

CITY OF FLORENCE PLANNING COMMISSION
November 27, 2012 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Chairperson Nieberlein opened the meeting at 7:00 p.m. Roll call: Chairperson Nieberlein; Commissioners: Peters, Bare, and Muilenburg. Commissioner Hoile was absent and excused. Also present: IPD Weese and AP Pezley.

INTRODUCTION

IPD Weese introduced RARE (Resource Assistance for Rural Environment) Volunteer, Katya Reyna.

1. APPROVAL OF AGENDA

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

2. APPROVAL OF MINUTES

*** Meeting of October 9, 2012**

Commissioner Peters moved to approve the minutes of October 9, 2012 as presented, second by Commissioner Muilenburg; by voice all ayes, motion carried unanimously.

3. PUBLIC COMMENTS

*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.

4. PUBLIC HEARING on RESOLUTION PC 12 16 CUP 08: RLA Holdings LLC, represented by Stecher Buss, applied for a conditional use permit and design review to construct a two-story mixed use building with four apartments and one retail/office space at 1739 19th Street. (Map Reference No. 18-12-26-22, tax lot 3301).

(Chairperson Nieberlein said there was a public hearing before the planning commission that evening.) She went on to say that the hearings would be held in accordance with the land use procedures required by the City in Florence City Code Title 2 Chapter 10 and the State of Oregon. Prior to the hearing(s) 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 afford the Planning Commission and parties involved an opportunity to respond to the issue may preclude an appeal of this decision based on that issue. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval without sufficient specificity to allow the Planning Commission to respond to the issue precludes an action for damages in circuit court. 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 opened the public hearing at 7:06 p.m.

Chairperson Nieberlein asked if any commissioner wished to declare a conflict of interest, bias, ex parte contact or site visit. Commissioner Muilenburg and Chairperson Nieberlein declared site visits.

Staff Report

AP Pezley presented a PowerPoint presentation which reviewed the criteria for the proposed project including the location and the existing conditions, and added a new Exhibit O. AP Pezley said she would include staff recommendations and asked Commission to hold all questions until the end of the presentation. AP Pezley presented all applicable City Codes and the Realization 2020 Florence Comprehensive Plan and said that this application meets all criteria and this is all covered in detail in the Staff report which was posted on the website. She then described the location of the proposed project. She said the applicant proposed to remove existing structures. AP Pezley offered Exhibit O, a letter dated November 27, 2012 from Debby Todd, landowner to the West, who asked for two things:

- 1) A survey of the property
- 2) An increase in the setback on the West side due to her concerns with accessibility for cleaning gutters.

AP Pezley closed her presentation by recommending approval of this permit with the conditions of approval outlined in the Staff report. She then opened the floor to questions by the Commission.

Questions from Commissioners

Location of Bench

Commissioner Muilenburg questioned the location of the bench as stated in the report. He said the bench appeared to be on the SW corner rather than the SE corner as stated in the report. AP Pezley confirmed that the bench was on the SW corner.

Parking Spaces

Commissioner Muilenburg stated that Exhibits G, H and J referenced seven (7) total parking spaces but it was his understanding that one of the parking spaces was changed to bike parking and there were now six (6) residential and six (6) commercial parking spaces. AP Pezley confirmed that Commissioner Muilenburg was correct and that the Exhibits would note the change. Commissioner Muilenburg asked about the proposed size of the parking spaces and AP Pezley answered that they met code and compared it to behind the Cash King.

Landscaping

Commissioner Muilenburg asked if some of the landscaping was in the right-of-way from the sidewalk to the property line and whether that counted towards the landscaping requirements. AP Pezley confirmed that an approximate five (5) foot landscaping strip was within the right-of-way which does not count towards the fifteen (15%) landscape requirement but the trees in the right-of-way are counted as a four-by-four foot (4x4) patch. Commissioner Muilenburg also questioned whether there was a Private Use of a Public Right-of-Way Agreement to ensure that the City would not be responsible for any replacement costs of the landscaping if it had to be dug up. AP Pezley confirmed that there was such an agreement.

Commissioner Peters asked about Page twelve (12) of thirty-three (33) where it states the applicant proposes to revitalize a conditional use permit. He also pointed out that the Planning Commission is not required to meet twice a month and IPD Weese confirmed but stated that those dates are set aside for the Planning

Commission should a need arise. Commissioner Muilenburg asked if the applicant had exceeded the landscaping requirements. AP Pezley said she believes the applicant exceeded the requirements.

Trash Enclosure

Chairman Nieberlein said on Page ten (10) of thirty-three (33) it said that the applicant is proposing to share a trash enclosure with the property owner to the east. Chairman Nieberlein questioned what would happen if that property sold. AP Pezley suggested that the Planning Commission may require a Condition of Approval stating that if the property on the East was sold the applicant would be required to put a trash enclosure on the proposed site.

Origin of Drawings

Commissioner Peters referred to the letter to Mr. Buss from Jill Taylor and inquired who Ms. Taylor was and what authority she had. AP Pezley said Ms. Taylor drew the drawings and thought her contact information was on the drawings. Commissioner Peters said he couldn't find the required signature of the property owner and AP Pezley said she doesn't put them on the website but she has the documentation and apologized for not addressing that in the staff report.

Lighting

Commissioner Peters questioned Exhibit G. He said there appeared to be no lighting on the east side of the building and questioned whether this would meet code. Commissioner Muilenburg asked if the building code would require lighting. AP Pezley said the building code required lighting around all exits and entrances. She said CBO Dependahl was currently on vacation but the applicant would submit more details on lighting on the building with the building permit and CBO Dependahl would ensure that all proposed plans meet code. Commissioner Peters asked what the relevance was for the specs on lighting. AP Pezley said the specs show how the light poles will meet requirements. Commissioner Peters said that historically the Commission took lighting very seriously and he felt this proposal was not adequate enough to make an informed decision. Commissioner Peters suggested that Commission could make a Condition of Approval to ensure that lighting met code. Commissioner Peters said they could also deny or defer the application until the applicant brought further adequate evidence of what was planned. AP Pezley confirmed that was another option. Commissioner Muilenburg asked if the circled item at the top of page six (6) was what the applicant was proposing. AP Pezley confirmed. Commissioner Muilenburg questioned the items circled on page seven (7) and page nine (9). IPD Weese suggested that Commission ask the applicant to clarify these questions. Chairman Nieberlein asked if there were any additional questions from Commission. The Commissioners stated they had no more questions for staff.

Chairperson Nieberlein said they would be taking testimony of the applicant; proponent, opponents; copies of the written comments received have been distributed to the planning commission. She said it was the applicant's turn to address the Commission.

Applicant

Stecher Buss, PO Box 435, 1901 Hwy. 101, Florence OR 97439

Chairperson Nieberlein asked the applicant if he had read and understood the staff report and if he had a presentation or if he would prefer to take questions from the Commission.

Mr. Buss said he had read as much as he had time for and he was ready for questions.

Lighting

Commissioner Peters asked what the proposed lighting was. Mr. Buss said there were three poles in the landscaping areas with 400 watt lighting. Mr. Buss said there would be lighting to accent the building but not shine into the street but still providing adequate lighting for the building and the street easement. Mr. Buss said there would also be lighting under the covered parking area. He pointed out the areas on the drawing. He said the lighting would not shine in the windows of the neighboring apartments.

Trash Enclosure

Commissioner Bare asked where the trash enclosure was going to be. Mr. Buss explained that since the neighboring building was owned by the same owner, Mr. Buss proposed sharing the existing trash enclosure. Mr. Buss agreed to sign a statement that states he will use the excess landscaping area and put in a trash enclosure if the need arose. Commissioner Bare confirmed the area on the drawing that would allow for a future trash enclosure. Commissioner Bare asked about the size of the current trash receptacle and was told by Mr. Buss that it was a large one with the double lids. Mr. Buss said the current trash receptacle does occasionally get full on holiday/weekends but they would go to twice a week pickup if necessary.

Setback

Commissioner Muilenburg clarified that there would be a two feet, six inch (2'6") setback from the property line to the edge of the building and an overhang of approximately eighteen inches (18"). Mr. Buss confirmed. Commissioner Bare asked for the site plan to be put back on the screen. Mr. Buss said that the proposed building would be taller than the existing building and the gutters would be accessed from the roof and he didn't see an issue. Commissioner Bare asked how much setback there was on the existing property. Mr. Buss said he thought the existing building might be right on the property line. Commissioner Muilenburg confirmed that Mr. Buss was going to have this surveyed. Mr. Buss said yes. AP Pezley said that one of the conditions of obtaining a building permit was that the applicants show evidence of where the property lines were.

Chairperson Nieberlein asked if there were any more questions for Mr. Buss. There were none. Chairperson Nieberlein asked if there was anyone present who wanted to speak in favor of the project.

Bob Hursh, 5104 Wood Lake Way, Florence OR 97439

Mr. Hursh is a tenant in the building at 1901 Hwy 101. He spoke in favor of approving the project. Mr. Hursh believed the proposed location would be an improvement over the current condition. Mr. Hursh said Mr. Buss has proven with previous construction that he does quality construction. Mr. Hursh said he believed this would be good for his business and good for the City of Florence.

Chairperson Nieberlein asked if there was anyone opposed to the project, or neither in favor nor against the project who would like to speak. There was no one.

Commissioner Muilenburg asked what the approximate size of the lot was. Mr. Buss said approximately one-quarter acre.

Chairperson Nieberlein asked Commission if there were any questions to any of the presenters.

Commissioner Peters asked if there was any urgency if this project were delayed. Mr. Buss replied he was currently commuting to Eugene and had substantial monthly fuel bills. He also coached wrestling and he would really appreciate being able to work in town.

Chairperson Nieberlein closed the hearing at 8:04 p.m. and asked for Commission discussion.

Commissioner Peters moved to continue the hearing to the first date available due to the absence of a complete lighting plan. Chairperson Nieberlein asked if there was a second. There was none. Motion died.

Commissioner Muilenburg said he thought the building Mr. Buss built at the old dive shop was a nice addition on Hwy 101 and believed Mr. Buss did a good job. Commissioner Muilenburg also said he thought the proposed project would be a nice addition to the neighborhood. He had questions on the trash enclosure. Chairperson Nieberlein suggested that there be a written agreement stating that in the event the property with the trash enclosure sells there would be a trash enclosure built on the proposed property. Commissioner Muilenburg said that would be a minimum option and the other option is to require a separate enclosure on the proposed property. Discussion was held on increasing trash pickup to two (2) times per week if

necessary and resorting to a separate enclosure if needed. Commissioner Muilenburg agreed that Commission needed a written agreement with the applicant. Chairperson asked all Commissioners if that was agreeable. All were in favor.

Commissioner Muilenburg also addressed the lighting plan. He stressed the need for adequate lighting and said he believed Mr. Buss put adequate lighting on his previous building and that building code would require this. Commissioner Muilenburg said he was in agreement with the lighting requirements being an administrative review, requiring it as a condition of approval. Commissioner Bare agreed. Chairperson Nieberlein asked staff when the soonest date would be to reconsider this issue if they held it over. IPD Weese said it would be December 11, 2012. IPD Weese said they could add a condition of approval prior to obtaining the building permit.

Commissioner Peters asked if this meant that the issue of lighting was not under an area needing Commission review. Chairperson Nieberlein said that was not the issue but rather that Planning and Building know the reasonable expectation of the Commission and building code will ensure compliance. Commissioner Muilenburg said that he understood that the Planning Commission didn't really delve into the actual details of the building because that was covered by building code. IPD Weese agreed and said that land use code is mostly concerned with lighting in the parking lot. She said the building code was more concerned with building and sidewalk lighting to make sure they are ADA compliant. She said as another safety measure the City also had thirty (30) days after occupancy to review the lighting and make sure it was up to code. This could be added to the Condition of Approval. Commissioner Peters stated that the lighting was a land use issue that was up to the Commission to ensure. Commissioner Peters said they didn't have assurance that those matters had been resolved, and he referred back to the time the Commission spent reviewing the lighting for the Dialysis Center. IPD Weese agreed that this matter was up to the Commission and they could bring it forward to another meeting, however she thought it should be the decision of the entire Commission to do so. AP Pezley added that with the Dialysis project the Commission allowed staff to review the lighting plan and staff asked the Commission to provide direction on the lighting plan because there was discrepancy over the sidewalk lighting that wasn't clear in the code. Chairperson Nieberlein asked for a vote. Commissioners Bare and Muilenburg were in favor. Commissioner Peters voted against proceeding ahead. Chairperson Nieberlein voted with the majority in favor of proceeding.

Commissioner Muilenburg asked to discuss the letter from Ms. Todd. Commissioner Muilenburg said he believed her concern over property lines was already covered by Mr. Buss agreeing to get the property surveyed. On the second matter of the gutters Commissioner Muilenburg said if everything was within code it was up to the property owners not to go on the other property owner's property when cleaning the gutters. Chairperson Nieberlein added that it was basically Ms. Todd's zero lot line building that was creating the problem and not the new construction. Chairperson Nieberlein asked if Commissioner Peters had any comments. He had none.

Commissioner Muilenburg summarized the areas to be addressed and Chairperson Nieberlein confirmed:

- 1) Condition of approval for lighting plan and the thirty (30) day post occupancy site visit
- 2) Survey of property line
- 3) Approval of correct number of parking spaces
- 4) Condition of approval of trash enclosure
- 5) Change the findings of facts to match the exhibits. (the changes from SE corner to SW corner of the bench

Commissioner Muilenburg asked if it was true that the applicant wasn't proposing any signs but whomever rented the building would have a right to a sign. He confirmed with IPD Weese that a request for a sign would be routed through the Building Department. He also asked if plans were to close the other entryway once the new sidewalk was in. AP Pezley confirmed and said Public Works would verify with the Construction within the Public Right-of-Way permit.

Chairperson Nieberlein asked if Commission was ready to make a motion.

Chairperson Nieberlein asked if Commission was ready to make a motion.

Commissioner Muilenburg moved to approve Resolution PC 12 16 CUP 08, represented by RLA Holdings LLC, represented by Stecher Buss, applying for a conditional use permit and design review to construct a two-story mixed use building with four apartments and one retail/office space at 1739 19th Street (Map Reference No. 18-12-26-22, tax lot 3301, with adding the condition of approval for the trash enclosure if the property exchanges hands or is sold that they will be required to add their own trash enclosure and also a condition of use of the lighting plan with the 30 day review will be submitted to the Planning Department or Building Department and approved as such as an administrative review and also the discrepancies and findings of fact in the Exhibits will be changed to match the correct number of parking spaces and also change the location of the bench to the SW corner.

Commissioner Bare seconded. Chairperson Nieberlein, Commissioners Bare and Muilenburg ayes; Commissioner Peters nay. Motion passed.

PLANNING COMMISSION DISCUSSION ITEMS

2013 Planning Commission Meeting Calendar

IPD Weese addressed the Commission and discussed the coming year's calendar.

DIRECTOR'S REPORT

IPD Weese said the Planning, Building and Public Works monthly reports were in the Commissioner's packets. She said the Planning Commission will be working on the amendments with the Estuary partnership which is included in the last page of the Public Works monthly report. She believes this will be in either January or February but will keep Commission updated.

Chairperson Nieberlein said that this will be her last meeting because she is moving. She said Commissioner Muilenburg will take over as Chairperson until February elections.

Chairperson Nieberlein adjourned the meeting at 8:04 p.m.

Curt Muilenburg, Planning Commission Vice-Chairperson
For Jan Nieberlein, Planning Commission Chairperson