

CITY OF FLORENCE PLANNING COMMISSION
January 26, 2016 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Vice Chair John Murphey called the meeting to order at 7:00 p.m. Roll call: Commissioner Clarence Lysdale, Commissioner Chic Hammon, Vice Chair John Murphey, Commissioner Robert Bare and Commissioner Ron Miller were present. Chairperson Curt Muilenburg was absent and excused. Also present: Planning Director Wendy FarleyCampbell, Assistant Planner Glen Southerland and Admin Assistant Vevie McPherrren.

APPROVAL OF AGENDA

Commissioner Bare motioned to approve the Agenda with the year changed from 2015 to 2016. Commissioner Miller seconded. By voice, all ayes. The motion passed.

APPROVAL OF MINUTES

Commissioner Lysdale motioned to approve the Minutes of September 22, 2015, October 27, 2015 and the Joint CC/PC Meeting of December 14, 2015. Commissioner Bare seconded. By voice, all ayes. The motion passed.

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:

Vice Chair Murphey said that there was one public hearing before the Planning Commission that evening. The hearing 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 that 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 qualifications 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.

RESOLUTION PC 15 22 CUP 10 – Dunes Village MMJD: An application from Dennis Smith requesting approval of a Conditional Use Permit to dispense medical marijuana, a conditional use in the Mainstreet District Area A. The building is located at 1770 Highway 126, in the Dunes Village Center, on the south side of Highway 126, Assessor's Map no. 18-12-26-32, Tax Lot 06601. The applicant is currently also seeking State approval for their dispensary.

Vice Chair Murphey opened the public hearing at 7:04 p.m.

Vice Chair Murphey asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visits, or bias. Commissioner Lysdale declared ex parte due to a discussion with community member regarding the landscaping. Vice Chair Murphey asked if any member of the public challenged the Commissioner's impartiality in making this decision. There were no challenges.

Vice Chair Murphey asked for the staff report.

Staff Report

AP Southerland delivered the staff report for Resolution PC 15 22 CUP 10 with the list of applicable criteria from Florence City Code, Title 10 and the Florence Realization 2020 Comp Plan. He gave the introduction, an aerial of the site, and issues that established a pre-existing non-conforming site. AP Southerland provided site plans that included the building front and site photos. There was one referral comment from ODOT that informed that a ROW Permit would be needed for work in the ROW. There was no community testimony received. Staff said that the application met the applicable criteria of City Code and the Florence Realization 2020 and recommended approval with standard Conditions 1 & 2 with the exception of a change from E & F to just E, Condition 3.2 regarding ADA accessible parking, Condition 3.3 regarding rear parking and the need to be brought up to code, Condition 3.4 regarding bicycle parking to be installed near the front entrance, Conditions 4.1 – 4.4 regarding Conditional Use Permit and approval by the State by January 26, 2017, that the approval not be transferrable and that the Conditions listed are met by June 2016, Conditions 5.1 & 5.2 regarding proof of OHA Registration & Licensing and that it be current and active at all times, Condition 6 regarding building color, removal of Condition 7.1 regarding historic fixtures, Conditions 8.1 – 8.4 regarding Landscaping & Screening with 70% coverage within five years of planting, Condition 8.5 regarding parking in the rear of the building and wheel stops, Condition 8.6 regarding maintenance and replacement of landscaping, and a change of Condition 9 regarding the non-remonstrance for 6.9% or an agreement with the applicant and/or the property owner and the City regarding any sidewalk and driveway curb cut improvements. AP Southerland stated the alternatives and asked for questions.

Commissioner Hammon asked if the 5 foot sidewalk was the one that paralleled Highway 126 and AP Southerland confirmed that it was. There was discussion regarding ODOT specs, maintenance by Kiwanis and Adopt-a-Park and AP Southerland indicated that the applicant would be required to obtain the proper right-of-way and/or ODOT permitting and would work with Kiwanis. Commissioner Hammon questioned whether or not the applicant could establish the ADA further out in the parking lot, AP Southerland replied they had to be next to the building, currently there were two ADA accessible parking spaces and three were required. There was discussion regarding City and Federal requirements.

Commissioner Lysdale explained his ex-parte comments regarding his discussion with Mr. & Mrs. Ternyik: the City donated plants and the Ternyik's volunteered time put into the ODOT planter and AP Southerland concluded that the applicant would work with Mr. & Mrs. Ternyik and Kiwanis if they did choose to use the planter.

There were no other questions for staff and Vice Chair Murphey asked for the applicant testimony.

Representing Mr. Smith – Craig Spomer – 491 Laurel Street, Florence

Representing Mr. Smith – Erika Bessey – 491 Laurel Street, Florence

Mr. Spomer indicated that the applicant was in agreement with wheel stops and the landscaping and that the only issues were that the applicant would hope there could be some discussion and negotiation with staff to meet the ADA compliance however the applicant was willing to fulfill the requirement, the 6.9% remonstrance agreement on the curb cut, and stated that if the land owner was not agreeable there was concern over the possibility of binding the applicant longer than tenancy. Mr. Spomer suggested a fee in lieu of that would bind the tenant only while he was at that location. He said that the applicant was willing to fulfill the ADA requirement if the landlord was unwilling to cooperate, but it was the hope that the obligation would be taken away from the applicant.

Representing Mr. Smith – Shawn Fleming – 2099 45th Street, Florence

Mr. Fleming explained how the ADA parking space could be brought up to compliance by repairing the existing, dangerous space that had been built up over time, including the parking space next to it and adding the required 4-inch striping.

Commissioner Miller asked if that would make the applicant ADA compliant, AP Southerland said that they would still need the third space however he could rewrite the condition to include two spaces if that is what the Commission wanted. There was some discussion of the current ADA space locations, drought-tolerant landscape species and vision clearance.

Vice Chair Murphey opened up the opportunity for any proponents, opponents, or interested neutral parties to speak.

Proponent – Gerry Mounts – 57982 Kesie Way, Florence

Mr. Mounts stated that he was a member of the Oregon Medical Marijuana Program and that he approved the facility and looked forward to the benefits it would provide the community.

There were no opponents, interested neutral parties and no rebuttal from the applicant.

Vice Chair Murphey asked for staff recommendation.

AP Southerland stated that Staff approved the proposal with modifications and the changes of Condition 3.2 regarding bringing the existing ADA into compliance based on the Commission decision, deleting Condition 7.1 to remove historic lighting fixtures, striking sidewalks from Condition 9 and restate that the applicant and/or property owner shall come to an agreement with the City or submit non-remonstrance agreement with the City for the 6.9% of driveway, curb cut improvements, and to add Condition 10 that would require the applicant consult and obtain right-of-way permits from ODOT and/or City for any proposed landscaping.

Commissioner Bare questioned Mr. Spomer's comment regarding binding the applicant and asked if the proposed modifications would cover those issues and AP Southerland said that by inserting the language of "applicant coming to an agreement with the City" that would allow other options. Commissioner Bare questioned the applicant's fulfillment of the ADA parking space requirement and AP Southerland indicated that modifying the ADA requirement and repairing the existing space would work toward compliance without burdening the applicant. Commissioner Lysdale expressed that if the applicant provided one ADA compliant parking space in front of the business that should fulfill the 6.9% requirement for the entire parking lot.

Vice Chair Murphey closed the public hearing at 7:55 p.m.

Commission Deliberation

Commissioner Hammon said that he wanted to see the one update regarding the parking space and send a notice to the property owner for additional improvements, Commissioner Miller stated that by bringing the current ADA up to City specifications that should meet the Commissioners recommendation, and Commissioner Lysdale commented that the 50% of window covering seemed non-welcoming.

Commissioner Bare motioned to approve Resolution PC 15 22 CUP 10 – Dunes Village MMJD with Staff's recommended changes to the conditions of approval. Commissioner Lysdale seconded the motion.

Vice Chair Murphey asked the applicant if they had a response, Mr. Spomer requested clarification on the modification on the motion and AP Southerland explained the modifications and changes. Mr. Spomer

responded with a possible dollar amount quote regarding the potential in lieu request.

Vice Chair Murphey questioned the deletion of Condition 7 and AP Southerland clarified the renumbering of condition 7.2 to 7.1 and 7.3 to 7.2.

The motion was restated with modifications by Commissioner Bare and seconded by Commissioner Lysdale with the amendments by staff.

There was discussion regarding landscaping and land owner obligation and AP Southerland stated that the property owner was co-applicant and had given permission for the applicant to make changes and Condition 9 regarding the 6.9% curb cut agreement with Public Works.

By roll call vote: Commissioner Lysdale “yes”; Commissioner Hammon “yes”; Vice Chair Murphey “yes”; Commissioner Bare “yes”; Commissioner Miller “yes”. Chairperson Muilenburg was absent and excused.

DIRECTOR’S REPORT

PD FarleyCampbell stated the monthly reports for September 2015, October 2015 and November 2015 were provided in the Commissioner’s packets and she briefly summarized the updates.

PLANNING COMMISSION DISCUSSION ITEMS

There was brief discussion regarding the new reader board sign on Highway 101 between 6th & 7th Street.

CALENDAR

PD FarleyCampbell said there would be a full complement of Commissioners and she anticipated the yearly training on February 9, 2016 and recommended the next meeting be scheduled for February 23, 2015 with Code Amendments brought at that time.

Vice Chair Murphey adjourned the meeting at 8:18 p.m.

JOHN MURPHEY, VICE CHAIR
Florence Planning Commission

Date

Dunes Village MMJD

PC 15 22 CUP 10



Criteria

Florence City Code, Title 10:

- Chapter 1: Zoning Administration, Section 1-5
- Chapter 3: Off-Street Parking and Loading, Sections 2 through 5 & 8 through 10
- Chapter 4: Conditional Uses, Sections 3 through 11
- Chapter 6: Design Review, Sections 5, 6, & 9
- Chapter 27: Mainstreet District, Sections 3 through 5

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Criteria, cont.

Florence City Code, Title 10 (cont.):

- Chapter 34: Landscaping, Section 3
- Chapter 35: Access and Circulation, Sections 2-12, 2-14 & 3
- Chapter 37: Lighting, Sections 2 through 4

Florence Realization 2020 Comp Plan:

- Chapter 2: Land Use, Commercial Policies 3, 4, 6, & 9

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Introduction

- **1962** – Dunes Village Center building constructed
- **Dec. 4, 2015** – Pre-Development Meeting
- **Dec. 14, 2015** – Applicant submitted application for Conditional Use Permit
- **Dec. 28, 2015** – Application deemed "complete"

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Aerial of Site



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Issues

Pre-existing non-conforming site with non-compliant:

- Access (Quince Street)
- Parking (ADA and aisle width)
- Sidewalks (5 ft.)
- Landscaping (10% of lot)
- Landscaping (Trees and shrubs)

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Conditions of Approval

3. Parking

- 3.1. No storage/loading
- 3.2. 1 ADA Van-Accessible parking space
- 3.3. Rear parking improvements
- 3.4. Bicycle parking

4. Conditional Use Permit

- 4.1. Expiration - January 26, 2017
- 4.2. Cessation of operations
- 4.3. Conditions met by June 26, 2016
- 4.4. Design Review - January 26, 2017

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Conditions of Approval

5. OHA Registration & Licensing

- 5.1. Proof of current and active registration
- 5.2. Current and active at all times

6. Building Color

7. Zoning Requirements

- 7.1. Non-Remonstrance - Historic light fixtures
- 7.2. Trash within enclosure or building
- 7.3. Outdoor storage, odors, dust, smoke, etc.

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Conditions of Approval

8. Landscaping & Screening

- 8.1. Tree and plant list
- 8.2. Two trees and seven shrubs required. 70% within 5 years of planting.
- 8.3. FCC 10-34-3-4 for new plantings
- 8.4. Permanent or temporary irrigation.
- 8.5. Wheel stops
- 8.6. Maintenance & replacement

9. Non-remonstrance for 6.9% of sidewalk and driveway curb cut improvements

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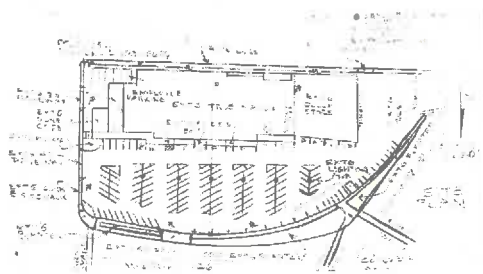
Alternatives

- 1. Approve the application;
- 2. Deny the application;
- 3. Modify the findings, reasons, or conditions and approve the proposal, or
- 4. Continue the Public Hearing to a date certain if more information is needed.

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Questions?



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Glen Southerland

From: Douglas.G.Baumgartner@odot.state.or.us
Sent: Wednesday, January 20, 2016 5:24 PM
To: Glen Southerland
Cc: April.C.JONES@odot.state.or.us
Subject: ODOT Case # 6902 Dennis Smith
Attachments: 06902_07904_RESPCFORM.docx

Please find enclosed the ODOT comments for the conditional use permit review for the City of Florence land use case PC-15-22-CUP-10 Dunes Village Center MMJD. If you have any questions please feel free to contact me at 503-986-2825.

Doug Baumgartner

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Oregon

Kate Brown, Governor

Department of Transportation

Region 2 Headquarters
455 Airport Rd SE, Bldg B
Salem, Oregon 97301
(503) 986.6925
FAX (503) 986.26309

January 20, 2016

ODOT #6902

ODOT Response

Project Name: Dunes Village Center MMJD	Applicant: Dennis Smith
Jurisdiction: City of Florence	Jurisdiction Case #: PC 15 22 CUP 10
Site Address: 1770 Highway 126, Florence, OR 97439	Legal Description: 18S 12W 2632 Tax Lot(s): 06601
State Highway: US 101, OR 126	Mileposts: 190.25, 0.08

The site of this proposed land use action is adjacent to OR 126 and US 101. ODOT has permitting authority for these facilities and an interest in ensuring that this proposed land use is compatible with their safe and efficient operation. **Please direct the applicant to the District Contact indicated below to determine permit requirements and obtain application information.**

- ☒ An ODOT Miscellaneous Permit must be obtained from ODOT District 5 for all work in the highway right of way.

Comments:

The Dunes Village Center has a valid ODOT access permit (#50626) for the existing right-in/right-out access onto Highway 126 and the proposed infill development will not require the need for a new access permit. The proposed site plan shows landscape work proposed in the ODOT right of way along the frontage of the property with Highway 126. An ODOT Miscellaneous Permit must be obtained from District 5 for all work that is to be performed in the ODOT right of way.

Please send a copy of the Notice of Decision including conditions of approval to:

ODOT Region 2 Planning
455 Airport Rd SE, Bldg B
Salem, OR 97301

ODOTR2PLANMGR@odot.state.or.us

Development Review Coordinator: Doug Baumgartner, P.E.	503.731.8225
District Contact: April Jones	541.744.8080



