

**CITY OF FLORENCE PLANNING COMMISSION**  
**March 26, 2013 \*\* MEETING MINUTES \*\***

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

Chairperson Hoile opened the meeting at 7:00 p.m. Roll call: Commissioners: Bob Bare, Cheryl Hoile, Curt Muilenburg, Alan Burns, and John Murphey were present. Also present: Interim Planning Director Kelli Weese, LCOG Associate Planner Jacob Callister and City Manager Jacque Betz

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**1. APPROVAL OF AGENDA**

Commissioner Bare moved to approve the agenda as presented; second by Commissioner Hoile; agenda stands as presented.

**2. APPROVAL OF MINUTES**

**\* Meeting of February 12, 2013**

Commissioner Bare moved to approve the minutes of February 12, 2013 as presented, second by Commissioner Muilenburg; IPD Weese commented that there was a misspelling on page 2 of 2 under the director's report section a name correction, second by Commissioner Burns with correction, 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.

**PUBLIC HEARINGS:**

- 4. 1723 UPAS STREET ADDITION – RESOLUTION PC 13 02 CUP 01:** *Bob Carroll of Carrolton Designs Inc., has applied on behalf of the homeowners for a Conditional Use Permit to permit the expansion of the single family home located at 1723 Upas Street in a manner consistent with the home's current setback (5 feet), but inconsistent with the current setback requirement (10 feet).*

*Chairperson Hoile 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, prejudice, personal interest, or other facts from which the party has concluded that the Commissioner will not make a decision in an impartial manner.*

Chairperson Hoile opened the hearing at 7:05 p.m. and asked if anyone on the Planning Commission wish to declare any conflicts of interest, bias, ex-parte contact or site visits. Commissioner Muilenburg declared site visit, Commissioner Murphey stated multiple site visits but not related to the quasi-judicial decision by the commissioners and even though he has had a friendship with Mr. Hilton he felt he could make an impartial decision. Chairperson Hoile then asked if the public had any challenges to the commissioner's impartiality in making this decision. There were no challenges. Chairperson Hoile then asked for the Staff Report.

### **Staff Report**

IPD Weese introduced AP Jacob Callister with Lane County Council of Governments (LCOG) and stated that he would be doing the Staff Report for both of the public hearings. AP Callister thanked the Commission for the opportunity to do the reports. He said these are two separate applications but they are related in the trigger for the pursuit of a permit.

AP Callister gave a verbal report using information available in the staff report. AP Callister said the city did not receive any public comment except for one that evening from Ron and Barbara Miller which stated total support of the Land Use request. He said single family dwellings were exempt from design review. The proposal is for an expansion of 34% of the buildings floor area. AP Callister said the Code allowed for expansion of a pre-existing non-conforming use of the scale that was proposed through a conditional use permit process. He said staff's conclusion was to recommend approval of the conditional use permit citing that it meets the criteria. IPD Weese listed the criteria from the staff report.

Commissioner Muilenburg commented on the fact that there was no additional condition of approval and went on to state that normally we do have conditions of approval on the conditions of approval page. AP Callister commented that the resolution made reference to conditions. IPD Weese said the resolution was not available in the packet but provided it for the Planning Commission.

Commissioner Hoile asked if there were any more questions of staff. There were not. Commissioner Hoile then asked for the applicant's presentation.

### **Applicant's Presentation**

#### **Bob Carroll - 1155 E. Mapleton, Mapleton, OR.**

Mr. Carroll said this is simply to do an addition to the backside of the house. This home was originally built with a 5 foot setback as was pretty much every house in the subdivision. He said years later of course a Florence City Ordinance was passed, changing that setback to 10 feet. Therefore we thought it was well worth coming before the Planning Commission showing that they were certainly not trying to do something out of the ordinary, but only something that would be very typical in almost every subdivision in the state, which was to follow the codes that the building was originally built under. Commissioner Hoile asked the applicant if he had read the report and understood the conditions of approval and he stated that yes he had.

Commissioner Hoile then asked if any of the commissioners had questions. Commissioner Muilenburg had a question regarding fences and wanted to know if the applicant was going to have to tear down the fence to gain access because of the five (5) foot setback. The applicant answered that it would not be an issue because there is a garage with a door in the back. Commissioner Muilenburg was satisfied that the applicants answer solved the issue. Commissioner Hoile asked if there were any more questions. There were no more questions.

Commissioner Hoile closed the hearing at 7:22 pm.

Commissioner Burns made a motion to pass the resolution as presented by staff, second by Commissioner Bare; by voice all ayes, motion carried unanimously as presented.

5. **STILLWATER CONDOMINIUM ADDITION & STAIRWAY REPLACEMENT – RESOLUTION PC 12 16 CUP 08:** *Chris Rupp, and John McGee of Alliance Construction, and J.D.McGee Inc. Engineers, have applied in behalf of the Stillwater Condominium’s Homeowner’s Association, for a design review to replace the east stairway of the Stillwater Condominiums building, including enclosing the staircase and adding construction to the third story. The condominiums are located at 1220 Bay Street.*

Commissioner Hoile opened the hearing at 7:25 pm. and asked if anyone on the Planning Commission wish to declare any conflicts of interest, bias, ex-parte contact or site visits. Commissioner Murphey declared a potential conflict of interest due to Coast Insurance being the agent for Stillwater Homeowner’s Association, the City of Florence, the property developers and the general contractors. He said he still felt he was able to make an impartial decision on the matter. Chairperson Hoile then asked if the public had any challenges with the commissioner’s impartiality in making this decision. There were no challenges. Chairperson Hoile then asked for the Staff Report.

#### **Staff Report**

AP Callister gave a verbal report using information from the staff report. He stated this was a design review to repair a pre-existing non-conforming structure. He said the proposed repairs necessitated an expansion of the non-conforming use in order to address some structural issues that were the result of some poor building practices. He gave an overview of the history of the project.

AP Callister said the Memorandum of Understanding from 2006 did not go through the formal planning process. The Memorandum of Understanding did result in an amended building permit and changed construction plans. He discussed why the application was for a design review, not a conditional use permit.

AP Callister said he would focus on two primary issues. The first primary issue is that of public safety. We have a letter from the Siuslaw Fire and Rescue suggesting that there is a serious safety hazard and that the owners would have to vacate the site if they couldn’t come into compliance and add an additional access to the site. He said the site had 2 exits; one on the west and one on the east end. He said currently all access is from that west side because the east side was closed off due to the damage. The building official noted that there is damage that has to be repaired for safety purposes.

AP Callister said the second key issue was the height of the building, primarily because of its historic significance. The height of the building is particularly sensitive because it’s within a view of a very scenic area as you exit the south part of town. The height and the view shed issue was a significant concern during the original proposal, both from downtown and the bridge. He said the building has been designed so that there are no decks or doors on the side of the building facing the bridge and the applicant will provide some visual scenarios to show how relative to the current situation that the proposal results in negligible impact on the view. Staff has concluded that the impact is mitigated and negligible. Staff provided notice as required and received a substantial amount of public comment. In summary, staff heard from 10 individuals, the majority of those were unit owner’s, there were also several citizens and the owner of the jewelry shop in the unit in the front. All commenters expressed their approval with the application.

AP Callister said the building official Carl Dependahl provided comments; noting extensive damage and water infiltration of the structure at east stairway and other locations: beams, joists, studs, wall panels and other components showed deterioration likely due to moisture and fungus mold. Damaged material in required exit stairway must be repaired for safety. Siuslaw Fire and Rescue Shawn Barrett stated that providing a solid roof with the addition and enclosing the stairway per the original design would provide proper protection to prevent future structural integrity issues and protection for the occupants egressing from the building.

AP Callister listed the criteria as shown in the staff report. AP Callister noted one very critical provision of Florence Code which pertained to the entire Title 10 but was found within the Non-Conforming Use chapter, which stated nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety. He said the proposed renovations were intended to restore the structure to a safe condition and to ensure the safety of the public. The current unsafe condition has been documented by the city building official and by Siuslaw Valley Fire and Rescue. AP Callister said this increase in height was intended to reduce discontinuities in surfaces which create opportunities for water to infiltrate, and would make the development consistent with the 2005 approval. AP Callister discussed the design review criteria and how the application met those criteria.

AP Callister discussed the conditions from the previous approval and how they were met. He said staff finds that the application as presented meets or can meet the applicable city codes and requirements. AP Callister said staff's recommendations in summary, were that the site has a sticky history, there were some decisions made at the level between the developer and the City Manager to confuse a fairly contentious situation and there were some compromises made as a product of that situation. It is staff's finding that in construction of the Stillwater Condominiums, the applicant met the provisions of the Memorandum of Understanding. He said now the structure has some significant safety hazards. He said the current application was an attempt to rectify the problem and it is staff's recommendation based on the applicant's proposal consistent with the Florence code and staff recommends approval.

IPD Weese reminded the Planning Commissioners that there were some references in the documents noting various locations throughout the building of deterioration. She said the portion that the Planning Commission was reviewing was only the portion of the stairwell and the additional third story. She said the city would not be regulating any sort of repairs to the building, other than those that triggered a design review.

### **Questions from Commissioners**

Commissioner Burns asked AP Callister if ODOT could come back at the last hour or afterwards making the Homeowner's Association and the developers having to go through a process. AP Callister stated that this was likely not something that would arise to ODOT's concern level. CM Betz added that she felt ODOT was contacted in the past because there was a potential project years ago for the Wayside. Commissioner Muilenburg asked about the history of the Wayside project. CM Betz discussed the project history and current situation.

Commissioner Muilenburg asked if any of the original conditions of approval were unsatisfied or not met. IPD Weese stated that there were not. Commissioner Muilenburg said it was his assumption that those conditions are still conditions of approval that still have to be met if this approval doesn't carry forward. AP Callister stated that the prior approval governs this process and will continue to do so. Commissioner Muilenburg wanted to know if the city would inspect this project because there have been so many quotes of deficiency in construction and irresponsibility of builders. CM Betz informed the Planning Commission that the city no longer has a building official because of the current recession, and is contracting services with The Building Department LLC who does have building officials and they will come out and do inspections for the city.

### **APPLICANT'S PRESENTATION**

**John McGee - J.D. McGee Inc.**  
**Shane Ottosen Jr. - Design Planner**

Mr. McGee presented a power point of their proposal (Attachment 1). He said they had problems with moisture entering the structure and that caused two things: (1) the stairway had structural members damaged significantly and (2) the trapped moisture caused a health issue due to mold. He said our design

team sat down and went to work to find solutions and came up with two basic alternatives. First we looked at the possibility of leaving the configuration and trying to design for wet conditions. Our second alternative involved enclosing the stairway to minimize the weather conditions. Mr. McGee discussed the pros and cons of each alternative. Mr. McGee said they came up with the enclosed facility as it was originally designed as the best solution. He said enclosing the building protected the structural components from the severe weather conditions, it minimized the number of discontinuities in the building envelope, it looked the same as what is there already and more importantly it solved the public health and safety issue. Mr. McGee continued his power point showing photographs of the structure. Mr. McGee said in conclusion, there was an urgent need to resolve the problem. He said to improve the safety and welfare of the public which was the #1 priority. This plan will resolve the safety and health issues and give the residents the confidence to use the facility to actually get out if there is an emergency.

Chairperson Hoile asked if Mr. McGee had read the staff report and he said yes.

Commissioner Bare questioned the report from Wise Steps Inc. on the condition of the mold and the attachment. He asked what type of mold was identified by Wise Steps. Mr. McGee responded saying he didn't know much about mold. Commissioner Bare said he wanted the issue of health on the record. AP Callister stated that he brought up the mold as a critical safety issue but it didn't appear to rise to the same level of the building official and the fire marshal referral had noted. He said it seemed to be more of a nuisance and something that could escalate to a problem because the report never used terms like toxic or life-threatening. Commissioner Bare then asked Mr. McGee as an engineer if he felt it might have been a building defect or a design defect which caused the issues. Mr. McGee said he felt it happened when the third floor roof was removed without regard to what would happen below. He said when the roof was removed, damage occurred. Commissioner Bare then asked Mr. McGee if he had viewed the original plans and he responded yes. Commissioner Bare then asked if there was an engineer's stamp on the plans and Mr. McGee responded that there was an architect's stamp. Commissioner Muilenburg pointed out to Commissioner Bare that Exhibit G discussed the exceptional excessive amount of mold growth.

Commissioner Muilenburg commented that he appreciated the written comments in the report from the applicant, including noting awareness of the importance of the 3-D visual effect that was in the packet really helped him to understand the situation. Commissioner Murphey commented on the visual view, saying if you are driving South on the bridge, we hope the driver is focusing on their driving and not the view. If you are going to get out and walk on the bridge and the view is blocked, you will walk a little further until you get a clear view. He said he didn't think the view issue was anything to be concerned about.

Chairperson Hoile asked if there were problems on the west end where that staircase was covered. Mr. McGee stated that there were some issues, but not with the stairway. Chairperson Hoile asked the applicant if he was comfortable that fixing this and putting the roof back would minimize the risk. Mr. McGee stated yes.

Commissioner Bare commented that in the report the testing came from Wise Steps, Inc., but in the lab report it came from EMS Analytical, San Leandro, CA. Chairperson Hoile stated that they will make the edit.

Commissioner Muilenburg questioned the applicant regarding whether they were putting in another condo or just an enclosed common area. Mr. McGee responded that it was actually an expansion of the third floor condo that is on the East end. He said the condominium was reduced in size as a result of the roof removal, and their plan was to restore the condo to the original plan size and by doing that his goal was to minimize the number of changes in plane, because changes in plane are places where moisture can enter. He said we are trying to create continuity. Commissioner Murphey commented to Commissioner Muilenburg that they were adding 330ft to Unit 301. Chairperson Hoile then asked if there were any more questions or comments. There were not.

## **Public Testimony**

### **Linda Cossey – 1220 Bay Street #200 Florence, OR.**

Ms. Cossey said in 2011 she moved to Florence from San Diego where she worked for a multi-national company for more than 11 years. She decided it was time to change her life from the stressful 50-60 hour work weeks to something more modest and conducive to a healthy life. She made a proposal to her company to create a position with reduced work hours and a remote work place, which they approved.

Ms. Cossey said she had come to Florence a number of times over the years, visiting family and it seemed a pleasant small community, where she could live modestly yet comfortably. She found a new condo that was within her budget and bought it with the expectation that this modern condo had been built with responsible construction practices and appropriate city inspections and that significant expenses for repairs would be many years in the future. Unfortunately this plan for her life as semi-retirement in a beautiful part of Oregon has not worked out as expected.

Ms. Cossey said she is facing a financial calamity and has actually been forced to consider the possibility of walking away from her home and was not alone in this. She saw her neighbors forced to leave their homes because of water damage from the defective stairwell. Other neighbors moved out last week also due to the defective stairwell. She said she saw all this and more from her condo above Coast Jewelers where the proprietors surely wondered as she did how long should they should wait to repair the buildings before they are completely beyond repair. We need the repairs to begin now; repairs that include the properly designed stairwell that will avoid a repeat of this unbearable situation. She asked, the Planning Commissioners to consider the stresses, financial burdens the owners are facing, and to put themselves in the condo owners place and approve the submitted repair proposal without delay and allow them to begin recovery from this disaster.

### **Elizabeth Breon – Owner of Coast Jewelers 1220 Bay Street #100 Florence, OR.**

Ms. Breon said she was a commercial condo owner. She said for the most part it has been a great location but the financial and stress burdens on the condo owners was difficult. The owners have been told they had 40 days to come up with \$50,000 each or a lien will be put on the condos. She said she is debt-free in her business and in her personal life and had spotless credit and yet the local banks who witnessed the building of these condos would not give a loan for \$50,000 in 40 days. So, the condo owners are trying our best to do everything possible as a group. She said all they need is an 8" snow storm and some of them would be moving out. There is the possibility that some of these condos will go back to the bank if the owners can't come up with the money to repair the problems. She said she works 70 hours a week to maintain a small business in Florence. She cannot work a whole lot more and has been putting in massive numbers of hours trying to figure this out. She asked the Commission to please help resolve this problem.

Chairperson Hoile asked if there were any more public comments. There were none. Chairperson Hoile asked for questions, comments from the commissioners. There were none. Chairperson Hoile closed the hearing at 8:24 p.m.

## **Commission Deliberations**

Commissioner Muilenburg commented that the situation was certainly not the fault of the owners who bought the condos, and with the comments and the written testimony about corners cut in construction to make a fast buck, he just wanted it on the record that it was up to the developer, owner and builder to redesign the project to make it safe for the people who bought the condos. It wasn't the Planning Commission's nor the City's fault that the builders and developers didn't follow through and complete the design appropriately. Chairperson Hoile agreed with Commissioner Muilenburg comments and said she

believed the city worked really hard on things, worked with the people, and addressed the issues of the site to find the best compromise at the time.

Commissioner Muilenburg commented that there was nobody in opposition at the meeting. Commissioner Muilenburg made a motion to approve the resolution. Second by Commissioner Bare; by voice all ayes, motion passed unanimously.

## **6. PLANNING COMMISSION DISCUSSION ITEMS**

Chairperson Hoile asked about a big gray fence on Kingwood outside that big airport building and wanted to know if it was allowed. IPD Weese said that the fence itself was allowed, but the material it was built out of was not, and the owners were aware. It was a code enforcement issue that was still pending. Commissioner Muilenburg talked about the dog park and how people made a big issue about smell. He went to the park and commented on how a non-issue that had turned out to be. He also commented that it was a really nice facility and that people often thought something was really important at the time and later on they become non-issues.

## **7. DIRECTOR'S REPORT**

IPD Weese said the monthly report went into a lot of detail about the changes in the department and if the commission had any questions to let her know.

## **8. CALENDAR**

IPD Weese informed the Commission on three upcoming calendar events including...

- Tuesday, April 9<sup>th</sup> – No Planning Commission Meeting
- Monday, April 15<sup>th</sup> – Siuslaw Estuary Partnership Joint Work session
- Tuesday, April 23<sup>rd</sup> – Regular Session, 7:00 pm at City Hall

Chairperson Hoile adjourned the meeting at 8:35 p.m.

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Cheryl Hoile, Planning Commission Chairperson



City of Florence Planning Meeting  
**STILLWATER CONDOMINIUMS**

**PROJECT TEAM**  
STILLWATER CONDOMINIUM ASSOCIATION  
ALLIANCE CONSTRUCTION  
JD MCGEE, INC. - ENGINEERING AND SURVEYING

City of Florence Planning Meeting 5/6/2013

### PREVIOUS PLANNING ACTIONS



**STILLWATER CONDOMINIUMS**  
2005 City Approval of "Original Design"  
(With three full floors)



Citizens express concerns during construction of 3<sup>rd</sup> floor



2007 City Issued MOU. This removed the third floor on the east side of the building



Only six years later....

- Severe decay on the east end
- City Building Official/Fire Marshal condemned the stairway.

City of Florence Planning Meeting 5/6/2013

### EXISTING CONDITIONS



Severe weather damage  
Failure of structural members  
Harmful mold growth

➔ **PUBLIC HEALTH HAZARD**

City of Florence Planning Meeting 5/6/2013

### THE REAL BOTTOM LINE

- Citizens' welfare and health at risk
- Condo 103 deemed uninhabitable
- In the event of a fire condemned stairway offers only one exit



City of Florence Planning Meeting 5/6/2013

### ALTERNATIVES

- Project Goals
  - Ensure safety and welfare of the public
  - Identify alternatives that would be aesthetically pleasing for the public and homeowners

Alternative 1  
Rebuild to current weather exposed configuration

Alternative 2  
Rebuild with a roof enclosure



City of Florence Planning Meeting 5/6/2013

### ALTERNATIVE 1

- Rebuild to current weather exposed condition
  - This option has proven to not work
  - Option to use a weather-resistant material...
    - Pressure Treated Wood
      - Good option
      - Need ventilation
    - Concrete
      - Good weather-resistance
      - High weight. Need to redesign footings. High cost.
    - Steel
      - High maintenance.



# Attachment 1

City of Florence Planning Meeting 5/6/2013

### ALTERNATIVE 2

- ✦ Enclosing the roof
  - Offers better weather-resistance of structural members = Safer Building
- ✦ There are infinite possibilities within the enclosed roof option
- ✦ Building-end Enclosed Roof
  - Offers appearance consistence with the existing building
  - Protects the stairs
  - Provides an increase sense of security/confidence to users

City of Florence Planning Meeting 5/6/2013

### THE BEST SOLUTION

City of Florence Planning Meeting 5/6/2013

### THE BEST SOLUTION...

- ✦ Building-end Enclosed Roof
  - Provides protection for structural components
  - Reduces opportunities for leaks
    - Fewer breaks in building planes
  - Maintains aesthetic consistency
  - Ultimately resolves the public safety and health issues

City of Florence Planning Meeting 5/6/2013

### MODEL (POSITION 1)

As seen, the area obscuring scenery is small

View from the perspective of the Siuslaw River Bridge

City of Florence Planning Meeting 5/6/2013

### MODEL (POSITION 2)

Again, the area obscuring scenery is small

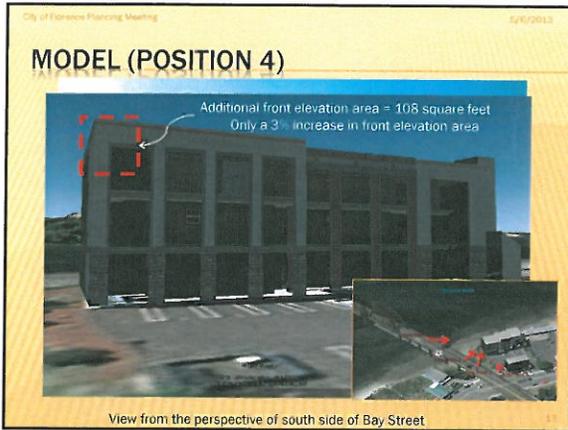
View from the perspective of the Siuslaw River Bridge

City of Florence Planning Meeting 5/6/2013

### MODEL (POSITION 3)

Very small area obscuring scenery

View from the perspective of the Siuslaw River Bridge

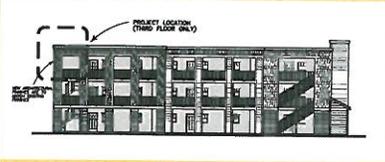


City of Florence Planning Meeting 5/6/2013

### CONCLUSION

- ✗ Urgent need to resolve these problems
- ✗ The safety and welfare of the public is the #1 priority

This plan will restore public safety to this facility



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**CITY OF FLORENCE PLANNING COMMISSION**  
**April 23, 2013 \*\* MEETING MINUTES \*\***

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

Chairperson Cheryl Hoile opened the meeting at 7:00 p.m. Roll call: Commissioners: Curt Muilenburg, Alan Burns, John Murphey were present, and Commissioner Robert Bare was absent. Also present: Interim Planning Director Kelli Weese and City Manager Jaque Betz

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**1. APPROVAL OF AGENDA**

Commissioner Burns moved to approve the agenda as presented; second by Commissioner Muilenburg; by voice all yes, motion approved unanimously.

**2. 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.

**PUBLIC HEARING:**

**3. MISCELLANEOUS PROPOSED TEXT AMENDMENTS – RESOLUTION PC 13 06 TA 02:**

A proposal to amend multiple portions of the City of Florence Zoning Code (Title 10) in order to implement Oregon House Bill 3516, expand and clarify allowed uses, extend planning time frames, improve and clarify land use processes, and correct references and typographical errors throughout.

*Chairperson Hoile said there was a public hearing before the Planning Commission that evening. The hearing would be held in accordance with the land use procedures required by the City of 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 Hoile opened the public hearing at 7:04 p.m.

Chairperson Hoile asked if any commissioner wished to declare a conflict of interest, bias, ex parte contact or site visit, there were none.

## Staff Report

IPD Weese gave a verbal presentation using information available in the staff report. She discussed the purpose, history, and recommended changes since the code changes were initiated in early 2007. She said public notice had been completed. Notices were mailed to property owners in the Old Town District on April 3, 2013 to ensure compliance with state law in order to clarify that animal daycare is not allowed in the Old Town District. She listed the applicable criteria as shown in the staff report. She said the next steps in this process were for the Planning Commission to hold a public hearing and provide a recommendation to the City Council and after that the City Council would hold an additional public hearing and make the final decision.

## Questions from Commissioners

Commissioner Murphey questioned the wording in the Comprehensive Plan Chapter 2 Commercial Policy 4 the first sentence of page 5 of 8: "The City Council shall encourage". He felt encourage was a tough word and suggested it be changed to "only allow". City Manager Betz suggested they change the wording to say "may" instead of "shall" because shall means you will do something and it conflicts with encouraging if that sentence was going to be kept in the Comprehensive Plan. IPD Weese commented that these were in the staff report to ensure that the code changes were compliant with the Comprehensive Plan. She said the Comprehensive Plan changes were not included because that was another layer that staff was not prepared to complete. The Planning Commission decided the wording would not change.

Commissioner Murphey had a question regarding the Design Criteria on page 10: 10-25-5. This section pertained to HVAC, exhaust pipes or stacks, telecommunication or dish devices stating they shall be thoroughly screened. He wanted to know how this was going to be accomplished. IPD Weese responded saying that it is up to each individual business. Commissioner Muilenburg stated that this was not new proposed language. IPD Weese agreed and said only what was in red and underlined was new. After some discussion, IPD Weese clarified that this was something addressed with new a development during a design review application and anything that is pre-existing could remain unchanged.

Commissioner Muilenburg asked about Exhibit "B" on page 2 and he suggested that the Council needed to be the Hearing Body of Appeal. IPD Weese stated that the purpose of the appeals section was to have an appeal process for administrative reviews. She said administrative reviews, as far Florence codes were concerned, was a fairly new process and so code did not have an appeal process for an administrative review right now. She said the second sentence was kept because staff still wanted the City Council to be able to refer a matter back to the Planning Commission for an additional review. Commissioner Muilenburg stated he understood the change.

Commissioner Muillenburg then referred to page 4 of the Design Review and General Accountability section, and asked about the change titled "when required by the Zoning District". He wanted to know if the Planning Department reviewed all the zones in the districts and made sure they have the appropriate designation in there or their requirements in the codes. IPD Weese responded that staff had, and discussed the process.

Commissioner Muilenburg then questioned the code 10-8-4 regarding "replace/restore" discussion. He referred to the many discussions by the Planning Commission, City Attorney and the City Council on whether to use "replace or restore". He noted that the staff report was changed back to "replace" and his question was whether IPD Weese had taken into account all those discussion in to account in changing the language. IPD Weese stated that this particular item had gone through a few iterations, and discussed them, but said what was proposed was the current version. The Planning Commission discussed circumstances where a building would need to be replaced and how it could do so.

Commissioner Muilenburg asked for clarification on the changes of the Administrative Review criteria. IPD Weese responded that the purpose of that change was so that people wanting to do minor design review could do so without having to go to a hearing. She said if a person was doing an addition that was less than 25% or 1,500 square feet, whichever was less, it would be an administrative design review.

### **Public Testimony**

Chairperson Hoile asked for testimony from those in favor of the proposal, those against the proposal and those that were neutral. No comments were heard.

Chairperson Hoile then closed the hearing at 7:26 p.m.

### **Planning Commission Deliberation**

Commissioner Muilenburg commented that his main concern was that with all the minutes and discussions on the “restore/replace” issue that all those points were addressed. He felt they had been. He then commented on the dog overnight stay and care facilities, clarifying that they were not allowed in Old Town, but were limited basically to the service and industrial district or even commercial highway as long as they didn’t abut the residential use. IPD Weese stated that as it is written now, animal boarding and day care were not allowed adjacent to a residential use. She said that was the decision the City Council made when they went through their initiation process.

Commissioner Muilenburg made a motion to approve the Resolution, Second by Commissioner Murphey, by voice all ayes, motion passed unanimously.

#### **4. PLANNING COMMISSION DISCUSSION ITEMS**

No items to discuss

#### **5. DIRECTOR’S REPORT**

IPD Weese referenced the monthly report for the Building and Planning Department for the month of March 2013. IPD Weese stated that they added a little section regarding customer service inquiries in the department, but other than that it was business as usual. Commissioner Hoile commented on the fact that there were a lot of building questions and asked if BT Rines handled all of them. IPD Weese responded that yes he did.

#### **6. CALENDAR**

IPD Weese informed the Commission on upcoming calendar events including...

- Tuesday, May 7, 2013 – Siuslaw Estuary Partnership Joint Hearing with the Lane County Planning Commission, 7:00 pm at Florence City Hall
- Tuesday, May 14, 2013 – Public Hearings for: Peace Harbor Hospital Design Review, Siuslaw River Christian Fellowship Church 7:00 pm at Florence City Hall
- Tuesday, May 28, 2013 – Public Hearing, Cannery Station Development, 7:00 pm at Florence City Hall
- Tuesday, June 11, 2013 – Regular Session, 7:00 pm at City Hall

Chairperson Hoile adjourned the meeting at 7:35 p.m.

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Cheryl Hoile, Planning Commission Chairperson