

## CITY OF FLORENCE PLANNING COMMISSION

June 26, 2012 \*\* MEETING MINUTES \*\*

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### CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Chairperson Nieberlein opened the meeting at 7:00 p.m. Roll call: Chairperson Nieberlein; Vice Chairperson Tilton, Commissioners: Peters, Bare, Muilenburg, and Hoile. Also present: Community Development Director (CDD) Belson, City Manager (CM) Jacque Betz and Assistant Planner (AP) Pezley.

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### 1. APPROVAL OF AGENDA

Commissioner Tilton moved to approve the agenda as presented; second by Commissioner Bare, by voice all ayes, motion carried unanimously.

### 2. PUBLIC COMMENTS

Chairperson Nieberlein welcomed everyone to the meeting and stated that this was an opportunity for members of the audience to bring to the Planning Commission's attention any items **NOT** otherwise listed on the agenda. Comments would be limited to **3 minutes per person**, with a maximum time of 15 minutes for all items.

There were no public comments.

### 3. ACTION ITEM on RESOLUTION AR 12 06 COU 01

*(Not a public hearing, public comment period had closed)*

*Jean Mulvaney, represented by Roger Center, applied for a change of use of the RV garage at 1738 20th Street to be used as commercial storage as an accessory use.*

Chairperson Nieberlein said before the Commissioners that evening was an action item on Resolution AR 12 06 COU 01, Jean Mulvaney, represented by Roger Center, who applied for a change of use of the RV garage at 1738 20<sup>th</sup> Street to be used as a commercial storage as an accessory use. She noted that the public hearing was closed at the last meeting; therefore, no public testimony would be taken that evening.

#### ***Staff Report***

AP Pezley said on June 14, 2012, the Planning Commission reviewed the change of use application submitted by Roger Center. At the last meeting, Commissioner Wise pointed out three areas which he personally thought would not allow the Commissioners to approve this application because it did not meet city code.

1. The principal commercial street is 20<sup>th</sup> Street rather than Highway 101; based on access, not a street classification.
  2. The application therefore does not meet the residential units as defined by FCC 10-15-3 which states, "residential units, provided that the building contains a commercial business and that the dwelling shall not occupy the front twenty five feet (25') and not more than fifty percent (50%) of the ground floor facing the principal commercial street; if access to the dwelling is from the principal commercial street, it shall be a separate entrance and not more than six feet (6') wide."
  3. Accessory use must be an accessory structure which must be detached.
- She said that at the meeting of on ~~June 12<sup>th</sup>~~ June 14<sup>th</sup>, the Planning Commission directed staff to contact the City Attorney and then tabled the decision.

***The City Attorney responded with the following:***

- a. An accessory use to a permitted use is allowed anywhere within the zoning district. That means that the storage and extra work space for Black Diamond could be moved to 30th Street. The accessory use is not limited to the same building or same site as the permitted use is.
- b. The house is still a single family dwelling rather than a residential unit as part of a mixed use building. Therefore, the 25-foot setback for the residential use does not apply.

***Buffer:***

In the November 2011 approval for the single family dwelling, the Planning Commission approved the RV barn/shop space as the buffer between residential and non-residential uses. The two different uses are now proposed to be on one site. The buffer requirement is therefore not needed.

***Findings:***

She said based on the Planning Commission direction and City Attorney's comments, staff has made the following changes in the staff report:

1. Added a summary of the June 14<sup>th</sup> meeting and the City Attorney's response to the end of the narrative (see page 3 of findings);
2. Revised how the development conforms to the use as indicated in FCC 10-15-2 (see page 6 of findings);
3. Revised yard regulations and buffer requirements (FCC 10-15-4-D and FCC 10-34-3-7-D) (see page 7 of findings);
4. Revised how the development meets the parking standards to be consistent with the uses (see page 8-9 of findings);
5. Added where the applicant is proposing the bicycle parking to the findings (see page 9 of findings);
6. Removed the condition 11 which outlined the procedure for a fine if the violation of using the RV barn prior to the approval being finalized. Added to the findings that the Building Official went to the site and found the applicant had removed their belongings out of the RV barn (see page 17 of findings);
7. Other minor edits as found.

AP Pezley pointed out the applicant provided:

- Photos of the property
- Provided an address for the RV barn
- Installed the bicycle parking at the SE corner of the parking lot.
- The applicant is ready to record the operation and maintenance agreement for the stormwater.
- The City has received a check to pay for the system development charges and Black Diamond was ready to move in, if the application was approved that evening.
- The applicant added the new parking space in the back as proposed.

Both the applicant and the property owner are in agreement with the conditions as proposed.

***Ex Parte Contact***

Commissioner Peters said he had ex parte contact with Bob Poole who was the owner of Black Diamond; Bob called to explain that he could not be there that evening. Commissioner Peters said

he explained as a member of the commission he could not discuss the substance of the issue before them; Mr. Poole said he understood and no discussion took place.

### ***Single Family Dwelling***

Commissioner Tilton referred to the finding by the City Attorney that the house was still a single family dwelling; he asked if that was based on the firewall and the fact that there are no openings. AP Pezley said it was based on the fact that the Planning Commissioners had approved a single family residence house and that had not changed. They are just proposing taking the RV barn and converting that into an accessory use; the house is still a house.

### ***Accessory Use***

Commissioner Tilton asked if the house could still be considered a single family residence because the use of the RV barn is totally separate from the use of the house as a residence. CDD Belson said the attorney was saying that the accessory use is the commercial piece and that can be an accessory to any commercial permitted use in that zoning district; residential unit with a commercial as a main use of the building. She added that it was not dependent upon a firewall, from a zoning perspective; but from a building code perspective that may be a requirement.

### ***Request for Citations with Attorney's Opinion***

Commissioner Peters said he would hope in the future that when the Commissioners ask an attorney for an opinion that the attorney would cite the authority upon which he based his opinion. He said if we were to know exactly what the attorney is depending upon then it would be easier for them to accept the opinion. It seemed to him that the attorney's opinion is the last line of what would be presented to us, but we don't have a clue as how he got there.

CDD Belson replied that part of the code that the City Attorney was referring to was Title 10 Chapter 15 Section 2, Permitted Buildings and Uses, the first use listed there is Accessory Buildings and Uses normal and incidental to the buildings and uses permitted in this chapter. She said that is what the attorney was referencing in terms of the RV barn being used as an accessory use.

Commissioner Peters said he appreciated that, and said he felt that Title 10-15-2, was a very sparse paragraph and it didn't give one much information at all as to what might limit that particular kind of property being included properly. He would want more from the attorney as to why 10-15-2 leads to this conclusion. CDD Belson said she thought the attorney was relying on that chapter in the code and Commissioner Peters asked for citations when they receive attorney opinions in the future.

Commissioner Peters added that he felt uncomfortable voting on something when we don't know how the attorney came to his opinion and looking at the code it doesn't provide more specific instruction.

Commissioner Tilton said he agreed and it would have been nice to have that cited so when he was reviewing the materials he could go back and look at the paragraph.

CDD Belson said it was in the Findings in terms of that section of the code; she referred to page 6 of 17, lines 8-10; and the finding in the last sentence of the first paragraph:

### ***"10-15-2: PERMITTED BUILDINGS AND USES:***

***Accessory buildings and uses normal and incidental to the buildings and uses permitted in this Chapter Floor covering stores Offices..."***

### ***Combining Lots 1-8***

Commissioner Muilenburg said it was his understanding that the applicant would combine lots 1-8, make that one lot; so there is a business and residence in the back and if they sell it they have to separate it again. CDD Belson replied, no they can sell it, but they have to sell it all together, but if they wanted to sell the house separately from the business then they would have to convert that RV barn back to a residential so it was part of the residential use as a single family use.

Commissioner Muilenburg referred to page 2, the City Attorney made reference that Black Diamond could be moved to 30<sup>th</sup> Street and asked if that was just an example of the statement that it could have been moved anywhere. AP Pezley replied, yes, she was just making a point that as long as it was within the zoning district that it would not have to be next door. CDD Belson said that was not the attorney's example, it was just an example that staff provided to explain his point.

*(It is noted for the record that in AP Pezley had stated the previous meeting was held on June 12<sup>th</sup>, but it was held on June 14<sup>th</sup>)*

### ***Discussion***

Commissioner Tilton said he liked the approach and thought this particular use was appropriate for the zone and thought it was an enhancement to the street area and neighborhood; and he was in favor of moving forward; Commissioner Peters said he would be in favor of approval.

Commissioner Muilenburg asked for staff's recommendation; AP Pezley replied that staff's recommendation was for approval.

Commissioner Tilton moved to approve Resolution AR 12 06 COU 01 an administrative design review to change the use of the residential RV garage to accessory use to a permitted use within the commercial zoning district, the uses are located at 1738 and 1780 20<sup>th</sup> Street, Assessors Map 18-12-26-22, Tax lots 2200 and 2800. Second by Commissioner Bare, by voice all ayes, motion carried unanimously.

## **5. PLANNING COMMISSION DISCUSSION REPORTS**

### ***Commissioner Muilenburg's Report on the City Council's TSP Public Hearing***

Chairperson Nieberlein said that Commissioner Muilenburg had represented the Planning Commission at the City Council public hearing on the TSP and asked him for a summary of what happened.

Commissioner Muilenburg said the Council would be taking several meetings to review the TSP; they had some of the same concerns that the Planning Commission had, especially about the Quince intersection and left hand turn. One of the Councilors said he didn't see a problem with 9<sup>th</sup> and Kingwood and they didn't go into any detail, but it seemed to him that during the Commissioner's discussions it was a problem intersection. The Council talked about the Munsel Road intersection and wondered why the Planning Commission had not moved it up higher on the list, based upon the factors of Fred Meyer and Cannery Station and ODOT's plans to extend that, he had explained it was a priority but not a top priority for the Planning Commission. One of the Councilors talked about the turning radius at Spruce Street, if that could be wider so cars coming west on Hwy 126 would not have to slow down, ODOT said when they redo the intersection there might be some room so they could make a little bit of a shoulder.

Commissioner Muilenburg said they listened to what he had to say and they really didn't have any comments except one; the Councilors asked him if the Planning Commission wanted to retain the left hand turn lane heading west off of Hwy 126 and he replied, yes.

### ***Ocean Dunes PUD***

CDD Belson said the Council had received a letter from the Confederated Tribes of the Coos Lower Umpqua and Siuslaw Indians and that letter had stated that there were no plans to develop the Ocean Dunes planned unit development as had been approved. They had looked at an alternate connection (east, west) from Coastal Highlands to the Casino property. The Council wanted to make sure that people had an opportunity to comment on that possibility so the City is sending out notices to the property owners in Coastal Highlands and the Council will be holding a public hearing as continued from that night on July 9<sup>th</sup> and will leave the record open until 5:00 pm on July 11<sup>th</sup>.

### ***Xylo Street***

Commissioner Muilenburg said the Mayor pointed out that Xylo was also a street that was on the plan as being built through and wanted the public to be aware of all 73 projects. The Planning Commission prioritized, 14 but there are actually 73 projects, so the citizens might want to take a close look and see if any of those projects happened to be in their neighborhood.

### ***Rhody Drive Plan***

Commissioner Tilton said he also attended the hearing and he may submit a couple of written comments and one thing that didn't come up was the interim Rhody plan and he thought he might mention that. He said the biggest danger he saw for pedestrians and bicycle riders were people pulling wide trailer especially if they are driving a compact pickup, - the edge of the trailer may be over the fog line close to the walkers/bike riders.

### ***Urban Renewal Priorities***

Commissioner Tilton said Councilor Xavier had concurred with the Planning Commission on removing the Urban Renewal projects from the priority list. She thought the Urban Renewal Agency could go back and prioritize those projects.

## **6. DIRECTOR'S REPORT**

### ***\* Los Compadres***

CDD Belson said this was a carryover from a previous discussion; she said the Planning Commissioners were going to look at it and discuss it at this meeting. AP Pezley the owners had proposed to leave it a natural color when they applied for their permit. Commissioner Muilenburg said the building north of that is different, a little lighter, same color but lighter.

### ***Compatibility with Downtown Plan***

CDD Belson said the business was located in the Main Street district area A and in that district there is a section H, Design Review that states, "Architectural design shall be reviewed against the Downtown architectural guidelines to determine compatibility." In the architectural guidelines it just says, "Color finishing on all building exteriors shall be approved by the City."

Chairperson Nieberlein said she was sure the owner didn't even know that they needed to ask the City; and staff agreed. Staff said they had not gone to speak with the owner; they were waiting for directions from the Commissioners. Chairperson Nieberlein said she did not like the color either, but she said we need to educate people if we expect them to do something; they need to know what they are expected to do that and most people, especially if they are not a contractor, or developer,



don't even think about the City having a code for a color scheme. She didn't know the answer, but suggested sending out something about the new code; giving a document to individuals when they start a business of the expectations of the City; and acknowledged we need an education component.

City Manager Betz made a couple of suggestions.

- Put an article in the city's newsletter for new business owners
- Sit down with business owners of Los Compadres, inform them about the code and see if they would be willing to repaint.
- When the business owner got their permit for the decking the City should have given them a copy of the architectural guidelines; she thought we could be proactive in the future.

Commissioner Tilton asked when it was originally approved was the fencing color suppose to remain natural. AP Pezley said she would have to look it up, but she thought it was proposed to be a natural color. He said he would like to see them be compatible with that original approval, in the natural earth tone type color.

CM Betz said she thought that could be part of the conversation and it would have behooved the City when they got the approval to say, "if you are going to paint it, you need to come back to get approval for the color."

When asked if it was fence or the whole building, CM Betz stated she thought technically the whole building needed to be approved.

CDD Belson said if it comes before design review it is part of the criteria that would be reviewed. Otherwise, if it came to staff, for those that are clear we would approve it, for those that are questionable we would defer to the Commissioners as a design review board. She went on to say, that personally, there was quite a bit of orange on that street, maybe not quite as bright, but she agreed it was the green next to the orange that was making it stand out. She said if the Commissioners would give staff direction of what they thought was acceptable, it would be helpful.

Commissioner Muilenburg said painting the fence would be considerably less costly than repainting the whole building. Commissioner Hoile said she thought they were trying to match the color in their sign.

Commissioner Hoile asked if the businesses get an updated new code when their business licenses were renewed every year; staff replied, no, they just get a business license.

CM Betz said she felt their intent was to spruce up the building just before Rhody Days and she was sure that they were not aware that they needed to get approval.

### ***Commissioner Wise***

Commissioner Bare said he would miss Commissioner Wise and was taken back by his resignation and he wished him all the best.

Commissioner Peters agreed and wondered if there was a way in which the Council or the City in some way could express their appreciation for a year and half of excellent service.

CM Betz said she thought it was a great suggestion and she said the resignation was submitted to

the Mayor so the Council was aware of it and after the July 9<sup>th</sup> meeting they would be discussing how they are going to fill that position and she would pass on his suggestion as well.

Commissioner Tilton asked how many did it take to make a quorum with 6 Commissioners, and expressed his concern about a tie vote.

## **7. CALENDAR**

\* Tuesday, July 10, 7:00 pm – Regular Meeting – 10<sup>th</sup> Street House Fence

\* Tuesday, July 24, 7:00 pm – Regular Meeting

With no further business to come before the Florence Planning Commission, Chairperson Nieberlein adjourned the meeting at 7:38 p.m.

APPROVED BY THE FLORENCE PLANNING COMMISSION ON THE 14 DAY OF August 2012.

  
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JAN NIEBERLEIN, CHAIRPERSON  
FLORENCE PLANNING COMMISSION