

CITY OF FLORENCE PLANNING COMMISSION
July 14, 2015 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Chairperson Muilenburg called the meeting to order at 7:01 p.m. Roll call: Chairperson Curt Muilenburg, Vice Chair John Murphey, Commissioners Robert Bare, Chic Hammon, Clarence Lysdale, Ron Miller were present. Commissioner Alan Burns was absent and excused. Also present: Planning Director Wendy FarleyCampbell, Assistant Planner Glen Southerland and Planning Administrative Assistant Vevie PoppowellWalker.

APPROVAL OF AGENDA

Vice Chair Murphey motioned to approve the Agenda, Commissioner Bare seconded. By voice, all ayes. The motion passed.

APPROVAL OF MINUTES

Vice Chair Murphey motioned to approve the Minutes of April 28 and June 23, 2015. Commissioner Miller seconded. By voice, all ayes. Minutes were approved.

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:

Chairperson Muilenburg said that there were three public hearings before the Planning Commission that evening. The hearings would be held in accordance with the land use procedures required by the City in Florence City Code Title 2 Chapter 10 and the State of Oregon. Prior to the hearing(s) tonight, staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria the Planning Commission must use in making its decision. All testimony and evidence must be directed toward these criteria or other criteria in the Plan or Land Use Regulations which you believe applies to the decision per ORS 197.763 (5). Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties involved an opportunity to respond to the issue may preclude an appeal of this decision based on that issue. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval without sufficient specificity to allow the Planning Commission to respond to the issue 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 11 DR 02 – Children's Theater C.R.O.W.: An application from Shawn Fleming Construction on behalf of Children's Repertory of Oregon Workshop / C.R.O.W. requesting approval of a Design Review and change of use application to create a children's theater in the Highway District. The applicant has proposed an interior remodel, the addition of eight parking spaces, the addition of exterior lighting, landscaping changes and an exterior covered storage space in addition to the proposed 80-seat theater and workshop. The 3200 square foot building is located at 3120 Highway 101, Assessor's Map No. 18-12-23-23, Tax Lot 3400.

CP Muilenburg opened the hearing at 7:05 p.m.

CP Muilenburg asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visits, or bias. No Commissioner had anything to declare. CP Muilenburg asked if the public had any challenges to any commissioner's impartiality in making this decision. There were no challenges.

CP Muilenburg asked for the staff report.

Staff Report

AP Southerland delivered the staff report for Resolution PC 15 11 DR 02 beginning with the list of Criteria, a brief history of the site, the aerial of the site and the proposed site plan to include the new parking and storm water swales and added there were no street improvements needed at this time. AP Southerland continued with the testimony and stated there had been referral comments from the Fire Marshal Sean Barrett with no concerns and the Public Works Director Mike Miller who has been working with the applicant and no public testimony had been received. Staff recommended approval of the application with Condition #3 regarding parking, Condition #4 regarding the design review, Condition #5 regarding the timelines of January 14, 2016 for paved parking and landscaping & July 14, 2016 to complete the future addition of the awning at the rear of the structure, Condition #6 regarding landscaping to include one additional tree and six additional scrubs and proper stormwater swales, Condition #7 regarding access and circulation to include the joint access easement for the shared driveway, and Condition #8 regarding lighting that will not exceed 20 feet in height along with a 30 day review period upon installation.

Vice Chair Murphey requested location and explanation of driveway on the site plan. AP Southerland pointed out the existing small strip that would be taken out to be paved for new parking. Commissioner Lysdale questioned the exact swale location and AP Southerland pointed out the current planter and grassy area as the swale location. Commissioner Miller asked if the black top would run to the end of the swale going east/west and AP Southerland responded that was his understanding. Vice Chair Murphey asked for clarification of area for documentation and AP Southerland confirmed the building to be 3,200 square feet. Commissioner Lysdale wondered if there would be any signage at this time and AP Southerland indicated that there was none that he was aware of. Commissioner Hammon asked if it was paved down to the sidewalk and AP Southerland pointed out the pre-existing grassy area including brush to the south that would lend to the buffering requirement.

CP Muilenburg asked Commissioners if there were any questions for Staff. There were no questions.

CP Muilenburg asked for the applicant to come forward.

Applicant Testimony – Shawn Fleming – 2099 45th Florence, OR 97439

Mr. Fleming had no presentation however he was prepared to answer any questions.

Commissioner Bare expressed his concern regarding run-off and asked for clarification on the proposed asphalt pour. Mr. Fleming clarified on the aerial of the site where the new asphalt, swale & filter strip would be located, explained the procedure, and assured there should be no problem with run-off.

CP Muilenburg asked if the applicant had read and understood the conditions of approval and Mr. Fleming indicated that he did.

CP Muilenburg opened up the opportunity for any proponents, opponents, or interested neutral parties to speak. There were no proponent comments.

Proponent – Melanie Herd – P.O. Box 184, Florence, OR

Ms. Herd expressed she was strongly in favor of the site and felt it was a wonderful opportunity that the City has needed for a long time.

Proponent – David Lauria – 1350 Mulberry Lane, Florence, OR

Mr. Lauria said that he had watched the stages of degradation of the building site through the years and added that the project would be a big boom to the town.

Proponent – Hal Weiner – 83411 Seaview Lane, Florence, OR

Mr. Weiner stated he felt that having a dedicated Children’s Theater space will be amazing in the town.

None were opposed or neutral.

CP Muilenburg asked for Staff recommendation.

AP Southerland restated the staff recommendation.

CP Muilenburg closed the hearing at 7:25 p.m.

Commission Discussion

CP Muilenburg asked the Commission for any added comments. There were no other Commissioner questions for staff.

Commissioner Hammon motioned to approve Resolution PC 11 DR 02: Children’s Theater Design Review and change of use. Commissioner Miller seconded the motion. By roll call vote: Commissioner Lysdale “yes”; Commissioner Hammon “yes”; Vice Chair Murphey “yes”; CP Muilenburg “yes”; Commissioner Bare “yes”; Commissioner Miller “yes”. Commissioner Burns was absent. The motion passed.

RESOLUTION PC 15 12 CUP 07 – FAHS Thrift Store Storage: An application from Ed Gervais on behalf of the Florence Area Humane Society (FAHS) for a Conditional Use Permit to install a storage container at 1193 Bay Street to be placed at the north/back end of the gravel driveway between the thrift store and the boutique that will be used as additional temporary dry storage only. There are no electrical or plumbing features requested.

CP Muilenburg opened the Public Hearing at 7:28 p.m.

CP Muilenburg stated that all public hearing procedures continued to apply.

CP Muilenburg asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visit previous approvals & fire marshas, or bias.

Commissioner Bare declared that he was on the Board of Directors for the Florence Area Humane Society and recused himself from the proceedings.

CP Muilenburg asked if the public had any challenges to any commissioner’s impartiality in making this decision. There were no challenges. CP Muilenburg asked for the staff report.

Staff Report

PD FarleyCampbell delivered the staff report for Resolution PC 15 12 CUP 07 with the Criteria, Introduction and proposal as a non-profit organization. PD FarleyCampbell continued with the aerial of the site, site plan, architectural design standards and the testimony from Fire Chief Sean Barrett that included proper signage of any compositional materials. Staff recommended approval with Condition #3 regarding extension of one

year if installation is delayed, Condition #4 regarding 3 year temporary CUP Permit and Condition #5 regarding Lighting: CUP = bring fixtures up to dark sky code.

Commissioner Miller asked if the container would be set on blocks or on the ground. PD FarleyCampbell indicated that it would be gravel. Commissioner Hammon inquired how long ‘temporary’ was and PD FarleyCampbell said three years and that it could be adjusted because there was nothing stated in code. Vice Chair Murphey asked what the options were for the applicant after the three year period. PD FarleyCampbell responded that the option would be to remove it or rehab it. CP Muilenburg and Commissioner Hammon both asked for clarification regarding the three year proposal and a possible extension and PD FarleyCampbell indicated that applying for extension was a possibility.

CP Muilenburg asked for applicant testimony.

Applicant Testimony- Ed Gervais – 2840 Rododendron Drive, Florence OR 97439

Mr. Gervais stated that he had been a volunteer with FAHS for the past 16 years and was a member of the Board and went on to state that one of the big issues was that the location has not grown however the city has which meant more donations but no additional available space. Mr. Gervais added that the gravel location was the best option and indicated the storage container could possibly be painted. Mr. Gervais added that he had spoken to the owner of the bed and breakfast next door and they were pleased and approved of the placement of the storage container.

CP Muilenburg asked if the applicant understood and agreed with the conditions. Mr. Gervais stated that he did.

Commissioner Lysdale stated that because the placement of the container was so visible, this might present an opportunity to have some involvement by a public art group or school classroom with imagination to decorate it. Mr. Gervais replied that he was agreeable to the idea. CP Muilenburg asked if that would require an Administrative Review and PD FarleyCampbell replied that she would recommend that if it was agreed upon then it should be included as part of the approval and stipulate size and parameters to avoid the need of a mural permit. Commissioner Hammon finally stated that he felt the solid gray would bring less attraction to the container and it should be left gray or another solid color.

CP Muilenburg asked for any proponent, neutral, or opposed party. There were none.

CP Muilenburg asked for Staff recommendation.

PD FarleyCampbell began with the clarification that a mural would first need to go to the City Council, so there would not be the opportunity for the Planning Commission to make a decision. PD FarleyCampbell went on to recommend approval.

CP Muilenburg closed the hearing at 7:50 p.m.

Commission Discussion

CP Muilenburg asked the Commission for any added comments. There were no other Commissioner questions for staff.

CP Muilenburg asked if the applicants agreed to the conditions of approval. The applicants stated that they understood and agreed to the conditions of approval.

Vice Chair Murphey motioned to approve Resolution PC 15 12 CUP 07 – Temporary Storage Container in Old Town District. Commissioner Lysdale seconded the motion. By roll call vote: Commissioner Lysdale “yes”; Commissioner Hammon “yes”; Vice Chair Murphey “yes”; CP Muilenburg “yes”; Commissioner

Bare recused himself; Commissioner Burns was absent. The motion passed.

RESOLUTION PC 15 13 08 – Class Act Theatre: An application from David and Rosemary Lauria for a Conditional Use Permit and a Design Review Permit to change building use to include theatre use and construct an addition to the existing church with a 460 square foot addition located at 509 Kingwood Street on the northwest corner of Rhododendron Drive and Kingwood Street.

CP Muilenburg opened the hearing at 7:52 p.m.

CP Muilenburg asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visits, or bias. No Commissioner had anything to declare. CP Muilenburg asked if the public had any challenges to any commissioner's impartiality in making this decision. There were no challenges. CP Muilenburg asked for the staff report.

Staff Report

PD FarleyCampbell delivered the staff report for Resolution PC 15 13 CUP 08 with the criteria and an introduction that included the history and location of the structure and indicated that previous pastor/owner of the church stated that church would still be operational. PD FarleyCampbell went on to provide the aerial of the site, site plan, and floor plan of the addition which would provide restroom facilities. PD FarleyCampbell stated that referral comments came from Fire Marshal, Sean Barrett regarding exiting and emergency lighting and there was no public testimony received. Staff recommended approval with conditions to include Condition #3 regarding cessation of the Church meant abandonment of non-conforming parking use, Condition #4 regarding requirement that the southern property corners be marked, Condition #5 regarding the strict retention of northern vegetated buffer, Condition #6 regarding the addition of ADA parking based on the Building Official's finding, Condition #7 to provide two bicycle parking spaces, Condition #8, #9 & #10 regarding Landscaping (submit a plan, trees, shrubs, irrigation to include 26% in the first 20 feet of the street), Condition #11 regarding on-site pedestrian internal walkways 5 feet wide & ADA improvement at corner of kingwood and Rhododendron, Condition #12 regarding dark sky lighting, which currently meets code, Condition #13 regarding community character and noise prevention, Condition #14 regarding trash and recycling container screening. PD FarleyCampbell said that the applicant had been very compliant and recommended approval with the conditions mentioned. In addition on the Informational side, PD FarleyCampbell pointed out #1 regarding Alley and curb cut improvements if used, #2 regarding paint colors-muted neutral earth tones and #3 regarding emergency lighting and signage.

Commissioner Hammon requested clarification regarding designated ADA when it is all on street parking and PD FarleyCampbell indicated applicant would be working with Public Works Director Mike Miller or shared parking behind in the vegetated area and pointed out the curb cut without backing out in to the street as another option. Commissioner Hammon expressed concerned over the parking on the street and pointed out another local theater had been required to have 17 parking spots. PD FarleyCampbell said that parking could be on the adjoining cross streets, East of Kingwood within 1,000 feet. Commissioner Bare asked for explanation of Condition #5 regarding the retention of northern vegetated buffer. PD FarleyCampbell explained that the buffer requirements for a commercial use adjoining a residential district must maintain a 15-foot vegetated buffer plus a 6 foot high fence so the condition was to ensure applicant would not remove the northern buffer of vegetation. Commissioner Lysdale asked for clarification regarding the non-conforming use of 10-8-6 and PD FarleyCampbell Campbell stated that the change to non-conforming use was for the parking provision and the Planning Commission body could grant a change of use, changing Condition #3 to cover the change of use from church to theatre. Chairperson Muilenburg restated and asked that if the applicant had come to the Planning Commission and asked to change the use from a church to a theatre that would have evoked a parking requirement of 15 spots and PD FarleyCampbell explained that if the applicant said had indicated he no longer wanted to do the church, only theatre the applicant could have asked to continue the non-conforming provision. PD FarleyCampbell detailed the three parking use decision options. Muilenburg requested clarification regarding the removal of non-conforming use if the parking is determined to be a detriment to the neighborhood. PD FarleyCampbell stated that since it was a public

hearing it could be used as a format to make a decision that parking was compromised and it should be removed and she also provided various options for Planning Commission rights to follow-up with direction/criteria to revisit the provision. Commissioner Bare asked if there was any record of parking complaints in the past neighboring sites and PD FarleyCampbell indicated there was not however, she was not certain as to how large the church congregation had been. Commissioner Hammon asked if the ADA parking were to be put at the pre-existing curb cut would applicant be able to use the pre-existing sidewalk meet ADA and PD FarleyCampbell confirmed that the sidewalk did meet ADA. There was a brief Commission discussion regarding additional ADA parking options.

CP Muilenburg asked for applicant testimony.

Applicant Testimony – David & Rosemary Lauria – 1350 Mulberry Lane, Florence, OR 97439

Mr. Lauria explained that the parking situation was used as short term parking due to the local businesses across the streets, pointed out the noise buffer and explained the desire to keep the property a park like atmosphere. Mr. Lauria went on to explain his intention to work with Public Works on one of his thoughts regarding ADA parking provision which would be past the four-way stop, how parking should not impact the residential and showed how the parking options met the criteria. He pointed out the ‘thin’ buffered area was due to the recent removal of scotch broom and provided a detailed tour of vegetation on the property. Mr. Lauria also addressed the three neighboring corners that had already been approved for ADA ramps. Mr. Lauria also confirmed the height of site building was 19 feet at the peak. Mr. Lauria said that the juniper would remain and be maintained. Commissioner Bare thanked the applicant for replanting/relocating the vegetation.

Commissioner Miller said the applicant should consult with Public Works because to his knowledge he did not think ADA parking was allowed on on-street parking and he was concerned about setting precedence. Vice Chair Murphey questioned whether the church doors had been closed and the building had been abandoned and Mr. Lauria assured there had been and would continue to be a regular spiritual meeting time. CP Muilenburg asked that with the maximum seating of 60 to 80 seats should that require parking for 30 cars and Mr. Lauria said he had already spoke to surrounding businesses about leasing after hours parking and also indicated the desire to avoid additional required parking. Commissioner Hammon inquired about the on-street bike path and PD FarleyCampbell indicated there would be a bike lane. Commissioner Hammon stated that it would be the same as the bike path on 27th Street and PD FarleyCampbell confirmed it would be on both sides of the Street on Rhododendron. CP Muilenburg asked about the 4 to 5 foot sidewalk clarification and Mr. Lauria stated that it was still undecided but currently edging stones would meet the criteria. PD FarleyCampbell confirmed that would meet the internal and not the Kingwood and Rhododendron sidewalk criteria.

There was no opponent testimony.

Proponent – Michael Jacobson – 83455 S. Cove Way, Florence, OR

Mr. Jacobson stated that he was a nine year resident, he felt Mr. Lauria had contributed much culturally to the community and was very responsible.

There were no neutral comments.

PD FarleyCampbell summarized options - #1, keeping Condition #3 as stated - #2, as stated in 10-8-6 determine church use is similar to theatre use and applicant can keep the non-conforming parking use and and #3, 10-8-7 determine parking is a detriment of the welfare of the neighborhood and have applicant work with staff to create on-site parking.

CP Muilenburg asked if the Commission could require that the ADA be on-site. PD FarleyCampbell clarified that the ADA parking requirement would depend on the building official's findings. Commissioner Bare asked about adding additional verbiage to condition #6 and PD FarleyCampbell said she would do that.

CP Muilenburg closed the hearing at 8:53 p.m.

Commission Discussion

Commissioner Hammon stated he lived next to a church without on-site parking and expressed his safety concerns. Commissioner Miller expressed that with the installation of bicycle lanes, on-street ADA parking should not be an option, giving way to setting precedence for other businesses within the City limits. Commission Hammon said that no Federal highway standard would allow such an option. CP Muilenburg did indicate that the Commission could require the applicant to install on-site parking and said that the change of use with changes to condition #6 of applicant being required to install on-site ADA parking if building official deemed necessary and PD FarleyCampbell reminded of 10-8-7 that would allow a revisit from Commission. CP Muilenburg then asked if any Commissioner thought the applicant should provide their own parking. Commissioner Lysdale commented they should reserve the right to make that decision at a revisited time. Commissioner Bare inquired about where that provision would be entered and PD FarleyCampbell said she would modify Condition #3. Vice Chair Murphey inquired that if the change of use was allowed would there then be a problem if there continued to be a spiritual meeting time. PD FarleyCampbell replied it could not be regulated and that it is considered 'freedom of speech'. Commissioner Miller reiterated that he had no problem with the location being used as church and theatre and his only concern was with on-street ADA parking. Vice Chair Murphy stated that if the building official found ADA to be a requirement then the applicant should fulfill that on-site. Commissioner Hammon asked for clarification of whether it was Commercial and PD FarleyCampbell replied it was Community and Recreation Facility.

CP Muilenburg said that regarding #6, if the building official decides ADA is required, applicant will provide on-site parking and all Commissioners agreed.

CP Muilenburg said that regarding #3, change in use, dropping the church use and the detrimental language would be added and all Commissioners agreed.

PD FarleyCampbell confirmed #3 modification: This site may operate as a church and/or a theatre in accordance with Florence City Code 10-8-6 however if at any time it is determined that the non-conforming parking detrimental to the welfare of the neighborhood, then in accordance with 10-8-7 a hearing shall be held to consider bringing the parking in to conformance. Regarding #6 PD FarleyCampbell stated that "on-site" would be added to verbiage and "if" directed by the building official.

CP Muilenburg asked the Commission for any added comments. There were no other Commissioner questions for staff.

Commissioner Bare motioned to approve Resolution PC 15 10 CUP 08 with the changes to Condition #3 and Condition #6. Vice Chair Murphy seconded the motion. By roll call vote: Commissioner Lysdale "yes"; Commissioner Hammon "yes"; Vice Chair Murphey "yes"; CP Muilenburg "yes"; Commissioner Bare "yes"; Commissioner Miller "yes; Commissioner Burns was absent. The motion passed.

CP Muilenburg asked if the applicants agreed to the conditions of approval. The applicants stated that they understood and agreed to the conditions of approval.

PLANNING COMMISSION DISCUSSION ITEMS

Commissioner Lysdale asked about requirements regarding old buildings and mold and where it might fall in the system. PD FarleyCampbell said that it was regulated by the state and that the closest avenue for

determining that would be the building official. Commissioner Lysdale stated his concern over some of the older structures that are being used especially pertaining to children. AP Southerland indicated that Mr. Fleming had not noted any mold in the C.R.O.W. building and PD FarleyCampbell said that in the future there could be a requirement to have that checked. Vice Chair Murphey added asbestos abatement to that list and Commissioner Miller added to check the linoleum.

DIRECTORS REPORT

PD FarleyCampbell said that the Director's Report would be available on the next agenda. She provided application information for Resolutions scheduled for the upcoming Planning Commission meeting. Vice Chair Murphey requested an update on Recreational Medical Marijuana. PD FarleyCampbell noted that things were moving along, and reminded the Commission of the Planning in Oregon session that will be held on August 29, 2015.

CALENDAR

Next Planning Commission meeting scheduled for July 28, 2015 at 7:00 p.m.

CP Muilenburg adjourned the meeting at 9:18 p.m.

Curt Muilenburg, Planning Commission Chairperson