front yards are not required except where setbacks have been established for road widening or other purposes.**

**Finding:** The proposed replacement dwelling is set back 20 feet from the front lot line. Road widening is not proposed for 20<sup>th</sup> Street. The front yard setback exceeds the commercial zoning district standards (0') and meets the residential zoning district standards (20'). This criterion is met.

**2. Side and rear yards are not required except:**

**a. Where setbacks have been established for road widening or other purposes.**

**Finding:** The proposed replacement dwelling has a 4-foot side yard is on the east, adjacent to the neighboring single-family dwelling. The western side yard is proposed to be 2 feet wide, and the applicant also proposes a 1-foot wide setback easement to ensure a total of 3 foot wide building



setback (Condition). The rear yard setback is more than 20 feet from the rear property line. The side and rear setbacks meet the commercial district standards (0'). The subject property is not located on a corner therefore, road widening is not applicable. This criterion is met.

**b. Where the commercial use abuts a residential use, see FCC 10-34-3-7-D.**

**Finding:** The proposal is for a residential replacement dwelling adjacent to the existing residential use to the west. Therefore, this criterion does not apply.

**10-15-5: SITE AND DEVELOPMENT PROVISIONS:**

**A. Building or Structural Height Limitations: The maximum building or structural height shall be twenty eight feet (28').**

**Finding:** The proposed building height is 18.5 feet at the midpoint and 23.5 feet at the peak of the roof, which is less than the maximum allowed in the Commercial District (28') and the Single-family Residential District (28'). This criterion is met.

**B. Fences, Hedges, Walls and Landscaping: Refer to 10-34 of this Title for requirements.**

**Finding:** There are no fences proposed for the replacement dwelling. The landscaping requirements of FCC 10-34 do not apply to single-family dwellings. This criterion is met.

**C. Parking and Loading Space: Refer to Chapter 3 of this Title for specific parking requirements.**

**Finding:** FCC 10-3-4 requires single-family residences provide 2 covered parking spaces, and the proposal includes 2 covered parking spaces: one in the 335 square foot garage and one in the 1,400 square-foot RV Garage/Shop. FCC 10-3-8 requires driveway aprons be paved for the first 50' of length. The proposal includes a concrete driveway 20 feet in length with access from 20<sup>th</sup> Street. The north side of the property is adjacent to an existing paved alley, which can provide an optional secondary vehicle access; however vehicle access from the alley is not proposed in this application. The criteria for required parking spaces and driveway hard-surfacing are met.

**D. Vision Clearance: Refer to Section 10-1-4 and 10-35-2-13 of this Title for definitions, and requirements.**

**Finding:** The proposal does not include visual obstructions within the vision clearance areas of the driveway at 20<sup>th</sup> Street; however landscaping may be planted within these areas in the future. Therefore, to ensure visual safety considerations are maintained,

vision clearing areas shall be maintained in accordance with FCC 10-35-2-13 (Condition). This criterion is met.

**E. Signs shall be in accordance with Title 4 Chapter 7 of this Code.**

**Finding:** The proposal is for a single-family residential replacement dwelling and no signs are proposed for the residence. This criterion is met.

**F. Access and circulation: Refer to Section 10-35 of this Title for requirements.**

**10-35-2-11: Driveway Design.** All openings onto a public right-of-way and driveways shall conform to the following:

**A. Driveway Approaches.** Driveway approaches, including private alleys, shall be approved by the Public Work Director and designed and located with preference given to the lowest functional classification street. Consideration shall also be given to the characteristics of the property, including location, size and orientation of structures on site, number of driveways needed to accommodate anticipated traffic, location and spacing of adjacent or opposite driveways.

**B. Driveways.** Driveways shall meet the following standards, subject to review and approval by the Public Works Director:

1. Driveways for single family residences shall have a width of not less than ten (10) feet and not more than twenty-four (24) feet.

**C. Driveway Apron Construction.** Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive, as shown in Figure 10-35(2). Driveway aprons shall conform to ADA requirements for sidewalks and walkways, which generally require a continuous unobstructed route of travel that is not less than three (3) feet in width, with a cross slope not exceeding two (2) percent, and providing for landing areas and ramps at intersections. Driveways are subject to review by the Public Works Director.

**Finding:** Access and circulation requirements of 10-35 are listed above. The proposed plan includes new sidewalks, driveway approach and a concrete driveway to access the replacement dwelling from 20<sup>th</sup> Street. The north side of the property is adjacent to an existing paved alley, which can provide an optional secondary vehicle access; however vehicle access from the alley is not proposed in this application. To ensure the driveway and sidewalks are designed and constructed to city standards a right-of-way permit is required for the inspection of the replacement sidewalk and driveway. Sidewalks shall be 5' curb tight along the property frontage on 20<sup>th</sup> Street and constructed of concrete; and the driveway shall be no wider than 24 feet and meet City of Florence standards. (Condition)

**G. Public Facilities: Refer to Section 10-36 of this Title for requirements.**

**Finding:** The proposal replaces a dwelling within a developed area of the city with full city services and roadway access. The proposed replacement dwelling will use existing sewer, water, power and roadway facilities. No enlargement of the existing public facilities is required for the proposed replacement dwelling. This criterion is met.

**H. Open Space is required for multi-family housing developments of 4 or more units as follows:**

**Finding:** The proposal is for a single-family residential replacement dwelling. Therefore, the open space requirement for a multi-family housing development does not apply.

**10-15-6: GENERAL PROVISIONS:**

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

**Finding:** The proposal is for a single-family residential replacement dwelling; the yards and open areas of the subject property are not proposed to be used for storage, display or sale of used building materials, scrap or salvage. This criterion is met.

**B. Where there is manufacturing, compounding, processing or treatment of products for wholesale, the front twenty five feet (25') of the building's ground floor facing the principal commercial street shall be used for commercial sales, business or professional offices.**

**Finding:** The proposal is for a single-family residential replacement dwelling; manufacturing, compounding, processing or treatment of products for wholesale are not proposed for the subject property. This criterion is met.

**C. Any use allowed must not cause unreasonable odor, dust, smoke, noise, vibration or appearance.**

**Finding:** The proposal is for a single-family residential replacement dwelling; uses that cause unreasonable odor, dust, smoke, noise, vibration or appearance are not proposed for the subject property. This criterion is met

**10-4: CONDITIONAL USES**

**10-4-9: GENERAL CRITERIA: A conditional use permit may be granted only if the proposal conforms to all the following general criteria:**

**A. Conformity with the Florence Comprehensive Plan.**

**Finding:** The subject property is located in the Commercial Designation. The Comprehensive Plan states that “retail and service commercial uses are appropriate for this area, as are professional offices and motels. Residential, in the form of second-story apartments over ground floor commercial, is also an appropriate accessory use. Commercial uses should be conducted primarily within a building, facilitate both vehicular and pedestrian access, and relate to surrounding buildings in terms of scale and street orientation. Architectural and site design guidelines are appropriate for both new development and redevelopment.” The proposal is a replacement dwelling for a single-family home that was destroyed in a fire, and the zoning code allows structures to be rebuilt in the event of a disaster (FCC 10-8-4). Further, single-family homes are allowed in the commercial zone as a conditional use (FCC 10-15-3). Although the proposal is not a commercial use or a second story apartment over ground-floor commercial, which is more consistent with the intent of the Commercial Map Designation, the zoning code provides for the replacement of buildings and the use in this location. Additionally, the design of the proposed dwelling creates a good transition from the commercial land use on the east and the residential use on the west by locating the RV barn/shop adjacent to the commercial use and the living area of the home adjacent to the neighboring dwelling. Therefore, the proposal is consistent with the Comprehensive Plan.

**B. Compliance with special conditions established by the Planning Commission to carry out the purpose of this Chapter.**

The description and purpose of Chapter 4 Conditional Uses, states: *Certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special considerations involve, among other things:*

**A. The size of the area required for development of such uses;**

**Finding:** The proposal is a replacement single-family home in the commercial zone, on a 6,240 square foot lot. The lot size meets the minimum lot size of the commercial zone (2,500 s.f.) and the single-family residential zone (6,000 s.f.). Therefore, the size of the area required for the development is adequate for the proposed single-family dwelling. This criterion is met.

**B. The effect such uses have on the public utility systems;**

**Finding:** The proposal is a replacement dwelling for a home that was destroyed by a fire. The Public Works Department commented that the proposal does not intensify the demands upon the existing water, wastewater, stormwater or street utilities. Therefore, the existing public utility system is adequate to serve the proposed development. This criterion is met.

**C. *The nature of traffic problems incidental to operation of the use;***

**Finding:** The proposal replaces a single-family dwelling with access from 20th Street. Sidewalks, drive approach and driveway are proposed to be improved from 20<sup>th</sup> Street. Access is also available from a paved alley on the rear of the property; however, the applicant is not proposing vehicle access from the alley. The Public Works Department commented that the proposal does not intensify the demands upon the existing street utilities. Therefore, the proposal will not impact traffic in this area. This criterion is met

**D. *The effect such uses have on any adjoining land uses; and***

**Finding:** The proposal replaces a single-family dwelling with a new single-family dwelling and attached shop on a lot within the commercial zoning district. A single-family home is located on the adjoining western property line, and a commercial use is located on the eastern property line. A 4-foot side yard is proposed on the west, adjacent to the neighboring single-family dwelling. The attached RV barn/shop is proposed to be located along the eastern side of the lot, which provides a buffer between the commercial use and the living space of the new home. The eastern side yard is proposed to be 2 feet wide, and the applicant also proposes a 1-foot wide building setback easement on the adjacent property, which is owned by the same person. The combination of the 2-foot wide building setback and building setback easement ensure a total of 3 foot wide building separation. This 3 foot wide separation meets the residential building code standards. The proposal meets the setbacks of the commercial zone, which do not require any setbacks, and the location of the RV barn/shop area provides a buffer and transition from the commercial use to the east and the residential uses on the west. Adjoining land uses are not expected to be negatively impacted by the proposed replacement dwelling. This criterion is met.

**E. *The effect such uses have on the growth and development of the community as a whole.***

**Finding:** The proposal is a replacement single-family home; the proposal does not convert land from another use, but continues the use that has been in place for over 60 years. The location of the RV barn/shop area provides a buffer and transition from the commercial use to the east and the residential uses on the west. The proposal is not anticipated to significantly affect the growth and development of the community as a whole. This criterion is met.

**C. Findings that adequate land is available for uses which are permitted outright in the district where the conditional use is proposed. Available land can be either vacant land or land which could be converted from another use within the applicable zoning district. Land needs for permitted uses may be determined**

**through projections contained in the Florence Comprehensive Plan or other special studies.**

**Finding:** The subject property is in a commercial zoning district, which provides for single-family dwellings as a conditional use. The proposal does not convert land from another use, but continues the use that has been in place for over 60 years. The proposal is a single-family residential replacement dwelling for a home that originally built in 1949 and was destroyed in a fire in September of 2011. FCC 10-8-4 allows non-conforming buildings to be restored and the use which existed at the time of the damage or destruction to continue. Due to the fact that the subject property was developed as a single-family dwelling, it is not part of the buildable land inventory needed to meet the projected demand for a commercial use. Therefore, adequate land is available for uses which are permitted outright in the district where the conditional use is proposed. This criterion is met.

**D. Conditional uses are subject to design review under the provisions of Chapter 6 of this Title, except single family and duplex residential use. See Code Section 10-6-3 for Design Review requirements.**

**Finding:** The proposal is for a single-family residential replacement dwelling, which is exempted from Design Review requirements. Therefore, this criterion does not apply.

**E. Adequacy of public facilities, public services and utilities to service the proposed development.**

**Finding:** The proposed replacement dwelling will use the existing water and sewer connections. On-site detention and retention of stormwater is not required for single-family dwellings; stormwater from the driveway will drain to 20<sup>th</sup> Street and roof drainage will drain on-site. Electric power is provided from a power pole adjacent to the alley. The 10-foot wide alley on the north is paved, but access is proposed from 20th Street, which is a local street that requires no improvements.

The Public Works department reviewed the submitted drawings and supports the replacement of the former single-family dwelling with the proposed replacement single-family dwelling and attached shop. The department states that the proposal does not intensify the demands upon the existing water, wastewater, stormwater or street utilities, therefore there are no additional System Development Charges necessary for this project to proceed. Water to this property is from an existing 6-inch water main, and the City water distribution system in this area is adequate for both domestic and fire supply needs. The existing sanitary clean out is asbestos cement pipe; it is recommended that the applicant replace the sewer clean-out with a new one located at the property line prior to the sewer lateral entering the public right-of-way, however, this is not a requirement of the city code.

Public Works does require a right-of-way permit for the inspection of the replacement sidewalk and driveway. Sidewalks must be constructed of concrete with 5'-0" curb tight

sidewalk along the property frontage of 20th Street; sidewalk width is measured from the back of curb. (Condition) The driveway approach must be no wider than 24 feet, constructed of concrete and designed to current City of Florence standards. (Condition) Therefore, with these two conditions, the public facilities, public services and utilities are adequate to service the proposed development. This criterion is met.

**F. Adequacy of vehicle and pedestrian access to the site, including access by fire, police and other vehicles necessary to protect public health and safety.**

**Finding:** The subject property has vehicular and pedestrian access from 20<sup>th</sup> Street and a secondary optional vehicular access from a paved 10-foot alley to the north. The proposal includes improved sidewalks and a driveway access from 20<sup>th</sup> Street. A right-of-way permit is required for these improvements, which is included as a condition of approval. Therefore, access for vehicles, pedestrians and fire and police is adequate to protect the public health and safety. This criterion is met.

**10-4-10: GENERAL CONDITIONS:** The Planning Commission may require any of the following conditions it deems necessary to secure the purpose of this Chapter. Where a proposed conditional use is permitted in another district, the Planning Commission may apply the relevant development standards from the other district. In addition, conditions may be required by the Design Review Board. Such conditions may include:

**A. Regulation of uses, special yard setbacks, coverage and height.**

**Finding:** These criteria are addressed within the zoning district section, and these findings are incorporated by reference. In summary, these findings state that the proposed replacement dwelling meets the height and front and rear yard setback standards of both the commercial zoning district and the single-family residential district standards.

The proposal also meets the lot coverage and side yard setback requirements of the commercial zoning district, but does not meet the standards of the single-family residential zoning district. Building coverage in the single-family zoning district is 35% and the application proposes 45.4% building coverage. The commercial zone does not require side yard setbacks, while the side yard setbacks in the single-family zoning district are 5 feet. The application proposes a 4 foot setback on the west. The eastern side yard is proposed to be 2 feet wide, and the applicant also proposes a 1-foot wide building setback easement on the adjacent property, which is owned by the same person. The combination of the 2-foot wide building setback and a 1-foot wide building setback easement ensure a 3 foot wide building separation. This 3 foot wide separation meets the residential building code standards. The building setbacks of the original home that was destroyed are not known, but appear to have been from aerial photos and site inspection to be at least 5 feet each side yard.

FCC 10-4-10 above states that *“where a proposed conditional use is permitted in another district, the Planning Commission may apply the relevant development standards from the other district,”* which allows the Planning Commission to require 5 foot side yard setbacks and a building coverage up to 35% of the lot. However, previous land use approvals have not always applied the standards of the single-family zoning district to single-family homes in the commercial zoning district. For example, the three single-family dwellings located in the Mainstreet Area B District, at the corner of 10<sup>th</sup> Street and Nopal received a reduction in the lot coverage and setbacks; the two single-family dwellings located in the Commercial District, at the corner of 17<sup>th</sup> and Pine Streets (1715 and 1735 Pine Street) received an adjustment in the lot coverage and setbacks, and the two single-family dwellings located in the Commercial District at 1650 and 1652 18<sup>th</sup> Street received an adjustment in the setbacks. Therefore, it is not consistent to require the Single-family Residential District side yard setback and lot coverage standard to the proposed development in the Commercial zone. The proposal meets the yard setbacks, coverage and height requirements of the underlying zoning district. This criterion is met.

**B. Requiring fences, walls, screens and landscaping plus their maintenance.**

**Finding:** There are no fences required or proposed for the replacement dwelling. The landscaping requirements of FCC 10-34 do not apply to single-family dwellings. This criterion is met.

**C. Regulation and control of points of vehicular ingress and egress.**

**Finding:** Points of vehicular access is addressed within the zoning district regulations. These findings are incorporated by reference. This criterion is met.

**D. Regulation of noise, vibration, odors, and sightliness.**

**Finding:** There will be some noise and possible vibration during construction. Once the proposed replacement dwelling is completed, there will not be additional noise, vibration, odors, and sightliness. This criterion is met.

**E. Requiring surfacing of parking areas.**

**Finding:** Parking is addressed within the zoning district regulations. These findings are incorporated by reference. This criterion is met.

**F. Requiring rehabilitation plans.**

**Finding:** The proposed replacement structure will meet current building, electrical, and fire codes. There are currently no code enforcement issues for the site; therefore, the criterion does not apply.

**G. Regulation of hours of operation and duration of use or operation.**



**Finding:** The proposed use is a single-family residence. No commercial uses are proposed. Therefore this criterion does not apply

**H. Requiring a time period within which the proposed use shall be developed.**

**Finding:** FCC 10-4-7 permits a CUP to be valid for one year after the date of approval, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the criteria outlined under FCC 10-4-7. Therefore, no other time period need be specified within which the proposed use must be developed. This criterion is met.

**I. Requiring bonds to insure performance of special conditions.**

**Finding:** No public infrastructure is needed other than the driveway apron and sidewalk improvements, which are required as a condition of approval for certificate of occupancy. Therefore, no bonds are required to insure performance of special conditions. This criterion is met.

**J. Regulation of tree and vegetation removal to maintain soil stability, preserve natural habitat, protect riparian vegetation, buffer conflicting uses, and maintain scenic qualities.**

**Finding:** The subject property is flat and has very little vegetation that needs protection because it is was developed and used as a single-family home. There is some grass and there are few mature bushes along the rear of the lot, near the alley and some in the front yard. The proposal replaces the former dwelling, and the shrubs on the rear of the property provide some screening from commercial activities to the north. This criterion is met.

**K. Such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purpose of the Florence Comprehensive Plan.**

**Finding:** No special conditions are needed to meet the intent and purpose of the Florence Comprehensive Plan. This criterion is met.

**VII. OPTIONS FOR THE PLANNING COMMISSION**

1. Approve the request for a conditional use permit with the conditions of approval, based on the proposed findings of fact in this staff report.
2. Modify the proposed findings of fact, Conditions of Approval, or both, and approve the request for a conditional use permit as modified.

3. Continue the hearing to a date certain or leave the record open in order to allow more time for additional information to be submitted.
4. Deny the application based on the Planning Commission's findings of fact.

## VIII. CONCLUSION AND RECOMMENDATION

The request for a Conditional Use Permit to construct a single-family residential replacement dwelling can meet or meet with conditions the applicable criteria in Florence City Code and the Florence Realization 2020 Comprehensive Plan. Staff recommends the Planning Commission approve the conditional use permit with the conditions listed below:

### Conditions of Approval:

1. Approval for shall be shown on:

"A" Findings of Fact
"B" Site Plan
"C" Front Elevation and Illustration
"D" Land Use Application & Narrative

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 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 Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the Owner agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission 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 within 30 days after the signing of the resolution.
3. **Prior to issuance of a certificate of occupancy:** A right-of-way permit is required for the inspection of the replacement sidewalk and driveway:

- Sidewalks shall be constructed of concrete with 5'-0" curb tight sidewalk along the property frontage of 20th Street; sidewalk width is measured from the back of curb.
  - The driveway approach from 20<sup>th</sup> Street shall be no wider than 24 feet, constructed of concrete and designed to current City of Florence standards.
  - The driveway shall be constructed of concrete and a minimum of 20 feet in length.
4. **Prior to issuance of a certificate of occupancy:** The property owner shall record a one-foot building setback easement along the western property line on the property at 1780 20<sup>th</sup> Street.
5. **Ongoing:** To ensure visual safety considerations are maintained, vision clearing areas shall be maintained in accordance with FCC 10-35-2-13.

#### **OTHER REQUIREMENTS:**

The applicant is responsible for contacting the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians immediately if any known or suspected cultural resources are encountered during work.

#### **IX. EXHIBITS**

- A. Finding of Fact
- B. Site Plan
- C. Front Elevation and Illustration
- D. Land Use Application & Narrative
- E. Tax Map
- F. Photographs of the property
- G. Email dated November 1, 2011, Carl Dependahl, Florence Building Official
- H. Email dated November 9, 2011 from Sean Barrett, Fire Marshal, Siuslaw Valley Fire and Rescue
- I. Email dated November 10, 2011, from Mike Miller, Public Works Director