

CITY OF FLORENCE PLANNING COMMISSION
January 13, 2015 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Vice Chairperson Curt Muilenburg opened the meeting at 7:04 p.m. Roll call: Vice Chairperson Curt Muilenburg Commissioners: Alan Burns, John Murphey, and Robert Bare were present. Chairperson Hoile was absent and excused. Also present: Planning Director Wendy FarleyCampbell and Assistant Planner Glen Southerland.

APPROVAL OF AGENDA

Commissioner Murphey motioned to approve the Agenda, Commissioner Bare seconded. By voice, all ayes, with the exception of Chairperson Hoile who was not present. The motion passes.

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:

Vice Chairperson Muilenburg said that there were two public hearings 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 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.

FILE PC 14 16 DR 01 – WHISPERING PINES CONDOMINIUMS: A request by Jerry Prater Construction for approval of a Design Review application to complete Phase 2 and 3 of Whispering Pines Condominiums, located at 1150 Hemlock Street, Assessor's Map 18-12-27-42, TLs 00300, 00400, and 00500. The proposed development will revise previously approved buildings in Phase 2 and 3 which will match current buildings on the site in layout and appearance.

Vice Chairperson Muilenburg opened the hearing at 7:08 p.m. and asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visits, or bias. Commissioner Bare declared a site visit. Vice Chairperson Muilenburg asked if the public had any challenges to any commissioner's impartiality in making this decision. There were no challenges. Vice Chairperson Muilenburg asked for the staff report.

PD FarleyCampbell stated that the hearing had been previously continued from the Planning Commission meeting of November 10, 2014. She said that the applicant had been working with their engineer to resolve a number of issues brought up by opponent testimony on that date. She stated that some of those issues had been fixed while other details about the project had been changed and as a result, the project would no longer be a part of the Whispering Pines Condominiums and would be a stand-alone apartment complex owned by the applicant.

PD FarleyCampbell stated that staff has identified the items that need to be resolved including parking and revised site plans, which were not available by the time needed to be included in the staff report to be reviewed by the public and the Planning Commission. She stated that staff requested that the record be re-opened to allow the applicant to enter into the record revised site plans. She said that their packets that night included a memo from the applicant's attorney. She said that the applicant's representative also agreed to a continuance and that a continuance would likely be until February 10, 2015 at the earliest.

Vice Chairperson Muilenburg asked if any Commissioners had questions for PD FarleyCampbell. Commissioners Murphey and Burns stated that they agreed with the need for a continuance.

Vice Chairperson Muilenburg said that at the last hearing the possibility of the applicant needing separate access for an apartment development was raised. He asked if this would be the case now that the proposal has officially changed. PD FarleyCampbell stated that the applicant did own the property through which both the condominiums and apartments were accessed. Vice Chairperson Muilenburg asked if the Planning Commission would receive an updated packet. PD FarleyCampbell stated that they would.

Public Testimony

Vice Chairperson Muilenburg asked for any proponents, opponents, or interested neutral parties that would like to speak. There were none.

Vice Chairperson Muilenburg closed the hearing at 7:16 p.m.

Commission Discussion

Commissioner Burns suggested that based on what PD FarleyCampbell had shared, they should continue the hearing.

Commissioner Burns motioned to continue the hearing to a date certain of February 10, 2015, Commissioner Murphey seconded the motion. By roll call vote: Commissioner Bare "yes"; Vice Chairperson Muilenburg "yes"; Commissioner Burns "yes"; Commissioner Murphey "yes." Chairperson Hoile was not present. The motion passed.

FILE PC 14 26 TA 03 – MEDICAL MARIJUANA TEXT AMENDMENTS: A proposal by the City of Florence, initiated by the Florence City Council at their Oct. 20, 2014 meeting, to establish locational, site design, and operational criteria related to medical marijuana. These text amendments will establish appropriate zoning for medical marijuana facilities as well as establishing minimum listed distances from residential zones, public libraries and parks, child care facilities licensed by the Oregon Dept. of Education, and public and private schools attended primarily by minors.

Vice Chairperson Muilenburg opened the hearing at 7:21 p.m. and asked if any of the Planning Commissioners wished to declare any conflicts of interest or bias. Commissioner Bare stated that he would like it entered into the record that he was a police officer for 23 years. Vice Chairperson Muilenburg asked if the public had any challenges to any commissioner's impartiality in making this decision. There was a challenge from a member of the audience, Katie Nalore, who stated that the admission demonstrated bias. PD FarleyCampbell explained that people have different backgrounds and that is not an admission of bias.

Commissioner Burns stated that Commissioner Bare had not admitted bias, but had stated a fact for the record. Vice Chairperson Muilenburg opened the hearing and asked for the staff report.

PD FarleyCampbell stated this was an application by the city to amend the Florence City Code with regard to medical marijuana. She said that the process began in March 2014 when the City Council placed a moratorium on medical marijuana sales to allow for zoning code implementation. She stated that on October 20, 2014, the City Council initiated a text amendment regarding medical marijuana with text provided by the City Attorney, Ross Williamson. She stated that following the Planning Commission's decision, the City Council would hold a worksession on the subject and then possibly make a decision on that item the same night. She listed the applicable criteria and stated that the amendments would identify zoning, design, and locational standards for medical marijuana facilities.

PD FarleyCampbell stated that the zones proposed to allow medical marijuana facilities were North Commercial, Commercial, Highway, Mainstreet and Professional Office/Institutional Zoning District. She stated that it was allowed in the POI zoning district because, while retail was not allowed, pharmacies were. She said that the proposed design regulations being added to FCC 10-4 would not allow the business to locate in a building containing other uses. She stated that the lighting required by the design standards did not conflict with the recently adopted lighting code.

PD FarleyCampbell listed the buffers being proposed and stated that staff had proposed three additional buffers from Highway 126, the intersection of Highway 101 and Highway 126 and the Siuslaw River Bridge. She stated that these buffers would be 200 feet, 200 feet, and 500 feet respectively, as well as reducing the residential buffer to 175 feet and retaining the other buffers initiated by City Council. She showed the Planning Commission examples of the buffering on different sections of Florence, including Highway 126 and the Siuslaw River Bridge (attached) and gave examples of buildings that would fit the criteria for these types of facilities. PD FarleyCampbell stated that staff measured the buffer from the crosswalks at the intersection of Highway 101 and Highway 126.

PD FarleyCampbell stated that the City Attorney had suggested a 500-foot buffer from residential zones from the closest property lines between that district and the proposed sites. She indicated to the Zoning and Comprehensive Plan Maps on the wall and said that the City's zoning was very linear following Highway 101 and that a 500-foot buffer would completely eliminate possible sites for medical marijuana facilities. PD FarleyCampbell outlined the areas of Florence which would allow the use with the previously proposed buffers and stated that with the reduction of the residential buffer, not much more available areas are obtained. She stated that the amendment would need to state whether or not the buffer was between property lines or between the property line of the buffering district and the actual building of the medical marijuana facility.

PD FarleyCampbell stated that notice had been put in the Siuslaw News and a Measure 56 notice had been mailed to property owners within commercial districts. She listed the exhibits which contained public testimony and addressed their specific concerns.

Commissioner Murphey asked what happened if a buffer split a building or piece of property and if that meant that the entire property or building was excluded. PD FarleyCampbell directed the Planning Commissioner to Exhibit B and stated that if the buffer bisected the building, unless a lot line also went through the building, as was currently proposed, the building would be excluded.

PD FarleyCampbell stated that the City Council has stated an interest in providing areas where medical marijuana facilities could be located.

Commissioner Murphey asked if the Lane Community College campus was included as part of the 1000-foot buffer. PD FarleyCampbell stated that the bulk of the community college's enrollment was not minors, so they were not included in that buffer.

Commissioner Burns asked if the 1000-foot buffer was from the property lines of the schools and if that would affect the proposed zoning for the Pacific View Business Park. PD FarleyCampbell stated that the Pacific View Business Park was included in the initiation, but was not included as part of what staff was proposing. Commissioner Burns stated that he was asking because of the school properties abutting Kingwood Street. PD FarleyCampbell stated that her understanding was that City Recorder Weese had included all properties with school related functions, including the bus facility.

Vice Chairperson Muilenburg asked if there was any intent to include the north gateway to Florence as an area where the facilities would be proposed. PD FarleyCampbell stated that Service Industrial did not permit the use and the Heceta Beach Neighborhood Cluster was not yet in the City, so no code had been developed for that area. Vice Chairperson Muilenburg stated that he just wanted to comment on that gateway into Florence because staff had proposed prohibiting the use near the south Highway 101 and Highway 126 gateways.

Vice Chairperson Muilenburg asked if the use would be prohibited behind the antique mall at the intersection of Highway 101 and Rhododendron Drive. PD FarleyCampbell stated that there were two properties there which were separate buildings and may meet the proposed criteria. Vice Chairperson Muilenburg asked about the vacant lot at the northeast of the Highway 101 / 35th Street intersection and if she knew if the lot line extended to the residential area at the rear of that property. PD FarleyCampbell stated that the property was excluded by the school district.

Vice Chairperson Muilenburg asked about what the differences were between Exhibit B and C. PD FarleyCampbell stated that Exhibit B was staff's recommendation and Exhibit C was the initiated code amendments.

Vice Chairperson Muilenburg asked what PD FarleyCampbell meant about a 75-foot setback which would exclude the building in front of the 37th Street Laundromat. PD FarleyCampbell stated that the Highway District required a building's placement at least 75 feet from the Highway.

Vice Chairperson Muilenburg asked if staff had gathered any data about the location of facilities from Washington or Colorado and how those facilities affected property values or crime. PD FarleyCampbell stated that staff had not looked into those issues.

Public Testimony

Vice Chairperson Muilenburg asked for any proponents, opponents, or interested neutral parties that would like to speak.

Neutral Testimony – Katie Nalore, 1168 Winsome Circle, Florence, OR 97439

Ms. Nalore introduced herself and stated that she lived in the Professional Office/Institutional zoning district and asked if the City currently allowed any medical marijuana facilities. PD FarleyCampbell stated that they did not. Ms. Nalore stated that she was certain that she knew of one currently operating.

Ms. Nalore asked when the City would address recreational use facilities. PD FarleyCampbell stated that the City Council is establishing 2015 goals and staff would receive direction regarding that soon, but it would probably be during the summer. Ms. Nalore asked what those regulations might look like. PD FarleyCampbell stated that the City would likely begin with what the state outlined and move on from there.

Ms. Nalore asked why she had received a Measure 56 notice regarding this proposed text amendment. PD FarleyCampbell asked if her home was in the Professional Office/Institutional zoning district. Ms. Nalore described the location of her neighborhood. PD FarleyCampbell stated that all properties within that zoning district received notice. PD FarleyCampbell stated that the POI zoning district was proposed, but that the

nearby buffers excluded much of the zone. She stated that if Ms. Nalore's property was in the nearby residential zoning district, it would be excluded.

Neutral Testimony – Ron Irvin, 2219 42nd Street, Florence, OR 97439

Mr. Irvin stated that he had visited the Planning Department and had several other questions answered prior to the meeting. He asked if a facility had to be a stand-alone property. PD FarleyCampbell confirmed and stated that the reason for that was the concern for air quality in buildings which typically share HVAC systems. Mr. Irvin asked if there would be a limit to the number of facilities allowed. PD FarleyCampbell indicated that there would not be a limit.

Neutral Testimony – Desiree Johnson, P.O. Box 14, Florence, OR 97439

Ms. Johnson introduced herself and asked if a facility would be allowed near or next to a church. She said that she had not heard about buffers regarding churches. PD FarleyCampbell stated that there was not, but that churches were typically in residential zoning districts and if there was a state-registered child care facility in the building, there would be a buffer applied. Commissioner Murphey added that there could also be other buffers which affect whether or not a facility would be allowed near a church or RV park.

Ms. Johnson asked if there was a buffer from RV parks. Staff indicated that there would not be.

Ms. Johnson asked if she would need to speak to Lane County regarding facilities outside of the city limits. PD FarleyCampbell stated that she would need to contact Lane County and offered to provide her the contact information. Ms. Johnson asked where the city limits were. PD FarleyCampbell directed her to the zoning map.

Ms. Johnson asked what she would need to do in order to understand the proposed zoning. PD FarleyCampbell stated that she was always welcome to speak to anyone in the Planning Department to get her questions answered.

Commission Discussion

Vice Chairperson Muilenburg stated that it had come to his attention that Chairperson Hoile may like to provide input on the proposed text amendments.

Commissioner Murphey stated he would like to see what the buffers would look like at 500 feet from public parks and 200 feet from residential. He stated that he would like to make elderly people who live alone more comfortable by locating these facilities a little further away.

Commissioner Bare stated that he would like to have maps available for people in the audience.

PD FarleyCampbell asked if the Planning Commission was keeping the written record open. Vice Chairperson Muilenburg stated that they would.

Commissioner Burns motioned that the hearing be continued until January 27, 2015 at 7:00 p.m. Commissioner Bare seconded. By voice, all ayes. The motion passed.

DISCUSSION ITEMS

Commissioner Murphey asked if there had been applications received for Planning Commission. PD FarleyCampbell stated that applications had been received and that those applications would be reviewed January 14th and 15th. She stated that Commissioner Bare did reapply and two other applications had been received.

CALENDAR

The Planning Commission discussed the upcoming calendar. The next meeting is scheduled for January 27, 2015.

Vice Chairperson Muilenburg adjourned the meeting at 8:28 p.m.

Curt Muilenburg, Planning Commission Vice Chairperson



Medical Marijuana Facility Policy Proposal

PC 14 26 TA 03

Planning Commission Hearing

January 13, 2015

Implementation Process

- **City Council:** Action Item-October 20th
 - Initiated code updates
- **Planning Commission:** Hearing-January 13th
 - Recommendation to City Council
- **City Council:** Worksession & Public Hearing
 - Final decision

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Applicable Criteria

Florence City Code (FCC) Title 10: Zoning Regulations

- Chapter 1, Zoning Administration, Section 1-3-C Legislative Changes

Florence Realization 2020 Comprehensive Plan

- Chapter 1: Citizen Involvement: Policies 4, 5, & 6
- Chapter 2: Land Use, Policies 1 & 3, Industrial, Policy 4
- Chapter 9: Economic Development, Policy 1

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Code Amendment Summary

- Definition for medical marijuana facility
- Design & locational standards
- Zones where permitted

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Proposed Amendments

- Title 10 Chapter 1: Definitions
 - "Medical Marijuana Facility"
- Title 10 Chapters: 15, 16, 25, 27 & 30:
 - Permit MMFs conditionally
- Title 10 Chapter 4: Conditional Use, Additional Conditions
 - Pre-Development Meeting
 - State & City Business Licenses

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Proposed Amendments

- Title 10 Chapter 4: Conditional Use, Additional Conditions (*continued*)
 - Not a home occupation
 - Permanent structure & no other use within the same building
 - No drive-up or walk-up
 - One public entrance facing a public street
 - Lighting--entry and parking

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Proposed Amendments

- Title 10 Chapter 4: Conditional Use, Additional Conditions *(continued)*
 - Separation from other districts, uses, and geographical ref.
 - 175' residential zones (500')
 - 200' Hwy 126 (new)
 - 200' intersection of Highway 101 & 126 (new)
 - 400' public parks (500')
 - 500' Siuslaw Bridge (new)
 - 500' public libraries & child care homes and centers
 - 1000' public and private schools attended

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Buffer Proposal: Siuslaw Bridge



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Buffer : Hwy 101 & 126 Intersection



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Buffer Proposal: Hwy 126



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Buffer Proposal: From Residential



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Buffer Proposal: From Residential



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Public Testimony

- Exhibit E: George and Robbie Fielding, 211 Harbor St., email dated 1-3-15
- Exhibit F: Dayle Bailey, 211 Harbor St., Unit 39, email dated 1-5-15
- Exhibit G: Ethel Angal, Siuslaw 97J School District Administrator, email 1-4-15
- *Exhibit I: Renee Hansen, 378 Kingwood, letter dated 1-9-15*
- *Exhibit J: Tom Pfeifer, email dated 1-12-15*

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Questions?

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