

CITY OF FLORENCE PLANNING COMMISSION
October 11, 2011 ** DRAFT MEETING MINUTES **

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

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

1. APPROVAL OF THE AGENDA

The Agenda was approved as presented.

2. PUBLIC COMMENTS

Vice Chairperson Tilton read the following into the record: *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.

3. APPROVAL OF THE MINUTES

Commissioner Wise recommended appending the response from the City Attorney to the Minutes of the September 13 meeting. Discussion followed that reference could be made to the inquiry and the general response from the City Attorney.

Commissioner Muilenburg moved to approve the 09/13/2011 Planning Commission meeting minutes as amended; seconded by Commissioner Wise. The motion passed by a voice vote of 2 ayes (Commissioners Muilenburg and Hoile) and 2 abstentions (Commissioners Bare and Peters). It is noted for the record that Chairperson Nieberlein was absent and excused.

4. PUBLIC HEARING

Vice Chairperson Tilton read the following into the record:

These proceedings will be recorded. These hearings will be held in accordance with the land use procedures required by the City of Florence City Code Title II, Chapter 10, and the State of Oregon. The Planning Commission must make its decision based on facts. Prior to the hearing 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. 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, would preclude an appeal of this decision based on that issue. Prior to the conclusion of this initial evidentiary hearing, any participant may request more time 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.

Resolution PC 11 11 VAR 01 and AR 11 08 DR 07

Vice Chairperson Tilton stated the Public Hearing that evening was on Resolution PC 11 11 VAR 01 and AR11 08 DR 07, two applications on the proposed new dialysis clinic located in the Pacific View Business Park represented by Steven Purvis, Florence Dialysis, LLC. One application for a site review to construct a Dialysis Clinic (a use permitted in the Pacific View Business Park) and another application for a variance from the 20-foot vegetated buffer requirement to allow a five-foot vegetation buffer adjacent to the property to the east. The property is located east of Kingwood Street, west of the Siuslaw School District, and north of 27th Street and Dr. Holmes Dental Clinic.

Vice Chairperson Tilton opened the public hearing at 7:08 p. m.

Vice Chairperson Tilton asked if there was any Commissioner who wished to declare a conflict of interest, bias, ex-parte contact, or a site visit. Commissioners Peters, Bare, Wise and Muilenburg all stated that they had visited the site. Vice Chairperson Tilton added that he had also had a site visit.

Vice Chairperson Tilton asked if there is any member of the public who wished to challenge a Commissioner's impartiality. No one spoke.

PRESENTATION OF STAFF REPORT

AP Pezley outlined her presentation and said she would be discussing the site review criteria, and would be giving background information before going over the variance criteria, then onto the proposal and the building itself. She reported she had a new exhibit to enter into record. She said before giving the staff report she would review the options for the Planning Commission; give staff recommendations and then she would open the floor for questions.

Applicable Criteria:

Title 10-1: Zoning Administration; 10-3: Parking; 10-5: Zoning Variances; 10-28: Pacific View Business Park; 10-34 Landscaping; 10-35: Access and Circulation; 10-36: Public Facilities.

AP Pezley said that this particular code was fairly new, (staff was attempting to streamline the process of a permitted use) and it was approved by city council on April 6, 2010. She said this was the first application that the city had received as a permitted use for the site review under the revised code. During the site review process, staff found that the site plan did not meet the buffer requirement and the applicant chose to apply for a variance of the 20' buffer to a 5' buffer. AP Pezley reviewed the purpose of the variance as stated on page 5 of the staff report. "The purpose of a variance shall be to prevent or to lessen such practical difficulties and unnecessary physical hardships which are inconsistent with the objectives of this Title. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site or in the immediate vicinity." She said

the Planning Commission would be able to choose between B or C and D of the variance criteria.

“B. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which did not apply generally to other properties classified in the same zoning district or

C. The granting of the variance would not constitute a grant of a special privilege inconsistent with the limitation on the other properties classified in the same zoning district.

D. The granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvement in the vicinity.”

AP Pezley said that staff has found that there is public utility easement for the Central Lincoln PUD that is 75’ wide along the eastern property line and takes of 26% of the entire property with would constitute as extraordinary circumstance. She also pointed out that the School District has provided a letter in which they support the variance application.

Site Review

AP Pezley referred to a 2008 air photo of the location and pointed out the easement on the property. All of the proposed 34 parking spaces will meet and exceeds city code. The applicant is proposing 5 rain gardens to deal with their stormwater; proposing over 4,000 plants to be installed which would mean that 12.4% of the site would be covered in landscaping. 27.9% would be native vegetation which would be near the southern property line and along Kingwood Drive.

Exhibit P – Lighting Plan

AP Pezley entered into the record the lighting plan as Exhibit P. She referred to page 14 of the staff report, lines 19-20; speak to the parking standards. Line 33 to the end; and onto the next page to line 26 it talks about the lighting standards and the applicant has asked that those standards apply to the driveway. Staff is asking for clarification from the commissioners if the lighting standards would be required for the whole hardscape or just the parking lot area. Staff recommends leaving the Conditions of Approval as written; requiring a lighting plan to be submitted with the permit.

Corrections to the Staff Report

1. Findings of Fact, Page 5 – line 43-45. It should say, “Furthermore, the Florence Dialysis Clinic will produce year-round family-waged employment which *meets the purpose of the Pacific View Business Park zoning district.*”

2. Page 17 – line 33. It should say, “...mostly ~~scrubs~~ shrubs...”

Five Options for the Planning Commission

1. Approve the site review and variance based on the proposed Findings of Fact in the staff report and the proposed Conditions of Approval.

2. Modify the Findings of Fact, Conditions of Approval or both and approve the request as modified.

3. Continue the hearing to a date certain or leave the record open in order to allow more time for additional information to be submitted.

4. Separate the two applications and deny one of them; it would be easier to deny the variance and to approve the site review and modify the Findings of Fact as needed.

5. Deny both applications based upon change Findings of Fact.

Staff's Recommendation

AP Pezley said it was staff's recommendation to approve the variance with of a 7' buffer. The site plan shows the aisle for the parking is proposed to be 25', code requirements are 23' the two feet from the parking aisle could be added to the landscaping buffer and with that staff is recommending a 7' buffer. Staff also recommends approval of the site plan with the conditions of approval.

Plantings

Commissioner Muilenburg asked how many plants were proposed; AP Pezley replied almost 4,000; they were about 12 plants short. He asked about the landscape credit; AP Pezley said the code in Title 10 Chapter 34, states, if the applicant is preserving native vegetation there is preservation credit. The credits would help reduce the overall landscaping coverage required, up to 2/3 of the required landscaping. It would also reduce the number of trees and shrubs to be planted; in this case with 4,000 plants proposed they do not need the credit count at this time. Commissioner Muilenburg then asked if they did an expansion could they use those credits at that time, therefore, it would be possible they would not need to do any additional landscaping. AP Pezley replied yes.

Correction on Page 5

He referred to page 5 of 31, and if the correction was taking out the wording, "would be considered a practical difficulty..;" AP Pezley replied, yes. He then asked about the five options and asked where they were located in the staff report; AP Pezley replied they were left out at this time, and she was asked for a copy of those options before the commissioners made their decision.

Fence

Commissioner Muilenburg referred to Condition 5 and stated that in the letter from the high school they stated they were okay with the five foot buffer but they specifically wanted a 6' fence and noted that was not stated specifically in the resolution and he wondered if the commission needed to state "a solid six foot wood fence." CDD Belson said in this case there was not a code requirement per say, because it was envisioned to be a 25' vegetated buffer; but if the commission was inclined to grant the variance then the buffer issue could be addressed with other conditions since you are reducing the vegetation and make the minimum height requirement what you want it to be.

PUD Utility Easement

Commissioner Muilenburg asked about the utility easement with Central Lincoln PUD; he noted that there was not a curb where trucks would come off of 27th Street; hit the easement and drive straight through down the road. He said on the map they show on the north end a mountable curb, but on the south end it shows vegetation and probably a solid curb. He didn't think PUD would want to drive through their parking lot to access their utility easement. The south end of the parking lot should be straight through just like the dental office. AP Pezley said there is not an updated aerial of what the dental office looks like now on the south end to show if the dental office has provided connectivity from their southern access to the northern access.

Commissioner Muilenburg said where the easement is, there is no curb for about 10-12'. If they come south through the dental office on their easement they are going to want to continue

through the parking lot on their easement. CDD Belson said the Central Lincoln PUD was given an opportunity to comment and she specifically spoke with Mr. Dawson who submitted comments and told him staff needed them to look at the plan because of the utility easement; but he did not answer that specific question. She could not presume to what the utility district would need; it's likely that it would make it easier and she and AP Pezley would discuss that while the commission continued on with their deliberation.

Fire Sprinklers

Commissioner Muilenburg referred to fire sprinklers and alarms on page 3 of 31, which were required by the building inspector, and asked if they needed to add a condition, but condition 2 specifically states they have to apply all building codes....so that would cover the sprinklers and we wouldn't have to have anything in our resolution; AP Pezley replied, correct.

Buffer

Commissioner Muilenburg said this was written under the assumption that the Planning Commission had already approved the seven foot buffer and said it was confusing to see the Planning Commission already approved a 7' buffer; he wanted to make sure that everything was consistent. AP Pezley said in the beginning it states, "Staff recommends..." and that makes it easy when the staff report turns into Findings of Fact that it's already there so it doesn't get missed. He said their plans and their drawings show a 5' foot buffer; so if the Planning Commission approves a 7' foot buffer then would the applicant resubmit drawings, or would they do the redline? CDD Belson said in this case there is not a big change to the plans; just shifting that parking aisle two feet it would not make a major effect on the rain garden, so marking it up would be sufficient. When they submit for building permit then the plans would be shown accordingly.

Vegetation Buffer

Commissioner Muilenburg said somewhere in there it shows a vegetation buffer that would block the track; that's not the case in all of it; he assumes they will cut that down because there is a big hill; you are going to have a 20-30' section that will be open to the track. If their building is going to be the same height as the dental office, it will open it up, that is why we want to stay with a 6' fence. He said it states the 20' buffer is a hardship; but in the applicant's letter they suggest future expansion, which appears to be at the east end of the building at least 20 or more feet and if you took out the future expansion situation you could move the parking lot back and get the 20' buffer; no problem. CDD Belson said staff discussed that with the applicant, and suggested that could be one option in terms of redesigning and moving it. The applicant's concern was that you don't have as much parking in doing that; you lose a couple of spaces by putting them on the interior rather than the exterior; it is a variance and because of that, it is discretionary and so that's where it comes to the Planning Commission to make that decision; how much is a hardship and how much could they redesign to meet the code requirements. She went on to say that staff had made a recommendation but it was within the Planning Commission's discretion to find otherwise based on facts and she was sure they would address that more that evening. Commissioner Muilenburg asked if they had at least two more parking spaces than are required; staff replied yes.

Future Expansion – Exhibit C

AP Pezley addressed Commissioner Muilenburg's concern on future expansion by stating the applicant resubmitted drawings for the variance and that is what the commissioners had

received that evening; the drawings that were received for the site review did show the expansion a little clearer; they were having a 2,600' square foot expansion opportunity on the east part of the building and then they would be adding 8 more parking spaces on the west side of the aisle.

Natural Vegetation/Berm

Commissioner Peters asked about the use of space along Kingwood that had beautiful and natural vegetation; it appears that the natural would be taken out. He referred to Chapter 34 and said the purpose was to promote community, health, safety and welfare by protecting natural vegetation and setting development standards for landscaping and it appeared to him that we are not protecting natural vegetation that is already there. He then referred to 10-34-2, "landscape conservation encourages the incorporation of existing native vegetation and landscaping." He said it appeared that this did not happen in this project; none of the natural vegetation was being preserved.

AP Pezley replied that the applicant is proposing to only take out 40' along the Kingwood right-of-way and the part to the northwest corner and the southwest corner would all be part of their preservation area and remain as it is. She said the driveway and the sidewalk to the north was proposed to be 36' wide and it would be less than 50' but the applicant would be able to address that this evening. After some discussion the commissioners were assured that the berm would be preserved except for approximately 40' at the north for the driveway and sidewalk. They were referred to the Site Plan, Exhibit C, on the upper left or northwest area, there was 2,500 square feet of preservation area indicated and on the southwest, 13,545 square feet of preservation area. On the drawing it indicated the limits of the preservation area and staff showed a blown up area of the map which made it easier for the commissioners to see.

Lighting Plan

Vice Chairperson Tilton asked for clarification on the lighting plan; and was told that it applied to all the hardscape, but it was staff's recommendation that the commissioners would not approve the specifics of the plan that evening. Vice Chairperson Tilton asked for a summarization of lighting standards in the city code and if that was only within the parking area. CDD Belson said that was the question; and directed the commissioners to page 14, paragraph G, line 43. She said the use of the term, "parking lot" and the use of the term, "parking area." When one looks at "parking area" in Section 10-3-8, parking area improvements standards; there was discussion of parking spaces as well as the driveway, but it not clear in the code when it is talking about parking lot or parking area if that is just the parking spaces and the maneuvering area for the parking spaces or if it includes the driveways as well. She went on to say that so far, it had not come up as an issue with the code; but it is making a difference to the applicant.

Staff was asking for assistance in interpretation for the application as well as future applications. CDD Belson said the commissioners would first need to make an interpretation as to how it applies and then it would let the applicant know if they have the flexibility to remove some of those poles and replace them with the shorter fixtures; as proposed it involves the entire area; if it doesn't and it is decided that it is just the parking area they may be able to remove those 5 and put something else in.

Public Testimony

Vice Chairperson Tilton said it was time to take testimony from the applicant and any neutral parties that may be present and noted that copies of written testimony had been distributed to the Planning Commission. He asked those testifying to make sure they were signed in. He went on to say that if someone had made statements with which you agree, please come forward, sign in and then you can state that you agree with those comments and they will be credited to the record; you don't need to restate those previous comments. He then asked for the applicant to come forward.

Steven Purvis – 800 McGarry St #436, LA, CA 90021 – Mr. Purvis referred to the questions posed by the commissioners.

1. *PUD, curb issue* -: He said they had preliminary discussions with the PUD regarding the curb, and it was decided to access the north pole on our site, they would use the mountable curb and just drive up on a cross gravel access way. To access the south pole that was closest along the south property line between the applicant's and the dental clinic, the PUD said they could access that from the drive aisle that was shown in the site plan, or they could access it from the dental clinic accessway which is just bark at this time. He said as long as that stayed clear PUD was fine with it; they preferred vegetation going right up to the pylons as long as they could get pedestrian access to it within a few feet. Commissioner Muilenburg asked for clarification that PUD could drive through the applicant's lot. Mr. Purvis said they would drive through their lot to the north pylon and possibly the south one. He said the site plan currently shows a crushed gravel access way to drive up to that north pylon, which they could not otherwise access from the paved drive aisles.

2. *Exiting vegetation and topography* – he said one of the big points in the site planning exercise for the clinic was to preserve and maintain as much existing native vegetation as possible. We took the curb cut off of Kingwood and brought the building back into the center of the site; that allowed us to preserve all the existing space not taken up by the driveway on Kingwood, keeping that berm which was a key strategy in buffering from Kingwood to a service area for the building which is on the south side. We have three of those large preserved areas as pointed out on the landscape plan; the big one to the south, one on the other side of the driveway and there is one in the north above the infiltration garden; all totaled up there is approximately 17,000 square feet of preserved existing vegetation. The vegetation is the shore pines and rhododendrons and salal that we're trying to keep. Ideally we're blending in the new landscaped areas with that existing vegetation as best they could; it was a key feature for them.

3. *Site Planning and Variance Applicant* – the hardship that they were looking at was not necessarily the 20' buffer but the 75' easement. The utility easement does not allow buildings to be constructed underneath it. The building has a future potential expansion and required future parking expansion, butting up to that 75' easement. The building can not get closer without having the ability to have a future expansion.

Natural Rhododendrons

Commissioner Bare asked about how many natural rhododendrons would be removed. Mr. Purvis said there would have to be grading and some clearing for the building site and parking area. He said there was not a current plant count of what was being removed; that will not be determined until we're actually in the field. The entire site is covered with salal, rhododendrons and shore pines. The larger trees are culled out on the site plan if we need to we can show what is being removed and what is being saved. Ideally we're saving as much

as possible; we've made notes in the references for the preserved areas that anything that can be kept, should be kept.

Conditions of Approval

Mr. Purvis said he wanted to address a few of the conditions of approval

Condition 4 - Drive Aisle: We maintain that the users of the site are going to benefit greatest from having the 20'5" drive aisle as they had shown. The parking situation as proposed the extra 2' will help the primary users of the building (elderly dialysis patients) maneuver in the dead-end condition that is existing in the parking plan; when backing up or parking in the spaces. The additional 2' to the 5' vegetated buffer may be a negligible amount; our abutting neighbor, the high school property, stated that they would be okay with a 5' landscape buffer. Out of the interest of the clinic's patients; they are requesting to maintain the 20'5" drive aisle as currently designed.

Condition 5 – Fence: FCC 10-28-5-E is requiring a fence for dangerous and hazardous material, which we have provided for the generator. If the 20' buffer is reduced, he referred to the code which asks for a 6' solid fence. They are requesting that the fence, if required, be a 6' epoxy coated wire wall welded wire mesh fence, which they are using elsewhere within the building design. This would not be a climbable surface, or subject to vandalism or graffiti; in conjunction with the landscape buffer it should be suitable for visual screening.

Condition 6 - Lighting Plan: He said he was not aware that this would be included on this evening's docket. He had provided the new Exhibit to staff for their comments and had asked for some clarity regarding Title 10-3-8-G – which as he read it, applied to parking areas. Other areas such as under the canopy, he was told did not have specific foot candle lighting requirements and the 10-3-8-G; 2-5' foot candle requirements was for the lighting area. He went on to say that the actual lighting plan that he had wanted the engineer to work on, had landscapes and pedestrians circulation lighting along all pedestrian paths within the site. What this current lighting plan is showing, is only the pole mounted area lights. He said rather than have a bunch of large pole mounted lights scattered throughout the site; they would seek to work on a strategy that may work with the pedestrian scale a little bit better; to that end they would have under canopy lighting at the drop-off area and along the main pedestrian access at the building. There would be other landscape lighting both for the sidewalk that takes one off of Kingwood to the entrance and also to the sidewalks that bring you in from the eastern parking area. There is also landscape lighting in the service area and staff entrance. Unfortunately the document he referred to did not show that; and they were not asked to bring that to the Planning Commission that evening; it is a work in progress and if there was some clarity as to the intention of the code that evening, it would be helpful in allowing them to finish that up.

Condition 9 - Covering of Sand: They had not received the comment in previous LUA comment sheets; he requested some clarity as he did not see anywhere in the body of that referenced the FCC for this.

Condition 20 - PUD Easement: They were going to propose to remove the couple of offending Red Alders and replace those two trees under the lines with shrubs of lower nature; and noted that removal of those two trees would not take them out of compliance for the landscape code.

Questions from Commissioners

Vice Chairperson Tilton asked for questions from the commissioners.

Service Trucks

Commissioner Hoile referred to the front the building on the plan which shows the semi backed in; and assumed that for the truck to back in there they would come down Kingwood and back into the site. Mr. Purvis replied that was not the intention; the intention was to have them pull in off of Kingwood into the two way drive aisle and then back into the service alley. Commissioner Hoile said where the drop-off is; on the other side of that can two cars fit through there and Mr. Purvis replied, yes it was a two way drive aisle.

Fence

Commissioner Muilenburg asked if the fence they were referring to was the 6' fence along the high school property and Mr. Purvis replied, yes. They did not want the fence to be wood, but to match the wire wall material that was being used elsewhere. He said he did not have a sample there that evening, but said it was a fine high grade, welded wire mesh; and not a chain link; it would not be climbable. It has an epoxy coating which can be put on it to match whatever color one prefers. You can see through it but it is vision obscured as the openings are approximately ½" by 3" rectangles.

Lighting Plan

Commissioner Muilenburg referred to the lighting plan and it sounded that the Exhibit P that was submitted was not what the applicant wanted at this time; and was told that was correct. It was noted that there was not a lighting plan to be approved that evening.

Vice Chairperson Tilton asked about the lighting plan and wondered if their concern was what they wanted to do for the walkways that the lighting levels would be lower than the 2' candles that are being proposed. Mr. Purvis said the pedestrian walkway lighting levels will be lower than the 2' candle. He had not received his follow-up photometric plan showing what those lighting levels would be from the engineer. Vice Chairperson Tilton asked if his concerns were that for the lighting outside of the parking area it would be too bright. He was told yes, and what they would propose would be lower.

Mr. Purvis said they didn't feel that the first lighting plan was giving the quality of lighting that the patients and staff would be best served by. In terms of straight numbers the lighting plan meets and exceeds the requirements; but the treatment of the lighting is basically large area lighting poles everywhere and they would like to meet the standards that the city requires through other means and they needed to determine what those were.

Covering Sand

AP Pezley said that Mr. Purvis asked for the code requirement for covering open sand and it is a standard building department procedure and the code requirement is FCC Title 4 Chapter 1, Section 15-3; that requires no blowing sand.

Dr. Mat Purvis – 880 W. 38th Eugene, OR 97405 – Dr. Purvis said he was one of the 6 nephrologists who have been serving the Florence area for many years. They have been eager to build a facility for the last 20 years and the demographics of the area suggest that they could have an economically successful venture in Florence. He said they were attempting to build a

facility here that would be good for a very long period of time; we don't want to have to rebuild in 10-20 years. They were attempting to create a building that they could expand if they needed to. He said the patient population was growing and expected it to grow at least by 7% per year. They hoped to capture a number of patients back from Coos Bay and Newport and expect the Florence facility to increase rather rapidly in the first two years. The Coos Bay facility that they opened a year and a half ago increased 34% in one year as it was pulling patients from the southern Oregon coast and we expect a similar phenomenon in Florence.

He went on to say, when the lot was purchased we understood that we could put parking and a driveway on the utility easement and all we had to do was create an opportunity where the PUD could get to the pylons and get to the wires to service them. We did not realize that the school had gotten a variance 20 years ago and was actually located on residential property; it's only in the recent time that we understood that we were expected to have a 20' setback. He said it had been generously treated and it appears that we might get 13' back. He said the reason for the 5' buffer is the people who spend long periods of time dialyzing in the center are going to be the older patients. About 70% of our patients are 65 years or older and drive themselves to the clinic (although we don't recommend that) and many are being brought into the facility by their older spouses. We have learned that you need to provide generous parking arrangements for people who are coming to and from the center; otherwise there are fender benders and a higher rate of accidents because older patients have more trouble maneuvering. This is one of the reasons why we are asking the commission to consider the 5' setback from the property line.

Dr. Purvis said the lighting was critically important for pedestrian traffic. Our facilities frequently start business at 6:30 a.m. and run until 8:30-10:00 p.m. We have to have adequate lighting for wheelchairs, walkers; curbs have to be well lit so people don't stumble and fall in the parking lot.

He said we have built three other facilities, Eugene, Springfield and Coos Bay. On this site we are trying to maintain every piece of natural shrubbery and vegetation that we can, as it in our best interest to do so. With native vegetation you don't have to worry about fertilizing or watering it all the time; it is much more economical. The only place there is a major cut in the ground is on the east border between our site and the high school, which is a hill that has to be leveled to allow for parking.

Commissioner Tilton asked Dr. Purvis, for the record, if he had read the staff report and understood the Conditions of Approval as they are proposed; Dr. Purvis replied, yes.

Commissioner Tilton asked for any proponents to speak.

Milton Waite – 862 35th Way, Florence, Or 97439 – Mr. Waite said he was a dialysis patient that had to drive to Coos Bay. He said the number of patients were increasing all the time. He said this will put Americans back to work as the clinic would hire approximately 25 technicians and those families may even buy homes in Florence. He added that a wood fence would attract skateboarders.

Lorna Steiger – 3449 E. Myrtle Loop – Florence, Or 97439 – Ms. Steiger said she was a dialysis patient and had to drive 120 miles three times a week in order to stay alive. She said we need this clinic in Florence.

Sue Holt – 2010 W. Park Drive – Florence, OR 97439 – Ms. Holt said she was the sister of Lorna Steiger and she had seen what her sister had gone through for the last year and half; having to go back and forth to Coos Bay. She said one day her sister left at 10:30 a.m. and didn't get home until 10:30 p.m. because she had to go the ER and then had to drive home that evening. It would really help all these dialysis patients to have a clinic in Florence.

Vice Chairperson Tilton asked for anyone else who would like to speak as a proponent; hearing none he asked for anyone in the audience in opposition to the application; hearing none he then asked if there was anyone who was neutral on the application who would like to make a comment or question, seeing none he stated the comment period was completed.

Vice Chairperson Tilton asked the applicant if they had anything else to submit for the record; the applicant replied no. Vice Chairperson Tilton asked if staff had any additional comments; AP Pezley replied, no. Vice Chairperson Tilton asked if any commissioner had a problem with closing the hearing; hearing none, he closed the public hearing at 8:22 p.m.

Condition 4 - Variance

Commissioner Peters said in reference to the variance; he had not been persuaded that we will gain very much by adding 2' back in; that piece of property is up against the school and there is at least a 20' barrier; beyond that is the track and then the school is well beyond that. This particular part of the code was enacted with the assumption that you are protecting residences from business; and there are no residences there and won't be. The purpose for the 20' barrier does not exist and the real question is then if we are going to allow a variance, why is 7' better than 5'? He said he didn't see any reason why the added two feet would be better. He thought the argument that the patients need all the space that they can legitimately have was a decent one he would oppose the 7' and allow the request for 5' variance.

Vice Chairperson Tilton asked for other commissioner's comments and they all agreed with Commissioner Peters on the 5' variance.

Staff recommended changing Condition of Approval 4, by removing the requirement that the aisle be reduced to 23' as they felt it was important that the applicant still be required to screen 70% view between districts. CDD Belson said the rationale that the commissioners are providing for in terms of the school district property we could add to the Findings and to the Variance Criteria, D on page 6-7 of the staff report. Staff summarized that in terms of one of the reasons that the commissioners are comfortable with changing the buffer, is that, even though it is zoned residential that it is not likely to be utilized as a residential area with the school established there.

Condition 5 - Fence

The commissioners agreed with the applicant that the fence could be a 6' epoxy wire mesh. When asked by staff for a description of the fence, Mr. Purvis said the fence would be a wire wall 1/2" by 3" 10.5 gauge welded wire mesh; earth tone in color and when asked he said he was okay with it being 6'.

Condition 6 - Lighting Plan: CDD Belson thought it would be helpful if the Commission made an interpretation of the Code as to how to apply it to this site.

After considerable discussion about the lighting plan the commissioners agreed with Commissioner Wise's comment that staff makes administrative reviews of applications all the time and the only reason that the applicant is here is because of the variance. As far as he was concerned it was their responsibility to provide staff with proper criteria for evaluating the lighting plan so we can reduce this to an administrative function not requiring the applicant to come back to the commission.

Vice Chairperson Tilton asked if the commissioners of they agreed that they would give direction to staff that we would allow administrative approval of a lighting plan when it was submitted, with the direction to have the actual parking areas be within the code of 2-5' (candles) and we would allow a lower but safe level in the pedestrian areas. The commissioners agreed.

Condition 20 – Red Alder

AP Pezley asked for clarification that the applicant was going to remove two Red Alder to make sure that they were not in the public utility easement; so the Findings of Fact would also need to reduce the amount of trees proposed. Mr. Purvis said the two Red Alders are within the utility easement but they are the ones most directly under the lines; they will swap those out for shrubs, but we will still exceed the required amount of trees per city code. CDD Belson said Condition 20 would stay as it is, but the Findings would change to reflect the numbers of trees.

Commissioner Tilton moved to approve Resolution PC 11-11 VAR 11 and AR 11 08 DR 07 with the Conditions of Approval as the commissioner had agreed to modify this evening; presenting our instructions to staff to have administrative approval authority for a lighting plan (the guidelines for the lighting plan will be that the parking areas (including driveways) themselves will meet the 2-5' candle specifications in the code and the pedestrians areas would be allowed to be lower than 2' candle, (at a safe level). Condition 4, we are allowing a 5' live buffer to allow the wider travel lane in the parking lot. Condition 5, we are allowing a wire weld ½ by 3" high 10.5 gauge earth tone in color metal fence, minimum of 6'. Condition 9, addition of the code reference to Title 4 Chapter 1, Section 15.3. There would be corresponding changes to the Findings as AP Pezley had identified in her initial presentation and the changes to the landscaping of replacing the two Red Alder Trees with shrubs. Second by Commissioner Bare.

Commissioner Muilenburg pointed out a spelling error on page 5 of 31; line 19 *with* should be *width*. Vice Chairperson Tilton and Commissioner Bare agreed with the addition of the spelling correction.

Vice Chairperson Tilton called for the vote; by voice all ayes, motion carried unanimously. It is noted for the record the CP Nieberlein was absent and excused.

Planning Commission Discussion Items

Oregon Planning Institute

Commissioner Tilton said he attended 3 days of the Oregon Planning Institute; it was a worthwhile conference and appreciated that there were different choices of meetings to attend. He said would share of the highlights of the meetings at the next few Planning Commission meetings. He said the keynote address by Judge David Brewer; Chief Judge of the Oregon Court of Appeals was especially interesting. Judge Brewer spoke about the land use laws and

said that it takes the court of appeals four to ten times as much effort and staff time to decide land use cases compared to the other civil and criminal cases. He also acknowledged the problem that very few judges have the expertise in land use law; he mentioned that he was considering proposing a special panel to hear appeals at that level of land use law, made up of lawyers with expertise in land use.

Appreciation to Staff

Commissioner Wise said each time he reads an application he realizes the amount of knowledge and work that is necessary to put them together; the amount of coordination between the city and the applicant. He congratulated CDD Belson with a successful review that evening.

Inadequate Applications

Commissioner Wise said at almost every meeting we have inadequate documents from applicants. He said if the applicant does not have the proper documentation at the end of the public session we should just end it and tell the applicant they do not have the proper documentation and either they bring it back or the other choice is for the commission to deny it at this point in time.

Commissioner Bare said through his management of three communities he found that it was very common to have incomplete applications. In his experience he thought they had the best staff reports he had ever seen; staff does a great job. He said even though it was frustrating, we manage to get through it.

Proposed Veterinarian Clinic Location

Commissioner Wise said he noticed the location where the veterinary clinic was going to open is now occupied by another business; that is selling antique Christmas decorations. He asked if a land owner chooses to go with a different use; are they still bound by the deficiencies that the commission had found in their compliance with the zone regulations. He said the applicant was told that they had to have landscaping between the parking lot and Hwy 101.

Commissioner Muilenburg asked if that wasn't because of a change of use; it was not a permitted use. CDD Belson said Commissioner Muilenburg was correct; that what the applicant had brought before the commission was a change of use and as part of that, if they are intensifying the use, then they are required to bring the landscaping up to code in the same measures that they are intensifying the use. She went on to say, that it was also true that if there was a previous approval, which was the case on that lot, and the current landscaping wasn't meeting the previous approval without the change of use; then staff should be requiring them to maintain the landscaping as had originally been approved for that previous use.

CDD Belson said when there is a business license application it is routed through building and planning and it is staff's opportunity to make sure what had been approved there before, assuming there is no land use approval necessary, that it is still in compliance.

Native Rhododendrons

Commissioner Bare said that he had asked the question of retaining the natural rhododendrons on the applicant's site that evening for former Commissioner Clarence Lysdale.

PUD Mini-Building

Commissioner Hoile said that appeared that the PUD had a temporary mini-building behind their building and it was now covered. Staff stated they would follow up on that observation.

5. DIRECTOR'S REPORT

Monthly Report

CDD Belson noted that the monthly report was in the packet that evening.

More Complete Applications

CDD Belson said staff had been working on how to address the application issue; she referred to the document handed out that evening, "Obtaining More Complete Applications" and said it was a draft, but a working document. She said this was discussed on October 5th at a planning team meeting and this is a starting point, certainly can be modified per the commissioner's input. She thought it was important for the commissioners to see the main points of what staff would be attempting to do.

1. Staff is going to create better application forms; more individualized forms but not necessarily one for every situation. Making sure the code criteria are listed in the application forms so that applicants know where to look for those key components.
2. Working on being more organized in terms of collecting some examples so that applicants can see what the different types of plans should look like and what are the particulars that staff is requiring. This is more for those applicants who are attempting to do this on their own as opposed to those who hire professionals to present their applications.
3. Create a list of local consultants and lay-people to hand out to the applicants; they would not be city recommended, but we can list those that work in town and even provide examples of their work.

Staff is proposing to put together a workshop in the spring on how to prepare applications so laypeople or even some local professionals have better understanding of what staff wants, what is readable and how the process works. She asked the commissioners if they had good examples of an application, it would be helpful to include in the packet. Staff might have a different perspective than the commissioners.

4. Staff continues to emphasize the completeness review step and taking the time to review the submittal requirements, we're allowed 30 days to do that and if we need to, to take that time to do a full review and make sure that we are getting everything we need, as well as identifying major problems up front.

Have open communication with the applicant as issues arise to give them an opportunity to address them sooner rather than later. Ultimately if needed, show them that staff would be recommending denial if they don't have sufficient information. That often motivates the applicant to complete the application.

Communication with the Planning Commission needs to happen as well, as soon as a commissioner sees an issue, if they are not comfortable with an item, bring that to staff's attention and staff can communicate that with the applicant before the meeting so they have an opportunity to determine how best to address the concerns. If they need to waive that 120 day rule to allow staff the opportunity to continue the hearing or keep the record open for additional submittal.

Ultimately staff is trying to get applications that are approvable, we're not trying to trip people up; its clear what the expectations are; and they are not leaving a Planning Commission meeting confused with what is required that causes problems later in the building permit construction process.

CDD Belson said AP Pezley included the correspondence that they had with the applicant during the completeness review process and that is something that will continue. This will allow the commissioners to be clear about the process.

6. CALENDAR

October 25th – meeting cancelled

November 8th - information on bike paths

ADJOURNMENT

With no further business to come before the Florence Planning Commission, Vice Chairperson Tilton adjourned the meeting at 9:37 p.m.

APPROVED BY THE FLORENCE PLANNING COMMISSION ON THE ____ DAY OF _____ 2012.

MARK TILTON, VICE-CHAIRPERSON
FLORENCE PLANNING COMMISSION