

CITY OF FLORENCE PLANNING COMMISSION
August 25, 2015 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Commissioner Bare motioned to approve the Minutes of March 10, 2015 and July 28, 2015. Vice Chair Murphey seconded. By voice, all ayes. The motion passed.

PUBLIC COMMENTS

*This is an opportunity for members of the audience to bring to the Planning Commission's attention any items **NOT** otherwise listed on the agenda. Comments will be limited to **3 minutes per person**, with a maximum time of 15 minutes for all items.*

There were no public comments.

PUBLIC HEARING:

Chairperson Muilenburg said that there were two 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, prejudice, personal interest, or other facts from which the party has concluded that the Commissioner will not make a decision in an impartial manner.

- 1. RESOLUTION PC 15 16 CUP 09 – Porter Boatlift :** A Conditional Use Permit application from Greg Swenson of PBS Engineering & Environmental, representing Larry Porter, to construct a new private boatlift, gangway, and two mooring buoys in the Siuslaw River near applicant's residence. The proposed project will be located within the Restricted Residential and Conservation Estuary zoning districts at 100 Rhododendron Drive, Map 18-12-27-33, Tax Lots 304, 400, 500 and the Bay (Front) Street Right-of-Way. Proposed work (9 piles) will take place during the in-water work period from November 1st to February 15th during daylight hours. As mitigation for the project, 37 derelict creosote piles would be removed from the waterway.

CP Muilenburg opened the hearing at 7:07 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. Commissioner Lysdale indicated that he was a resident in Wild Winds with an over water pier but did not feel it would bias his decision. 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 16 CUP 09 – Porter Boatlift beginning with the extensive list of criteria, an introduction of the site with information on the joint permit application submitted to DSL and USACE and he indicated that their comments were not yet ready. He discussed issues surrounding the proposed site including the unknown location of Spruce Point Cemetery, the Spruce Point Sawmill and stated that there was current research being done regarding the status of piles as historic resource, ecosystem and erosion concerns. He presented the aerial of the site, site plan and elevations, and continued by showing site photos submitted by the applicant that depicted the materials and layout at the site and pointed out the visual management area, zoning compliance and conservation estuary district. AP Southerland pointed out the testimony that included three opponents and five referrals and he made reference to the material that had been distributed on the Dias by the applicant. He concluded with Staff response and recommendation with conditions of approval; Condition #3 regarding conditional use permit, Condition #4 regarding private use of public right-of-way, Condition #5 regarding replanting of vegetation, Condition #6 regarding vibratory pile driving, Condition #7 regarding accessory use to residential – no commercial use, Condition #8 regarding agency approval, Condition #9 regarding no other alternatives, Condition #10 regarding lighting, Condition #11 regarding testimony with visuals – re: scenic resource 6, Condition #12 regarding leaks and contaminant spill and Condition #13 regarding archaeological resources with added verbiage of 'stop work' after 'immediately'. AP Southerland finally stated the alternatives, recommending continuance to allow for expert testimony to be submitted then asked for questions.

Commissioner Bare requested confirmation that there had been no comment from the Army Corp of Engineers and AP Southerland stated that was correct.

CP Muilenburg asked Commissioners if there were any further questions for Staff. There were none. CP Muilenburg asked for the applicant to come forward.

Applicant Testimony – Larry Porter – P.O. Box 12666 Salem, OR 97309

Mr. Porter gave his presentation that included a video that gave a 360 degree view of the proposed site and continued with extensive details from the documents he had distributed at the Dias with discussion of the staff report issues/conditions that had been delivered. He placed emphasis on his supported expert evidence regarding removal of the piles and the evidence of existing armor in relationship to possible erosion. Mr. Porter also presented some history of the Spruce Point Mill with the question of whether or not it should play a significant role in the decision to remove the piles. He also pointed out that his ramp would be grated to avoid any possible shadowing that could affect a fish and wildlife habitat.

There were some Commissioner questions for the applicant regarding the proposed removal of piles in relationship to the Spruce Point Mill, concern over the location of the Spruce Point Cemetery and identification of fish and wildlife habitat at the site.

CP Muilenburg opened up the opportunity for any proponents, opponents, or interested neutral parties to speak.

Opponents – Mark & Cynthia Chandler – 240 Rhododendron Drive – Florence, OR 97439

Mr. and Mrs. Chandler stated that their main concern was the removal of the pilings at such a prominent point that may be stabilizing an area where sand may begin to undercut and shift and that he felt it was an unnecessary risk. They also maintained that their only opposition was to the proposed location and suggested that the applicant reconfigure the boatlift to the north side of the location and eliminate the present concern of the pilings.

Commissioner Bare questioned Mr. Chandler regarding any knowledge he may have about the Mill and the Cemetery and Mr. Chandler responded that he had very little information about the Mill and had not heard of the Cemetery until the current boatlift proposal was applied for.

Mr. Porter (from the audience) restated that there had been no concrete evidence provided to support the idea that the removal of the piles would cause any erosion, explained that the location was at a very deep point and that is why the mill was constructed there in the first place. CP Muilenburg asked if the removal of piles was for mitigation only or needed for room to bring the boat in and Mr. Porter responded that removal was for both reasons and indicated that the piles could be a hazard for the boat and for anyone who walks the beach at that location and he felt that after testimony was returned from litigators it would be determined. Mrs. Chandler responded and stated that she walked the location regularly and did not feel that the piles presented any hazardous conditions and continued with her concerns regarding the disruption of the fish and wildlife habitat by the removal of the piles.

CP Muilenburg asked the applicant if they understood and agreed to the conditions and Mr. Porter responded that he did. CP Muilenburg asked for Staff response and recommendation.

AP Southerland briefly explained that the location of the Spruce Point Cemetery still remained widely unknown although there had been information provided by the University of Oregon, latitude and longitude information that had been collected and additional GIS data from the State Historic Preservation Office and concluded that Staff recommended a continuation to gain more data for a more informed decision. There were brief questions and discussion from Mr. Porter and the Commissioners to determine the best possible procedure and hearing date for the continuation.

Commission Discussion

Vice Chair Murphey motioned to schedule a continuation for a hearing date of October 27, 2015 with the written testimony accepted until 5:00 pm on October 13, 2015 for Resolution PC 15 16 CUP 09 – Porter Boatlift. Commissioner Bare 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 was approved.

AR 15 05 DR 04 – Stillwater Condominium Complex: An application for an Administrative Design Review to change the exterior appearance of the Stillwater buildings by removing ledge stone accents and changing vertical board and batten siding to horizontal lap siding.

CP Muilenburg introduced the Action Item and asked for the Staff report.

Staff Report

PD FarleyCampbell explained that the administrative design review was being delivered to the Commissioners because it involved some changes from a decision made by a past Planning Commission. She proceeded with the staff report for Resolution AR 15 05 DR 04 – Stillwater Condominium Complex and began with the list of criteria, a history of the site with background information of the 2006 and 2007 construction and alteration and the 2013 rebuild of the roof and staircase, the aerial of the site, a series of

photos from all existing elevations that revealed the severe water damage and proposed elevations which included the elevations for the mixed use building and detailed the proposed removal of ledgerstone and the conversion from bat to lap. PD FarleyCampbell reported there had been no testimony received and staff found that the application can meet applicable City codes and requirements, provided that it met the conditions of approval. The conditions of approval covered condition #3 regarding the design review being valid for one-year, condition #4.1 regarding stone accent/veneer must be kept, #4.2 regarding re-orientation of trim piece, #4.3 regarding lap siding of greater exposure than current, and #4.4 regarding the corner trim to be 4" minimum with the siding and shingles a maximum of 6" exposure. She listed the alternatives and asked for questions.

Vice Chair Murphey requested clarification of what decision needed to be made with the discussion and PD FarleyCampbell said it was primarily to keep or not to keep the ledgerstone. There was Commission discussion and clarification regarding the applicant request.

CP Muilenburg asked the applicant for his testimony.

Applicant Testimony – Thomas Shaw, Project Coordinator and Architect – 1601 Rhododendron Drive #506, Florence OR 97439

Mr. Shaw indicated that it was specifically on the south side of the mixed use building that was the greatest concern for removal of the ledgerstone however expressed the need to expose all of the ledgerstone to ensure the integrity underneath and replace it with similar stone that is constructed correctly so that the structure would experience minimal water intrusion and recommended a cement board product that is a treated Hardi panel. Mr. Shaw distributed photos on the Dias and there were additional questions from the Commissioners, discussion and clarification on what would be acceptable and feasible for the repair and prevention of water damage, CP Muilenburg concluded that there didn't seem to be any opposition to the removal of the ledgerstone and all Commissioners agreed. There was brief additional discussion to determine contrasting trim colors to break up the pattern instead of the addition of trim boards and confirmation of the acceptable and uniform width of the Hardi plank. There were no further questions or discussion for the applicant and PD FarleyCampbell removed condition #4.1 regarding stone accent/veneer and revised conditions #4.2 through #4.4 to accommodate the modifications the Commissioners had agreed on.

CP Muilenburg asked for Staff response and recommendation and PD FarleyCampbell restated the staff recommendation. There was no further Commission discussion.

Vice Chair Murphey motioned to approve Resolution AR 15 05DR 04 – Stillwater Condominium Complex with the modified conditions; that include: remove Condition 4.3, reword 4.1 to permit ledge stone removal on the south side of mixed use building with 18" extensions wrapping from the side walls or to a lesser point such as a door obstruction and require that any area where ledge stone is removed shall be replaced with siding painted a darker or accent color; reword condition 4.2 to permit two horizontal laps of contrasting color rather than requiring perpendicular trim. Shapes must be less than 750 sq. ft. Reorder Condition 4.4 to 4.3. 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 was approved.

DIRECTOR'S REPORT

PD FarleyCampbell explained the application process and there was brief discussion with the Commission on the procedures that lead to approval or disapproval.

CALENDAR

AP Southerland added that the August 29th training on Planning in Oregon should have been on the Calendar and extended the invitation to the Commissioners. Vice Chair Murphey and Commissioner Lysdale indicated they would be attending.

Tuesday, September 9, 2015 – Regular Session, 7:00 pm at City Hall
Tuesday, September 22, 2015 – Regular Session, 7:00 pm at City Hall – TENTATIVE

PD FarleyCampbell also reminded the Commissioners of the Medical Marijuana work session with the City Council on Wednesday, September 9, 2015 at 10:00 a.m.

CP Muilenburg adjourned the meeting at 9:22 p.m.

Curt Muilenburg, Planning Commission Chairperson

Porter Boatlift

PC 15 16 CUP 09



Criteria

Florence City Code, Title 10:

- Chapter 1: Zoning Administration, Section 1-5
- Chapter 4: Conditional Uses, Sections 3, 5 through 8, 10, and 11
- Chapter 6: Design Review, Section 5
- Chapter 7: Special Development Standards, Sections 2 through 6
- Chapter 10: Restricted Residential, Sections 2, and 4 through 5
- Chapter 19: Estuary & Shorelands, Sections 1, 3, and 6
- Chapter 37: Lighting, Sections 2 through 6

* Porter Boatlift - PC 15 16 CUP 09

8/25/2015 #2

Criteria, cont.

Florence Realization 2020 Comprehensive Plan:

- Chapter 5: Open Spaces and Scenic, Historic, and Natural Resources:
 - Scenic Resources and Visual Quality, Policy 1
 - Historic Resources, Policy 4
- Chapter 6: Air, Water and Land Quality, Policies 1 & 2
- Chapter 7: Development Hazards and Constraints, Policies 1, 2, and 4
- Chapter 16: Siuslaw River Estuarine Resources, Policies 3 through 5, 7, 11 through 15, and 17
- Chapter 17: Coastal Shorelands:
 - Ocean, Estuary and Lake Shorelands, Policies 3 through 9, 11, 12, and 16

* Porter Boatlift - PC 15 16 CUP 09

8/25/2015 #3

Introduction

- **1980** – Single-Family Residence at 100 Rhododendron constructed
- **July 10, 2015** – Applicant submitted application for Conditional Use Permit
- **August 3, 2015** – Joint Permit Application submitted to DSL and USACE
- **August 4, 2015** – Application deemed "complete"

* Porter Boatlift - PC 15 16 CUP 09

8/25/2015 #4

Issues

- 1. Spruce Point Cemetery** – Location unknown: generally believed to be in vicinity
- 2. Spruce Point Sawmill** – Unknown: status of piles as historic resource
- 3. Piles as Ecosystem** – Unknown: ODFW testimony needed in order to address

* Porter Boatlift - PC 15 16 CUP 09

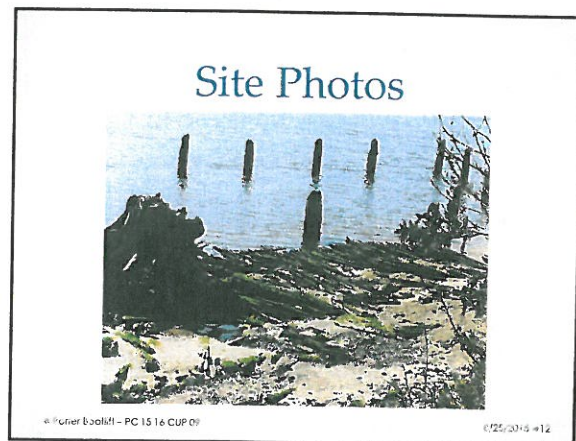
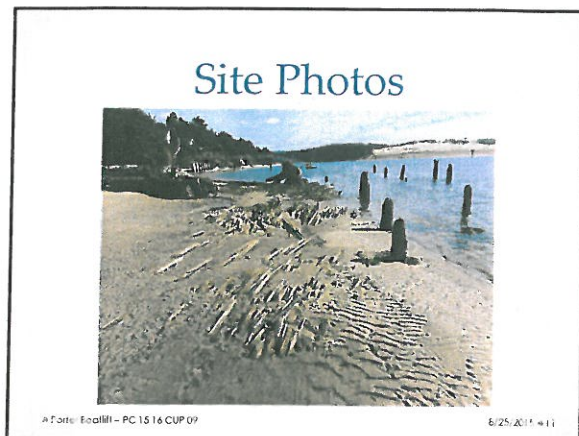
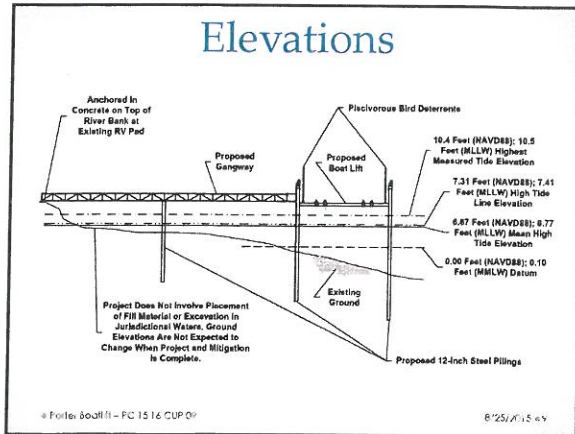
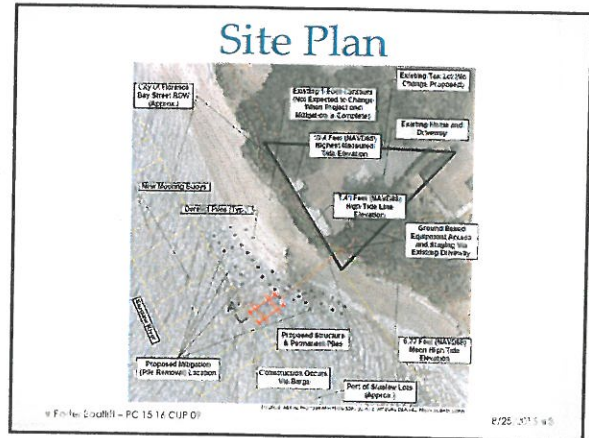
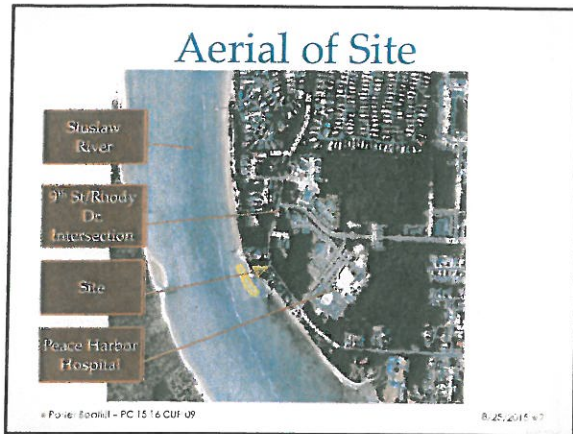
8/25/2015 #5

Issues

- 4. Alteration of Course** – Unknown: address erosion concerns
- 5. Joint Permit Application** – Comments not yet ready

* Porter Boatlift - PC 15 16 CUP 09

8/25/2015 #6



Visual Management



Forster EoallMI - PC 15 16 CUP 09

8/24/2015 #13

Zoning Compliance



Forster EoallMI - PC 15 16 CUP 09

8/25/2015 #14

Zoning Compliance

Conservation Estuary District Purpose:

- Long-term use of estuary's renewable resources -- which do not require major alteration of the estuary.
- Provide for recreational and aesthetic uses of the estuarine resource.
- Biological productivity maintenance and restoration.

Forster EoallMI - PC 15 16 CUP 09

8/25/2015 #15

Conservation Estuary District

10-19-3-D. Conditional Uses:

2. Water-dependent uses requiring occupation of water surface area by means other than dredge or fill (e.g., on pilings or floating), including mooring buoys which are permanently anchored to estuary floor, dolphins, docks and piers, and other such uses.

Forster EoallMI - PC 15 16 CUP 09

8/25/2015 #16

Testimony

Opponents:

- "E" Vern and Deanna Oremus
- "F" Mark and Cynthia Chandler
- "K" John and Tammy Schafer

Referrals:

- "G" Sean Barrett, Siuslaw Valley Fire and Rescue
- "H" Charles Redon, DSL
- "I" Jason Kirchner, Oregon Department of Fish and Wildlife
- "J" Dennis Griffin, State Historic Preservation Office
- "L" Kuri Gill, Historic Cemeteries Program

Forster EoallMI - PC 15 16 CUP 09

8/25/2015 #17

Staff Response

- Issue 1: Spruce Point Cemetery
 - Unknown if information will be found
- Issue 2: Spruce Point Sawmill
 - Staff recommends continuance to address possible historic nature of site
- Issue 3: Piles as Ecosystem
 - Staff recommends continuance to allow for expert testimony

Forster EoallMI - PC 15 16 CUP 09

8/25/2015 #18

Staff Response

- Issue 4: Alteration of Course of Siuslaw River
 - Staff recommends continuance to allow for expert testimony to be submitted
- Issue 5: Joint Permit Application
 - Staff recommends continuance to allow for testimony after agency review of JPA

• Fisher Boardfile - FC 15 16 CUP 09

8/27/2015 #19

Staff Recommendation

Staff finds that the application requires further information and **recommends continuance** of the Public Hearing to a date certain, leaving the record open for additional testimony until 10 days prior to that date.

• Fisher Boardfile - FC 15 16 CUP 09

8/27/2015 #20

Conditions of Approval

3. Conditional Use Permit

- 3.1. Appeal period
- 3.2. One-year authorization
- 3.3. Discontinuance
- 3.4. Revocation
- 3.5. Cessation of use
4. Private Use of Public Right-of-Way
5. Replanting of vegetation

• Fisher Boardfile - FC 15 16 CUP 09

8/25/2015 #11

Conditions of Approval

6. Vibratory pile driving
7. Accessory use to residential – no commercial use
8. Agency approval
9. No other alternatives
10. Lighting
11. Testimony with visuals – re: Scenic Resource 6

• Fisher Boardfile - FC 15 16 CUP 09

8/25/2015 #22

Conditions of Approval

12. Leaks and contaminant spills
13. Archaeological resources

• Fisher Boardfile - FC 15 16 CUP 09

8/25/2015 #23

Alternatives

1. Approve the installation of the gangway, boatlift, and associated pilings, as well as mitigation for those pilings;
2. Deny the application;
3. Modify the findings, reasons, or conditions and approve the proposal, or
4. **Continue the Public Hearing to a date certain if more information is needed.**

• Fisher Boardfile - FC 15 16 CUP 09

8/25/2015 #24

Questions?



• PC 14300111 – PC 15 16 CUP 02

E/25/2015/36

Larry Porter

Issue #1

From: Kathy Stroud <kstroud@uoregon.edu>
Sent: Monday, August 24, 2015 4:53 PM
To: larry@solvit-international.com
Cc: map@uoregon.edu
Subject: Spruce Point Cemetery

Larry,

I know you've been corresponding with Sarah on the Spruce Point Request. She is sending you a link where you can download the map scans.

I just located a 1979 ODOT map of Florence that shows Spruce Point Cemetery in the same location of the map scan you sent (Spruce Point Cemetery). This is the only map we were able to locate showing Spruce Point Cemetery. The earlier editions of the map (1963, 1968, and 1974) do not show a cemetery near Spruce Point.

The USGS Geographic Names Information System (<http://geonames.usgs.gov/domestic/>) lists a Spruce Point Cemetery at:

Address: 180 Rhododendron Drive

City: Florence

State: OR

ZIP: 97439

The cite the 1979 ODOT map as their information source.

I hope this information is useful.

Kathy Stroud
David and Nancy Petrone Map/GIS Librarian Knight Library
1299 University of Oregon
Eugene, OR 97403-1299
541-346-3051

ISSUE 4



Oregon

John A. Kitzhaber, MD, Governor

Parks and Recreation Department
Oregon Commission on Historic Cemeteries
725 Summer St NE, Ste C
Salem, OR 97301-1266
(503) 986-0685
Fax (503) 986-0793



August 18, 2015

Glen Southerland
City of Florence
Community Development Department
250 Hwy 101
Florence, OR 97439

Re:
RESOLUTION PC 15 16 CUP 09 – Porter Boatlift

Mr. Southerland:

I am the coordinator of the Oregon historic cemeteries program, part of Heritage Programs of Oregon Parks and Recreation Department. Our program coordinates the work of the Oregon Commission on Historic Cemeteries. Thank you for notifying the commission on the Porter Boatlift project.

Historic record indicates that there was a cemetery in or near the area of the work to be completed on the boatlift. There should be a plan in place in case human remains are discovered during the course of work. Should this occur all work must stop to address the human remains. Also, at this point the location would be an archaeological site and the property owner must contact that State Archaeologist, Dennis Griffin, at Dennis.Griffin@oregon.gov or 503-986-0674.

Please contact me at (503) 986-0685 or kuri.gill@oregon.gov if you have questions.

Sincerely,

Kuri Gill
Historic Cemeteries Program Coordinator
(503) 986-0685
Kuri.Gill@oregon.gov



Oregon

Parks and Recreation Department
1000 NE Oregon Street
Portland, Oregon 97232-3150
(503) 986-0674
oregon.gov/parks

August 11, 2015

Ms. Vevie Popplewell-Walker
City of Florence
Planning
250 Hwy 101
Florence, OR 97439

RE: SHPO Case No. 15-1266
City of Florence, Resolution PC 15 16 CUP 09, Porter Boatlift
Construction
100 Rhododendron Drive, Floren, Lane County

Dear Ms. Popplewell-Walker:

Our office recently received a request to review your application for the project referenced above. In checking our statewide archaeological database, it appears that there have been no previous surveys completed near the proposed project area. However, the project area lies within an area generally perceived to have a high probability for possessing archaeological sites and/or buried human remains. In the absence of sufficient knowledge to predict the location of cultural resources within the project area, extreme caution is recommended during project related ground disturbing activities. Under state law (ORS 358.905 and ORS 97.74) archaeological sites, objects and human remains are protected on both state public and private lands in Oregon. If archaeological objects or sites are discovered during construction, all activities should cease immediately until a professional archaeologist can evaluate the discovery. If you have not already done so, be sure to consult with all appropriate Indian tribes regarding your proposed project. If the project has a federal nexus (i.e., federal funding, permitting, or oversight) please coordinate with the appropriate lead federal agency representative regarding compliance with Section 106 of the National Historic Preservation Act (NHPA). If you have any questions about the above comments or would like additional information, please feel free to contact our office at your convenience. In order to help us track your project accurately, please reference the SHPO case number above in all correspondence.

Sincerely,

Dennis Griffin, Ph.D., RPA
State Archaeologist
(503) 986-0674
dennis.griffin@oregon.gov

Larry Porter

From: Greg Swenson <greg.swenson@pbsenv.com>
Sent: Thursday, August 20, 2015 10:56 AM
To: Larry Porter
Cc: Paul Slater
Subject: FW: Porter boat lift

Larry-

This is the email from Jeff at NMFS confirming the use of SLOPES. This means that, as designed, your project meets the requirements of the Endangered Species Act. This is a critical step in the process and definitely a win.

Greg Swenson, PWS

Sr. Project Manager

greg.swenson@pbsenv.com
503 935 5492

PBS Engineering + Environmental

Engineering | Natural Resources | Environmental | Health and Safety

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ph 503 248 1939 fax 866 727 0140

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From: Jeff Young - NOAA Federal [mailto:jeff.young@noaa.gov]
Sent: Tuesday, August 18, 2015 3:57 PM
To: Greg Swenson
Subject: Re: Porter boat lift

Hi Greg,

No problem. After discussing internally, we are ok with the current location of the lift and would use SLOPES for ESA coverage of the current proposal. We, however, do not want to see it moved any closer to the shoreline. Let me know if you would like to discuss further.

Regards,

Jeff Young
Oregon-Washington Coastal Office
Oregon Coast Branch
2900 NW Stewart Parkway
Roseburg, Oregon 97471
Phone: 541-957-3389
Jeff.Young@noaa.gov



On Tue, Aug 18, 2015 at 3:45 PM, Greg Swenson <greg.swenson@pbsenv.com> wrote:

Jeff-

Thank for your time yesterday. As we discussed, I'm hoping that the project, as designed, will meet the requirements of SLOPES.

Any feedback that Ken can provide on the distance from shore/MLLW question is greatly appreciated.

Thanks again.

Greg Swenson, PWS
Sr. Project Manager
greg.swenson@pbsenv.com
[503.935.5492](tel:503.935.5492)

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ph. [503.248.1939](tel:503.248.1939) fax [866.727.0140](tel:866.727.0140)

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From: Glen Southerland
To: Yevie Walker
Subject: RE: Florence--PC 15 16 CUP 09
Date: Thursday, August 20, 2015 8:22:59 AM

From: Jason Kirchner [mailto:jason.a.kirchner@state.or.us]
Sent: Wednesday, August 12, 2015 1:19 PM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Cc: Glen Southerland <glen.southerland@ci.florence.or.us>
Subject: RE: Florence--PC 15 16 CUP 09

Hi Wendy,

Here are some of my thoughts and recommendations on this proposed boat lift.

Pile removal mitigation:

The old piles and woody decking and lumber debris are from a past structure. It appears there may be a couple of native logs that we would recommend to remain. We typically support the removal of old pilings that are derelict and no longer functioning. Removal of the piles will open up the sediment for shellfish burrowing and other benthic organisms, as well as water column space from above the sediments. It appears from the photo that the algae looks like *Ulva* spp. Probably, *Ulva lobata*. AKA "Sea Lettuce". I do not see any eelgrass based on the photo.

At this time I do not anticipate any problems with removing old pilings and woody debris/lumber from the past structure that was located here. The port of Siuslaw has removed similar items in the past at their most recent dock repairs for mitigation. We would recommend leaving the native logs (buried and surface). The one or two old broken piles that are holding the native logs in place could be retained to help keep the logs in place for longer term habitat if desired.

I will try to take a look at the site in person as soon as I can to assess it visually.

Gangway and boat lift:

We always recommend that applicants consider the alternative of launching and retrieving their boats at local boat ramps and to store them in the uplands (e.g., own property, storage facility, etc.) rather than building a dock, lift, etc...Continuing to build docks/lift, etc. leads to cumulative impacts (shading, disturbance, predation, encroachment on open habitats, loss of wildlife feeding areas, public use, etc.) of our aquatic habitats and public trust resources.

Based on the drawings and conversations concerning the boat lift, the structure appears to have grating and is high above the water surface so light penetration and shading should be reduced compared to a floating dock. The gangway and lift appear to be quite long and extend a ways out into the estuary to reach deeper subtidal habitats. As you can see in the photo, an adjacent dock extends clear out into the subtidal areas. These docks can cause waterfowl/bird flight pattern adjustments, possible public use of estuary issues, disturbance to waterfowl and other estuarine wildlife species.

I have not seen the technical drawings from the DSL permit application but will review those when open to public comments.

Overall, we recommend that the applicant utilize existing boat launching facilities and store in the uplands. The lift application does appear to mostly meet our boat dock guidelines, but it does extend quite a ways out into the estuary across intertidal areas and into subtidal habitats. One alternative to consider would be to have the boat lift closer to shore so that it does not reach out as far. This would limit the applicant to high tides to launch and lift but it would reduce the overall footprint of the boat lift structure.

Hope this helps, let me know if you have any questions.

Thank you

Jason Kirchner
Estuary and Freshwater Habitat Biologist
Oregon Department of Fish and Wildlife
2040 SE Marine Science Drive
Newport, OR 97365
541-867-0300 ext 281
541-867-0311 -fax

Larry Porter

From: Greg Swenson <greg.swenson@pbsenv.com>
Sent: Thursday, August 20, 2015 10:54 AM
To: Larry Porter
Cc: Paul Slater
Subject: RE: Florence Council meeting

Larry-

The mitigation preference comes from federal code and guidance.

The Army Corps 2008 mitigation rule:

1. 33 CFR 332.3 (a)(2) establishes that restoration is the preferred form of compensatory mitigation. Restoration in this case means restoring the river bottom to a pre-piling state.
2. 33 CFR 332.3 (b)(5) establishes that "in-kind" mitigation is the preferred form of mitigation. This is a long-held standard that means if you fill in the river you need to restore in the river.

For compliance with the federal Endangered Species Act, the National Marine Fisheries Service (NMFS) provides design guidelines for expedited permit review. This is called Standard Local Operating Procedures for Endangered Species (SLOPES). Design criteria for general construction at 1.3.1.3(14) establishes the requirement for compensatory mitigation 1.3.1.3(14)(b) identifies acceptable mitigation as removal of existing overwater structures or restoration shallow water habitat. Jeff Young at NMFS verified on 8/18/15 that the project as proposed (mitigation proposal included) fits the SLOPES requirements. I will send you that email. The email also contains a statement from NMFS that they don't want to see the lift closer to shore like ODFW suggested.

I agree that the historical property/cemetery comment may linger unless it can be proven ASAP that the mill and cemetery were somewhere else. As I mentioned this is often addressed by a professional consulting archaeologist.

Issue #3 is contrary to the typical interpretation of derelict piles in the river. Rather than a niche ecosystem this type of material is generally viewed as refuse, a potential hazard to navigation, and a potential source of creosote leaching into the river. As noted above, the regulatory approach is to get this material out of the water. The presence of preservative-treated pilings (SLOPES defines creosote as an oil-type wood preservative) is considered to be impactful in aquatic environments. Therefore, the proposal to install steel pilings and remove creosote-treated pilings is consistent with standard practice.

Issue #4 I can speak to based on the standard practice of removing derelict pilings and the armored nature of the riverbank in the area. If removal of pilings represented such a risk to erosion, and therefore destruction of habitat, the regulators would be more focused on this issue. Further, the embankment is armored which will provide a degree of protection against erosion and scour.

Regarding the unsightliness question: the way I've seen this addressed is, as you say, graphics with dunes in the background. You would want to capture a view that includes at least one of the other docks to demonstrate that your proposal is consistent with existing uses in the area. My opinion is that this area has a history of industrial, residential, and recreational activity and that your proposal is not out of the ordinary.

Please note that we are very close to completing our scope of work. We had reserved 6 hours of time for dealing with comments. That time has been used. The remaining budget (~\$320) is intended to complete the Waterway Structure Registration Application after permits are issued.

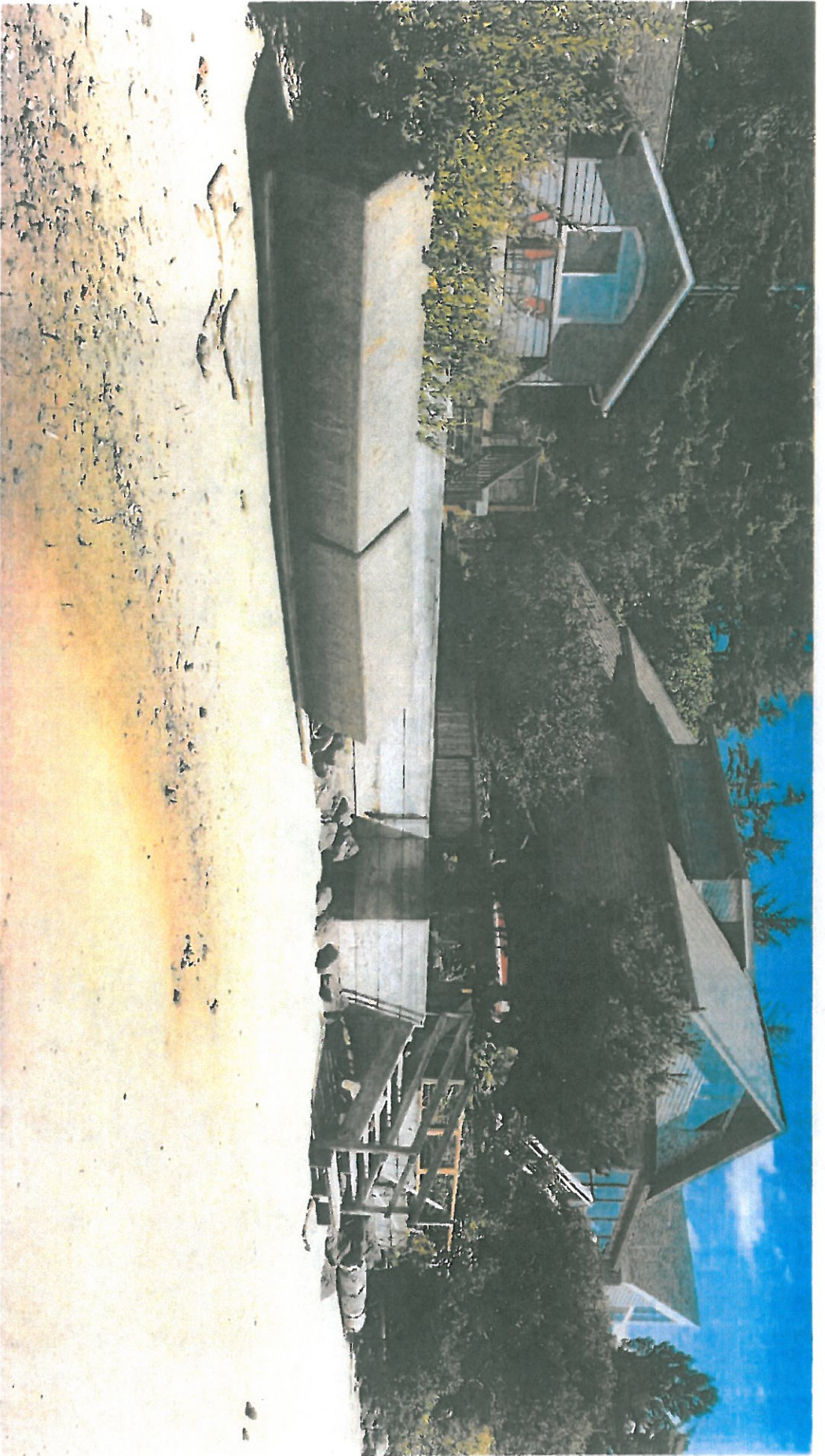
Greg Swenson, PWS
Sr. Project Manager
greg.swenson@pbsenv.com
503 935 5492

PBS Engineering + Environmental

Cond #11

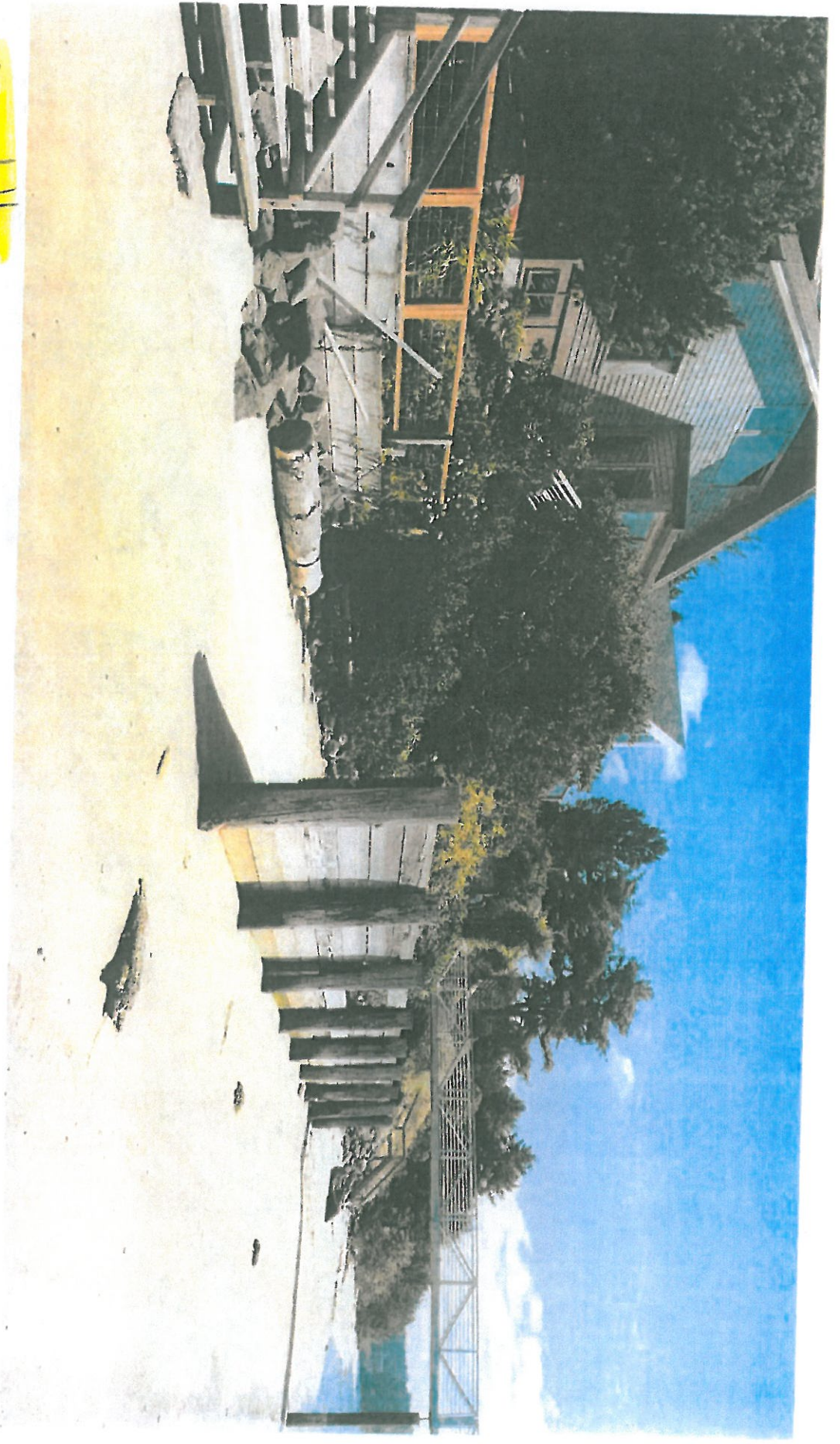
Issue 4





Issue 4
cloud #11

~~180~~ 180 + 240 ~~180~~
Armour bank

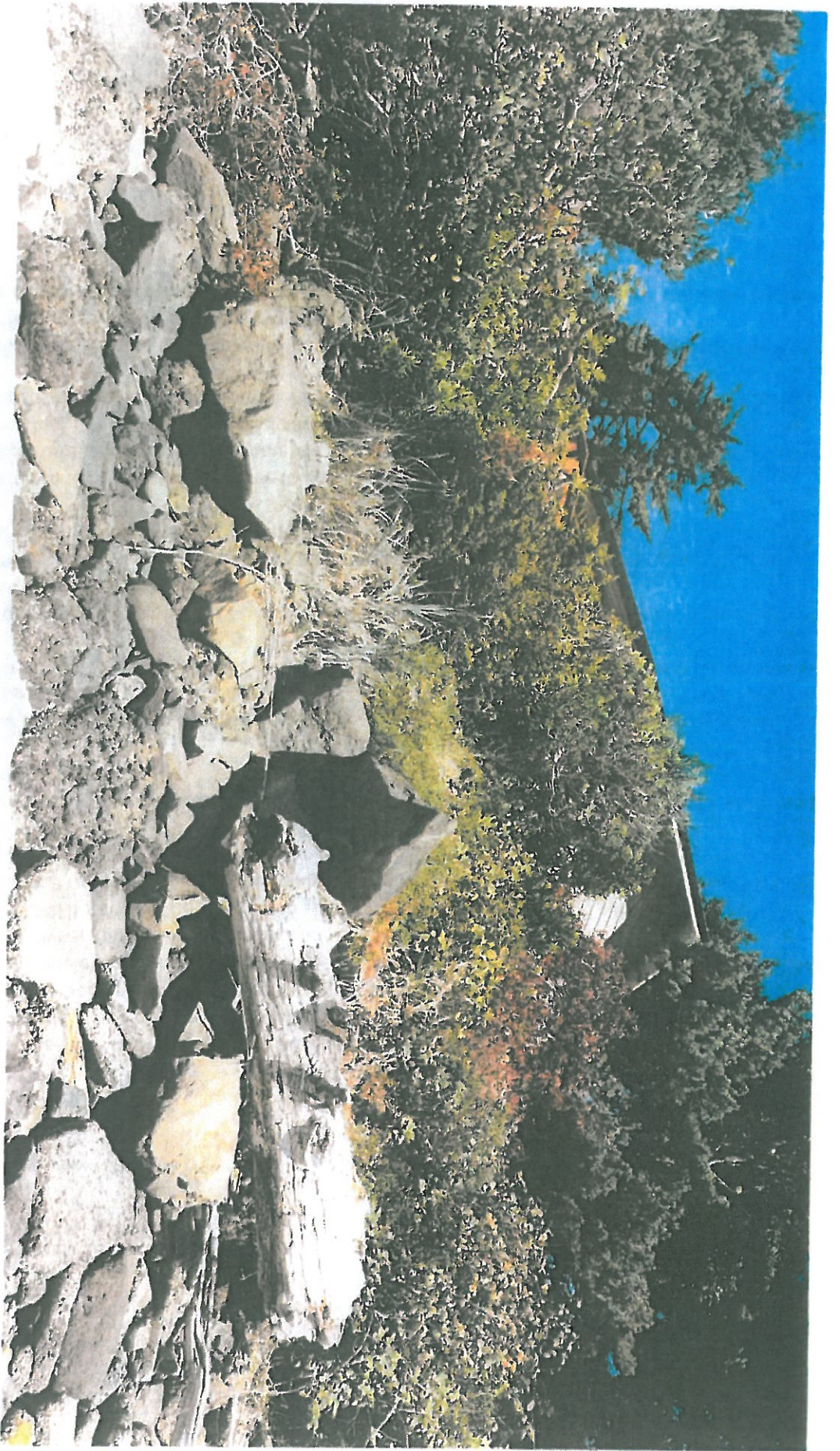


Candall
Issue 4

240 Rhododendron
Sea walls



Cond #11
Issue 4



Issue 4

cond #11

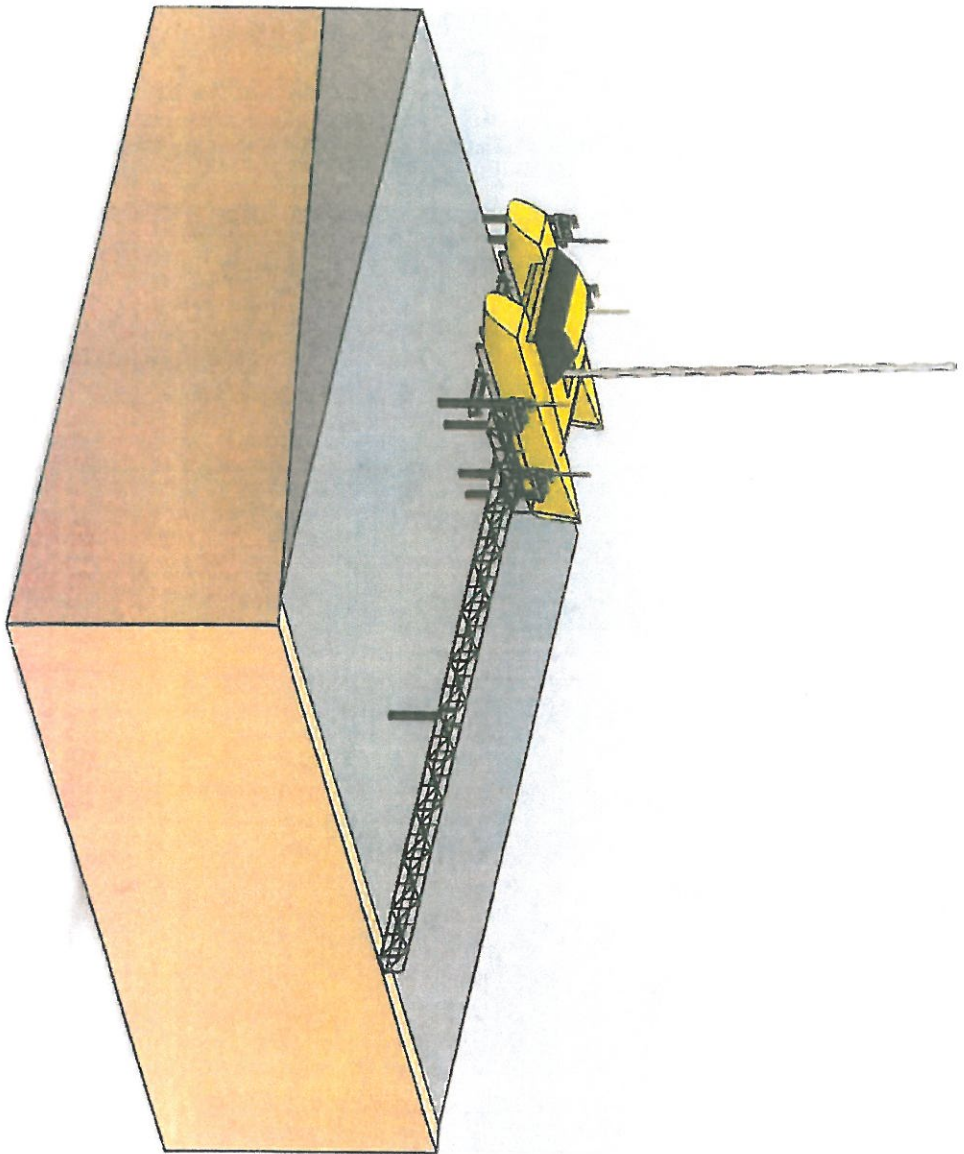


Cauld #11

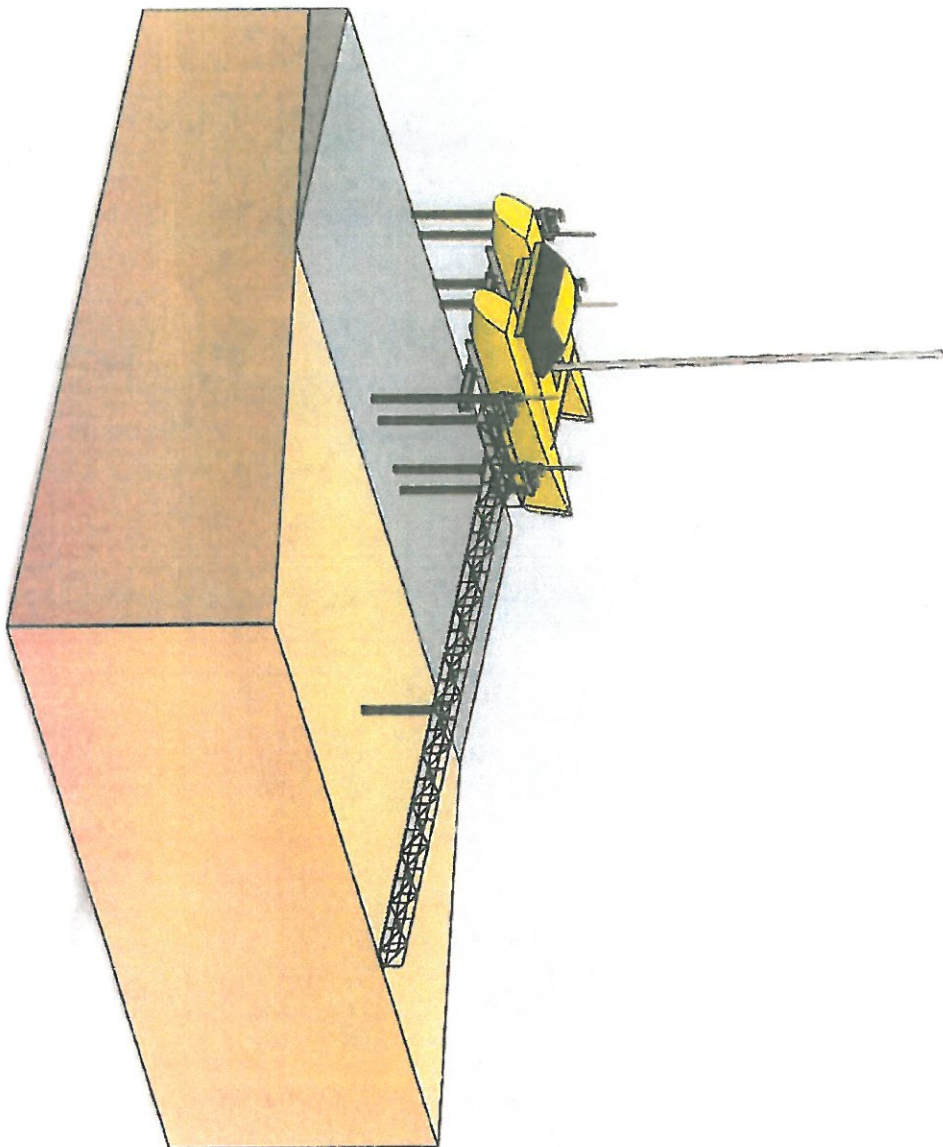




913 Rhododendron Dock
cond #11



card #11



Cond #11

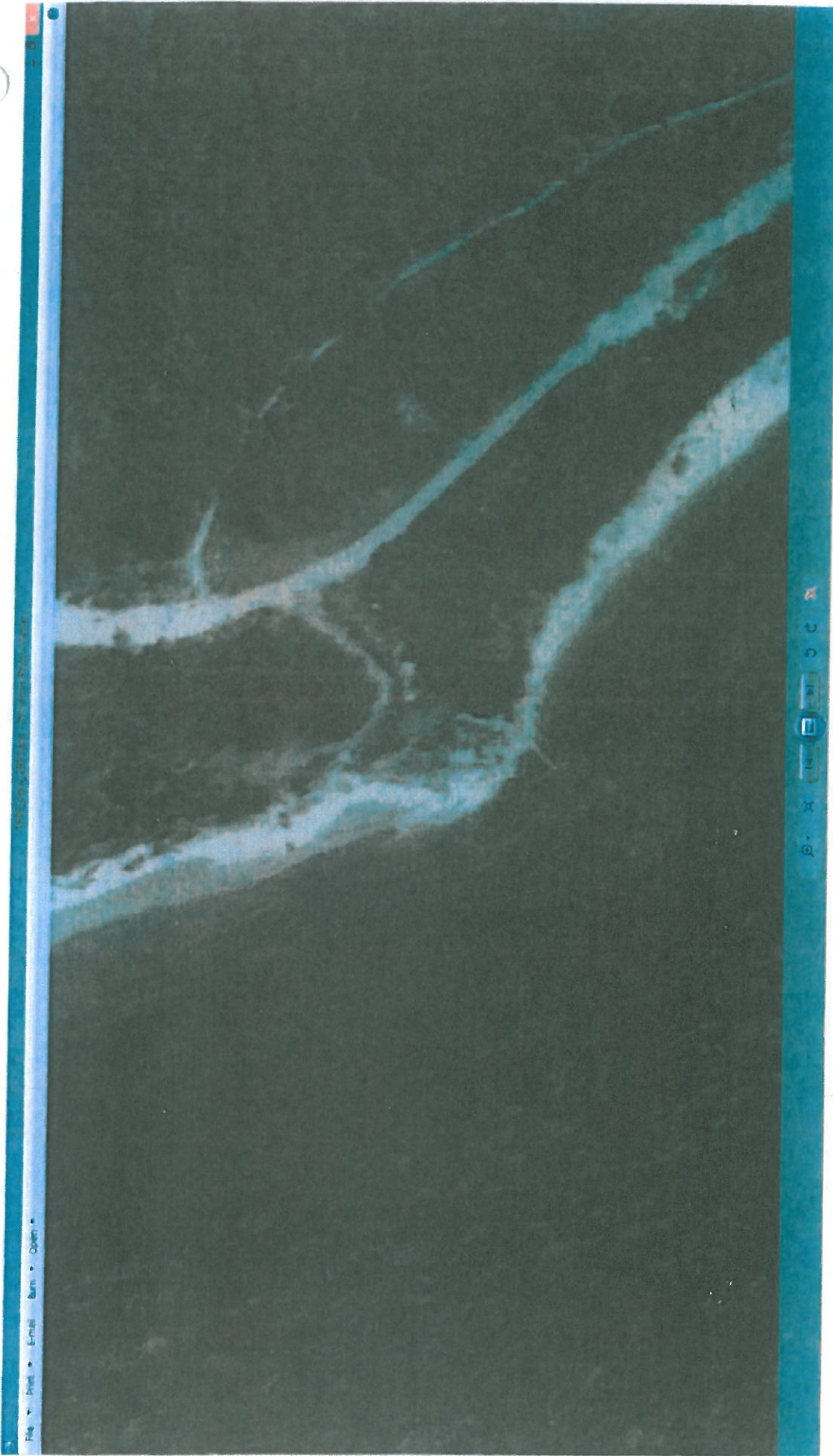


cond #11

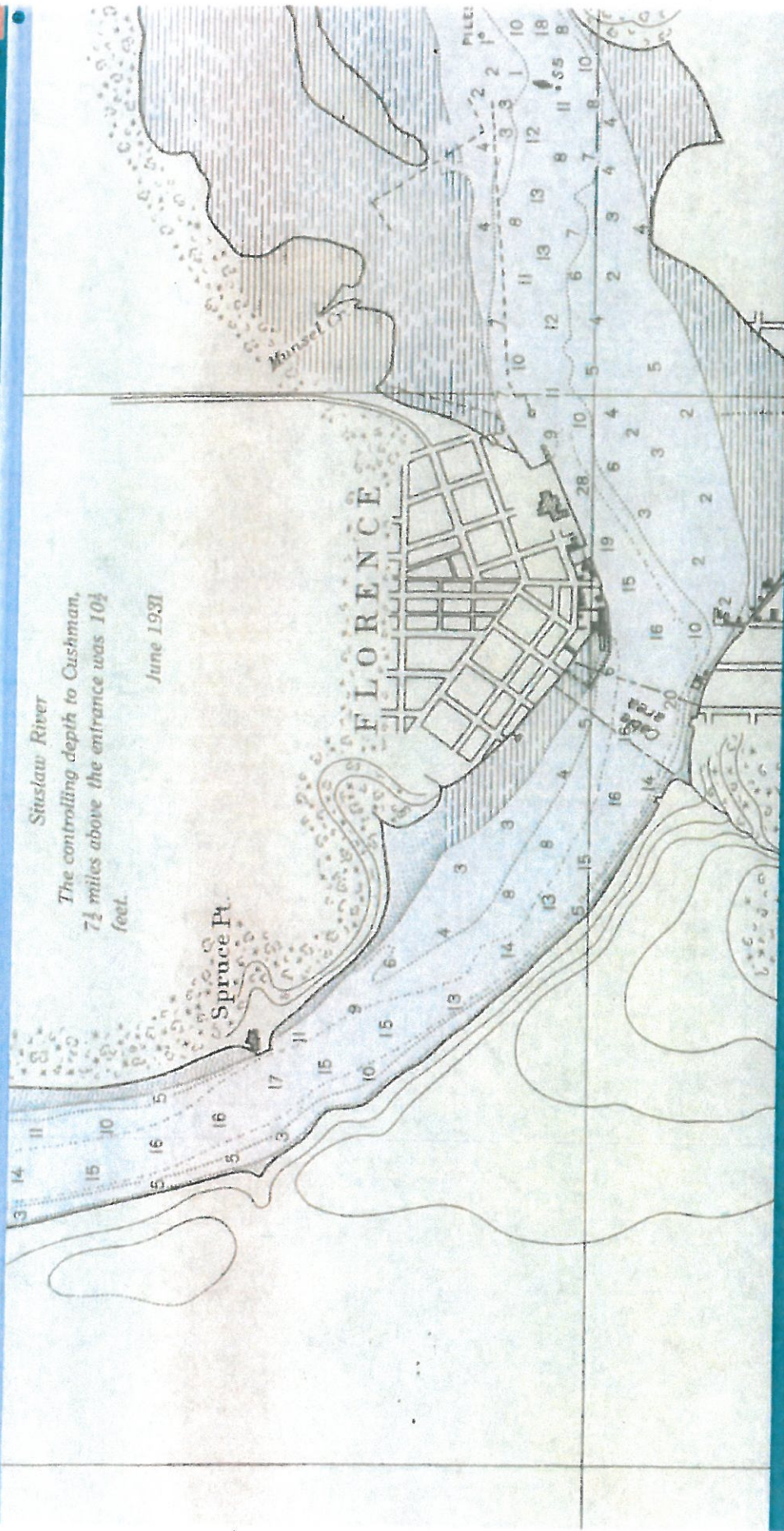
280 Rhododendron
Duck



1939

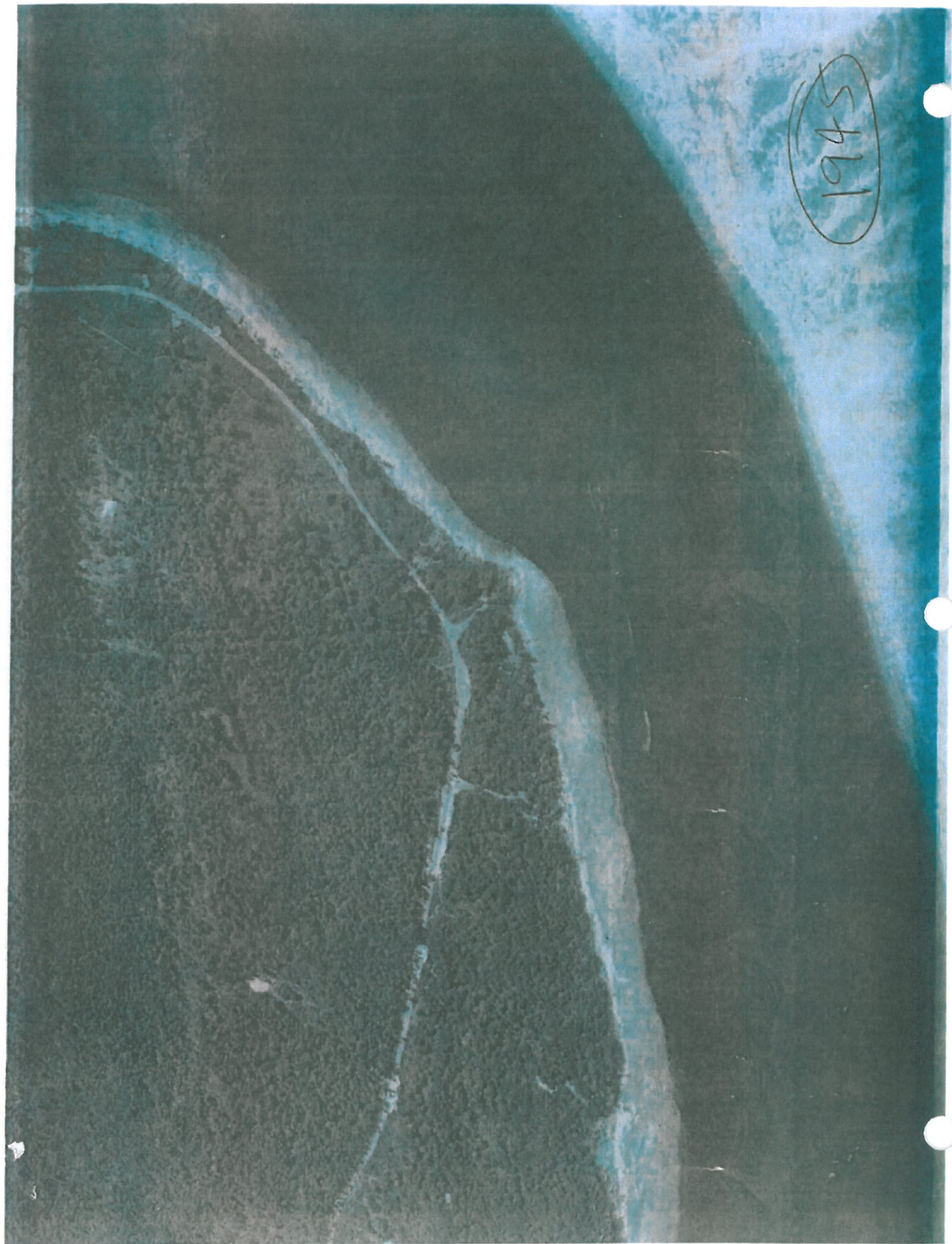


1
1939



1932

1945





Glen Southerland

From: Larry Porter <larry@solvit-international.com>
Sent: Monday, August 24, 2015 6:53 PM
To: Glen Southerland
Subject: RE: Spruce Point Cemetery is located at 180 Rhododendron
Attachments: 1945_5m_161-18.jpg

Glen,

Attached is 1945 aerial photo of the site, and no mill was there at that time.
Interestingly if you look closely I think you can see the cemetery where 180 Rhododendron is now.
At least there is some cleared area there.

I have some earlier charts and a 1939 Aerial that looks like something was there, and there is 1904-20 references to Spruce Point Mill, although after 1931 the location was imply referred to as Spruce Point, the mill was no longer there sometime between 1920 and 1931.

So I will concede there was a Spruce Point Mill here. The question is who owned it, and are the remaining piles a significant historical artifact of this old mill.

I hope my permit will not be held up for this issue. Dennis Griffin has told me it is not significant if piles are the only artifact remaining from a historical building. Many have been removed throughout Oregon, as the material is not considered good for the environment, even if more than 75 years old. There is a reason they have lasted this long. They are impregnated with creosote.

I hope the city can look at the precedents for removal of similar old pilings, the SCOPES requirements, and make an appropriate determination so I do not have to go through the process, time and money to get written statement from the state of Oregon these old piles are not a significant historic artifact.

Thanks.

Larry Porter
SolvIT

503-763-6659 Office
503-510-3697 Mobile

From: Larry Porter [mailto:larry@solvit-international.com]
Sent: Monday, August 24, 2015 6:07 PM
To: 'Glen Southerland' <glen.southerland@ci.florence.or.us>
Subject: Spruce Point Cemetery is located at 180 Rhododendron

Glen,

See attached.

It seems the cemetery is located at the Shafer property.

I hope they aren't doing any gardening. ☺

A copy of this email will be in the document package I send you tomorrow.



Stillwater Exterior Modifications

AR 15 05 DR 04



Criteria

Florence City Code, Title 10:

Chapter 1: Zoning Administration,
Section 1-6

Chapter 6: Design Review, Sections 4
through 6, and 9

Chapter 17A: Old Town District, Sections
1 through 4

© Stillwater Condoms Ext. Modifications - AR 15 05 DR 04

8/25/2015 #2

Introduction

- **2005** – Stillwater Condominiums, originally Bay Street Condos, proposed
- **2005** – CUP 05 10 approved
- **August 2006** – Construction began
- **2007** – MOU to alter building
- **2013** – PC approved plan to rebuild roof and staircase
- **June 24, 2015** – Current Admin. Design Review application received
- **July 22, 2015** – Application deemed "complete"

© Stillwater Condoms Ext. Modifications - AR 15 05 DR 04

8/25/2015 #3

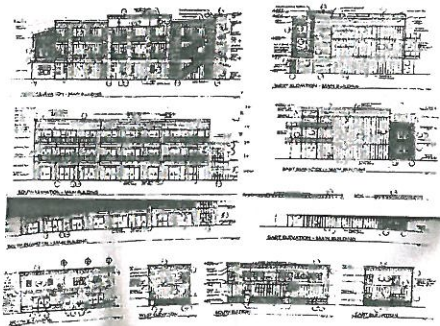
Aerial of Site



© Stillwater Condoms Ext. Modifications - AR 15 05 DR 04

8/25/2015 #4

Elevations - Existing



© Stillwater Condoms Ext. Modifications - AR 15 05 DR 04

8/25/2015 #5

Existing



© Stillwater Condoms Ext. Modifications - AR 15 05 DR 04

8/25/2015 #6

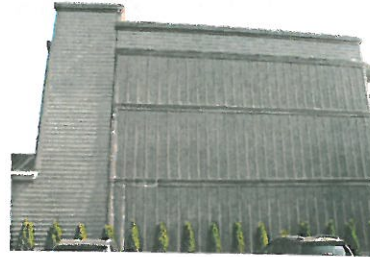
Existing



• Miller Condos Ext. Modifications - AP 15 05 DR 04

8/25/2015 #1

Existing



• Miller Condos Ext. Modifications - AP 15 05 DR 04

8/25/2015 #8

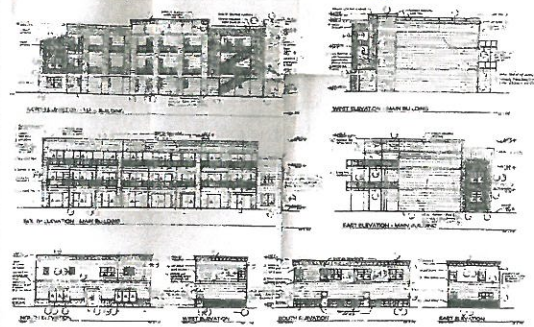
Existing



• Miller Condos Ext. Modifications - AP 15 05 DR 04

8/25/2015 #9

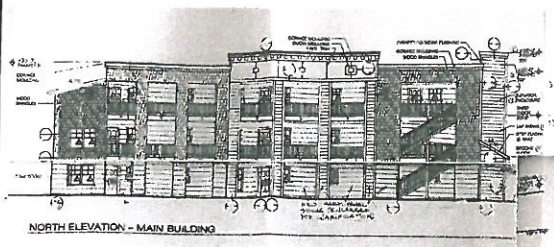
Elevations - Proposed



• Miller Condos Ext. Modifications - AP 15 05 DR 04

8/25/2015 #10

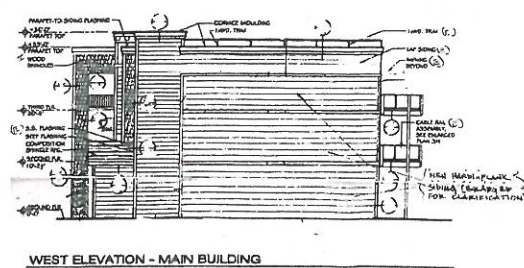
Elevation - North



• Miller Condos Ext. Modifications - AP 15 05 DR 04

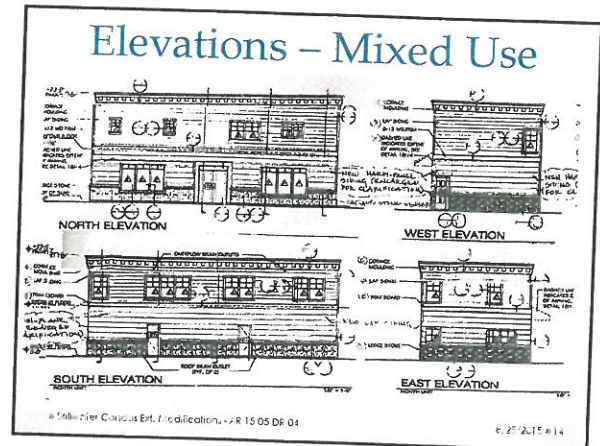
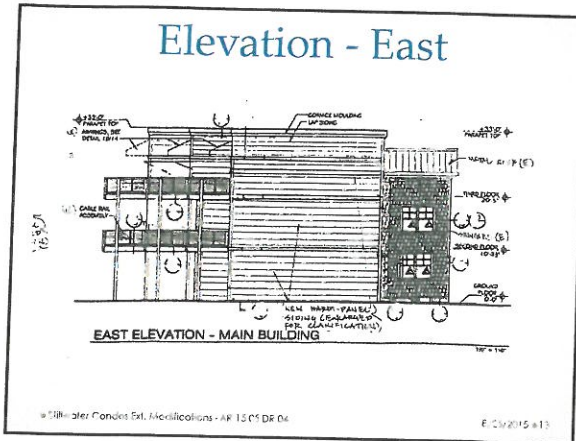
8/25/2015 #11

Elevation - West



• Miller Condos Ext. Modifications - AP 15 05 DR 04

8/25/2015 #12



Testimony

Proponents/Opponents:

None

Referrals:

None

Stillwater Condos Ext. Modifications - AR 15 05 DR 04
8/25/2015 #15

Staff Recommendation

Staff finds that the application, as presented meets or can meet applicable City codes and requirements, provided that the following conditions of approval are met:

Stillwater Condos Ext. Modifications - AR 15 05 DR 04
8/25/2015 #16

Conditions of Approval

3. Design Review valid for one-year
4. **Zoning Provisions & Architectural Guidelines**
 - 4.1. Stone accent/veneer must be kept
 - 4.2. Re-orientation of trim piece
 - 4.3. Lap siding of greater exposure than current
 - 4.4. Corner trim 4" min. Siding and shingles max 6" exposure

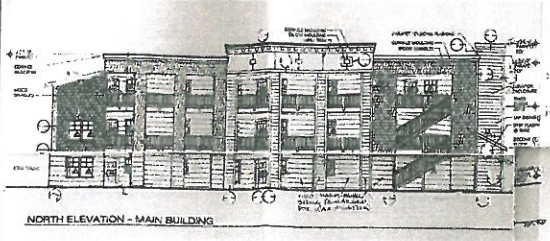
Stillwater Condos Ext. Modifications - AR 15 05 DR 04
8/25/2015 #17

Alternatives

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

Stillwater Condos Ext. Modifications - AR 15 05 DR 04
8/25/2015 #18

Questions?



4 Miller Ct. Condos Ext. Modifications - AR 15 05 E1 04

6/25 2015 x 17

Robert Bestor
planning commission letter
August 21, 2015 at 10:36 AM
Jean Sage
Darrell Seven

, Mark Wagener

, Tom Shaw

, Liz Bestor

Dear Board,

It has been suggested that we support Tom at Tuesday's Planning Commission hearing with a letter from the board that states the main reasons we are requesting flexibility in the repair process. Below is a first draft of such a letter. If we can agree on this today, perhaps Jean can get it to the city so that it is included in each commission member's meeting packet.

Bob

Dear Planning Commission,

Thank you for hearing our request.

For reasons of building integrity, cost, and appearance we request the City give our architect and construction company the flexibility to replace the manufactured stone on the Stillwater buildings with a different product.

Our builder, Clearwater Construction of Portland, has advised that the faux-rock product now in place has contributed to the massive, widespread water damage which, after only three years in place, forced the Stillwater Condo Owners Association to sue the responsible parties for defective construction. That lawsuit has been settled with the Stillwater Board accepting an amount it hopes will cover the cost of repairs, though the total cost will not be known until the repair process is well underway. Given this water damage history, the Association's number one goal in the coming repair project (at an estimated cost of \$800,000 to \$1 million) is watertight building integrity.

Another factor is cost. Each Stillwater unit owner was required by the Association to pay a \$50,000 assessment to fund the construction defect lawsuit, replace the faulty roof on the north building, and reconstruct and enclose the ill-conceived riverside building's east stairwell. This was a considerable hardship for every owner. The cost of repairs is therefore a major consideration as the prospect of a second assessment would be yet another hardship that could, for some owners, result in foreclosure.

Finally, there is the issue of appearance. This, of course, is a

subjective issue, but in the eyes of many, the current manufactured stone product is like a bad hairpiece...instantly recognizable as being something other than the real thing.

In closing, we are confident that our architect and builder have a plan that will provide improved building integrity, cost less, and present a better appearance.

Signed, Stillwater Board, Jean Sage, President

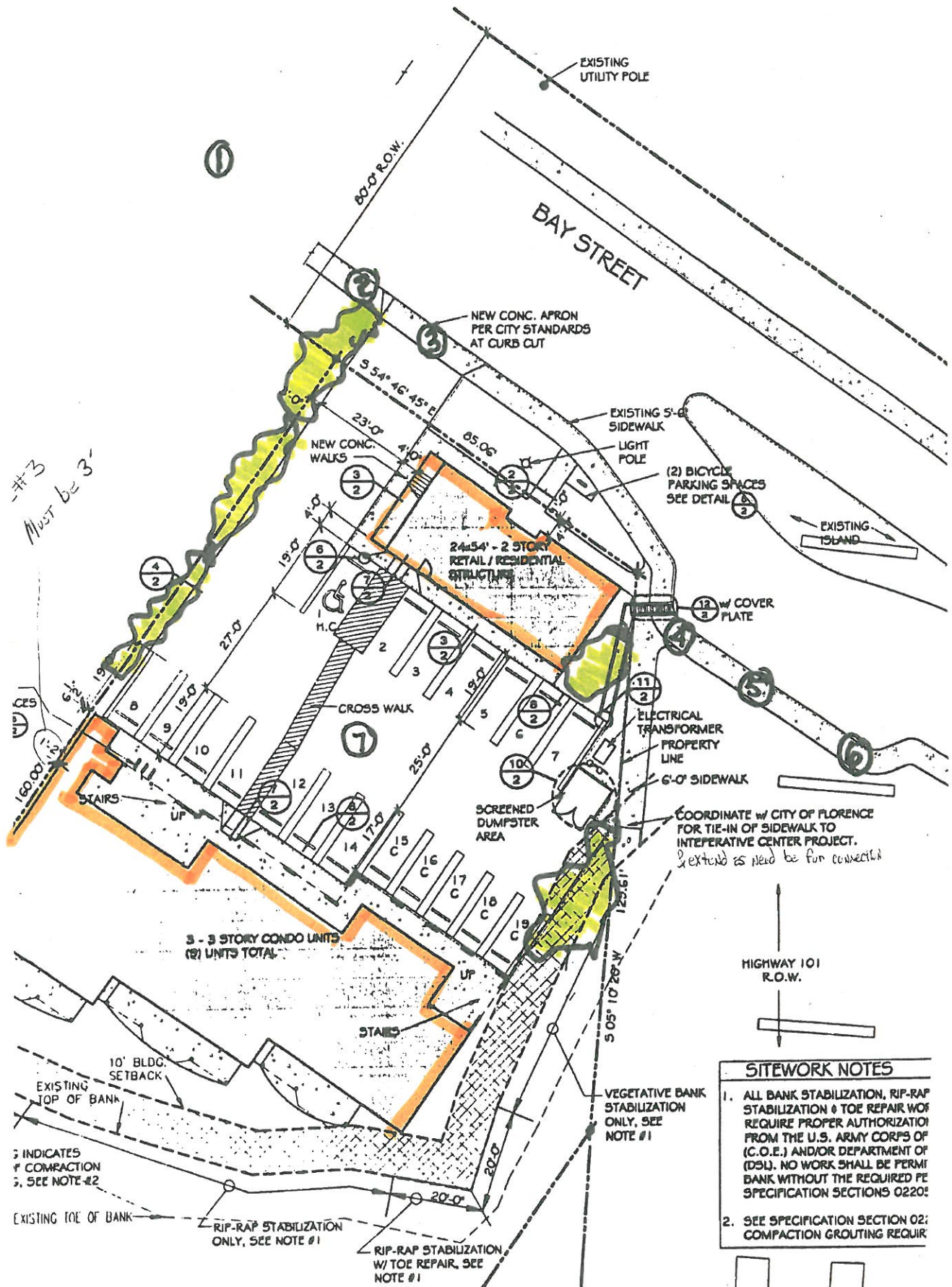
Robert Bestor

800-521-6722

541-601-3097 (mobile)

Please consider travel insurance for your protection.

We do not have a travel insurance policy.









5



6

