

**CITY OF FLORENCE
RESOLUTION NO. 5, SERIES 2022**

**A Resolution Resolving the Appeal of Planning Commission Resolution PC 21 28
PUD 01 and AR 21 21 SIR 14, Concerning the Proposed Rhododendron Arbor
Planned Unit Development**

RECITALS:

1. Ashlee Sorber, representing APIC Florence Holdings, LLC, submitted applications for a Final Planned Unit Development and Phase 1 Site Investigation Report on 9.28 acres at the NE intersection of Rhododendron Drive and 35th St.
2. The Planning Commission deliberated in duly publicized meetings on December 14, 2021 and January 11, 2022, to review the applications.
3. The Planning Commission/Design Review Board determined per FCC 10-1-1-6-3 and 10-23-11, after review of the applications, testimony and evidence in the record, that the applications meet the criteria through compliance with certain Conditions of Approval and adopted Resolution PC 21 28 PUD 01 and AR 21 21 SIR 14.
4. On January 21, 2022, Elaine Albrich, representing APIC Florence Holdings, LLC, submitted an Intent to Appeal Conditions 2, 2.b, 10, 13.a, 15, and 16 of Resolution PC 21 28 PUD 01 and AR 21 21 SIR 14 per FCC 10-1-1-7.
5. The City Council met in a properly noticed public hearing on February 28, 2022, in order to receive argument on the appeal issues, consider, deliberate, and to determine its final decision in the appeal.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE RESOLVES AS FOLLOWS:

- A. Affirm the Planning Commission's decision on appeal in part and modify in part, by modifying the following conditions of approval in Resolution PC 21 28 PUD 01 and AR 21 21 SIR 14 as follows:
 1. Condition 2.b. A Covenant of Release, which was conditioned in the preliminary approval as 8a, shall be recorded prior to the submittal of any building permit application or prior to recording the final subdivision plat, whichever occurs first.
 2. Condition 10. The applicant's revised Storm Report dated December 10, 2021 shall be reviewed by the City's engineer of record or its consultant,

at the expense of the applicant, and applicant shall address any comments prior to the recording of the final subdivision plat.

3. Condition 15. Deleted.

4. Condition 16. Applicant shall submit an amended Sheet C.5 reflecting the correct "revised" date of December 10, 2021.

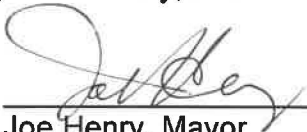
B. Except as modified in Section A, retain all other conditions based on the Planning Commission's findings of fact, thereby upholding the Planning Commission's overall decision on the Final Planned Unit Development and Phase 1 Site Investigation Report as set forth in Planning Commission Resolution PC 21 28 PUD 01 and AR 21 21 SIR 14.

C. The findings on this appeal are attached hereto as Exhibit A and are hereby adopted by City Council.

D. This Resolution shall become effective on February 28, 2022.

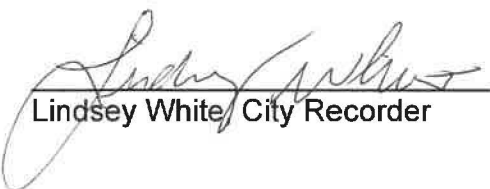
ADOPTION:

This Resolution is passed and adopted on the 28th day of February, 2022.



Joe Henry, Mayor

Attest:



Lindsey White, City Recorder

**FINDINGS OF FACT
CITY COUNCIL
Exhibit "A"**

Public Hearing Date: February 28, 2022
Date of Report: February 18, 2022
Application: Appeal of Conditions of Resolution PC 21 28 PUD 01 & AR 21 21 SIR 14

BACKGROUND STATEMENT

On February 28, 2022, the Florence City Council will hear, and may deliberate and take action on the appeal of Conditions of Approval 2, 2b, 10, 13a, 15, and 16 of Resolution PC 21 28 PUD 01 and AR 21 21 SIR 14. The Resolution was approved by Planning Commission on January 11, 2022 and pertains to a final Planned Unit Development and Phase 1 Site Investigation Report. The Appellant is APIC Florence Holdings, LLC, the applicant of the initial land use requests and who also participated in writing and orally in the underlying land use proceedings and therefore has an affected interest as the proponent of the project. Representing the Applicant is Elaine Albrich of Davis Wright Tremaine, LLP.

The subject properties are located on 9.28 acres at the NE intersection of Rhododendron Dr. and 35th St., and identified on Assessor's Map # 18-12-15-33, Tax Lot 0700; Map # 18-12-15-34, Lot 3800; and Map # 18-12-22-21, Lot 1900. This proposal includes 31 detached single-family residences, 49 single-family attached residences, and 46 multi-family units. Amenities to support this PUD include a pavilion, picnic areas, seating, a children's play area, walking trails, dog park, and pocket garden. Access to the development is proposed via a private internal drive with two entrances from Rhododendron Dr., alleyways providing rear access to single-family attached unit garages and lanes providing access to single-family detached units.

Following the conditional approval of Resolution PC 21 28 PUD 01 and AR 21 21 SIR 14, Planning staff received an Intent to Appeal from the applicant, within the twelve-day deadline provided by FCC 10-1-1-7. Upon receipt of the Intent to Appeal notice by the Applicant, the appeal hearing notice was mailed on February 8, 2022 as required by FCC 10-1-1-6-3 (B).

Staff and the applicant met in order to understand the reasons for the appeal requests. On February 18, 2022, the applicant suggested amendments to the conditions under appeal that were submitted by the applicant. This communication is listed as Attachment 8 of the City Council's Agenda Item Summary for the February 28, 2022 hearing.

APPEAL ITEMS

There are six Conditions of Approval from Resolution PC 21 28 PUD 01 and AR 21 21 SIR 14 for Council's consideration. These Conditions are listed below in **bold text**, with staff comments and recommendations following, as applicable.

Condition 2. The applicant's submittals to the agencies include a single overall image that includes Tax lots 3900, 4000, 4100, and 4200 and the narrative and individual tax lot images that do not include these tax lots. It appears from the 2015 wetland records that the only tax lot in question is 3900. The submittals indicate a collection point on this tax lot but refer to it as tax lot 3800. Condition 12 as previously proposed in earlier findings is partially met. To close the loop on the mismatch of site boundaries within the wetland delineation materials, the applicant shall request written confirmation from both DSL and Army Corps that their determinations include all seven of the tax lots within the project area and provide it to the City prior to site disturbance or with final plat application.

The Department of State Lands (DSL) application submitted by Pacific Habitat (Exhibit J) listed just three of the project's seven tax lots. The Army Corp study area shown in Exhibit K1 includes three maps, two of which have the entire project site and one that excludes the tax lots listed in Condition 2. It is for these reasons the ACE clarification was sought via the condition. On February 8, 2022, staff received an email from Mathew Unitis with the Department of State Lands who affirmed that the properties included within their wetland concurrence from 2020 include 18-12-15-33 TL 700, 18-12-15-34 TLs 3800, 3900, 4000, 4100, 4200; and 18-12-2221, TL 1900. The Army Corp study area shown in Exhibit K1 includes three maps, two of which have the entire project site and one that excludes the tax lots listed in the condition. It is for this reason the ACE clarification was sought via the condition. Exhibit K2 states that ACE utilized the DSL study as the sources for their study. With DSL's affirmation of the concurrence area there is clarity to the interagency review. This condition should remain, but staff concurs that it has been satisfied by the additional information received by DSL staff; no additional information will be required by staff for satisfaction of this condition.

Condition 2.b. A Covenant of Release, which was conditioned in the preliminary approval as 8a, shall include language placing responsibility for possible failure of the proposed stormwater system on the registered engineers who authored the final stormwater management report.

Staff met with the Applicant to better understand concerns regarding the appeal. Staff concurs that the condition should be revised to clarify the condition. Although the applicant suggests amending Condition 2.b to read, "A Covenant of Release, which was conditioned in the preliminary approval as 8a, shall be recorded prior to the submittal of any building permit application or prior to recording the final subdivision plat," staff instead suggests the following amendment: "A Covenant of Release, which was conditioned in the preliminary approval as 8a, shall be recorded prior to the submittal of any building permit application or prior to recording the final subdivision plat, whichever occurs first."

Condition 10. The applicant shall ensure comments provided by Civil West Engineering's November 15, 2021 review of the applicant's December 10, 2021 Storm Report and Civil set have

been thoroughly addressed in a supplemental memo and/or corrected sheets to be reviewed by Civil West Engineering, the City's engineer of record, at the expense of the applicant.

After meeting with the Applicant to better understand their concerns with this condition, staff concurs that the condition could be clarified for the benefit of all concerned. Staff recommends amending Condition 10 to read, *"The applicant's revised Storm Report dated December 10, 2021 shall be reviewed by the City's engineer of record or its consultant, at the expense of the applicant, and applicant shall address any comments prior to the recording of the final subdivision plat."*

Rewording this condition provides more clarity by outlining who should review the Storm Report and a timeframe of when the comments should be addressed.

Condition 13.a A plan is required in conjunction with site disturbance or submission of the final plat application demonstrating where and which active recreation activities will occur, such as shown in the approved preliminary PUD, with a list of commercial grade amenities. The plan shall also provide Phase 1 of the construction schedule a minimum of 4,000 sq. ft. of recreation space.

Applicant has withdrawn its challenge of Condition 13 as explained in Attachment 8 of the AIS. The Condition should remain.

Condition 15. Of the conditions placed on the applicant through Resolution No. 28, Series 2021, Condition 1.a. requires the applicant to recalculate the net density to exclude the area proposed for dedication of public facilities within easements. A recalculation of net density has not been submitted and the condition shall be met.

Applicant provided two conflicting density calculations within the written record. Sheet C040 of Exhibit W1 demonstrates that proposed net density is 13.6 units and acre. Page 12 of the Applicant Narrative (Exhibit E) explains that net density is 17 units per acre. Applicant confirms that the calculations in Sheet C040 were in error and the density calculation in its narrative is the correct calculation. At the time of their decision, the Planning Commission was not aware of that clarity was provided. With this clarification, there is no need for the condition and it can be removed. Staff recommend removing Condition 15.

Condition 16. The appropriate date shall be added to all revised materials.

Staff and the Applicant met to discuss the concerns that brought about this condition of approval. The condition originates from some confusion in the Applicant's submitted materials where dates on prior-submitted documents were not always updated. Staff believes that the Applicant understands the concerns and the condition can be met with a revised Sheet C5 to reflect the correct date of the sheet. This condition may be amended that the Condition 16 will be met upon submission of an amended Sheet C5 reflecting the correct "revised" date of December 10, 2021; no addition information will be

required. This condition should be revised by stating "Applicant shall submit an amended Sheet C5 reflecting the correct date of December 10, 2021." The applicant did submit an updated Sheet C5 with the correct date. This is found in Attachment 8 of the AIS.
