

**STAFF REPORT & FINDINGS OF FACT**  
**FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT**  
**Exhibit "A"**

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**Application:** AR 20 04 VEG 02      **Planner:** Wendy FarleyCampbell  
**Date of Report:** September 3, 2020

**I. PROPOSAL DESCRIPTION**

**Proposal:** An application vegetation clearing within Fairway Estates PUD Phase 2

**Applicant:** J. Michael Pearson, Pacific Golf Communities

**Property Owner:** Pacific Golf Communities LLC

**Location:** Approximately 865 north of the intersection of Tournament Dr. and Rhododendron Drive at the northern platted terminus of

Assessor's Map 18-12-15-00, Tax 1500

**Comp. Plan Map Designation:** Private Open Space/Medium Density Residential

**Zone Map Classification:** Medium Density Residential District

**Surrounding Land Use / Zoning:**

**Site:** Vacant / Medium Density Residential District  
**North:** Vacant / Public Open Space  
**South:** Fairway Estates Phase 1 / MDR  
**East:** Florence Golf golf course / MDR  
**West:** Mariner's Village / MDR / Single Family Residential

**Streets / Classification:**

Site – None; West – Rhododendron Drive – Minor Arterial; North – None; East – None;  
South – Caddington Lane and Dunbar Way -- Local (Private)

**II. BACKGROUND/NARRATIVE**

The applicant requests vegetation clearing of hazard trees and brush as needed to survey lot lines and roads in preparation for proposed tentative plat and preliminary PUD land use application submittals.

Application for a Vegetation Clearing Permit was received on February 19, 2020. A notice of incompleteness was issued on March 17, 2020 requesting a wetland delineation and payment received on April 19, 2020. On July 13, 2020 the applicant

provided a letter from Land and Water Environmental Services discussing possible wetland areas on site. The application was deemed complete as July 13, 2020.

### III. NOTICES & REFERRALS

**Notice:** Noticing was performed in accordance with FCC 10-1-1-6-2-D. Notice was sent to surrounding property owners within 100 feet of the property on July 23, 2020. Notice was posted on the property on July 23, 2020.

Mariners Village HOA, Eva Pinkavova, August 4<sup>th</sup>: Concerns for clearing within their HOA greenbelt, loss of visual screening, rain water run-off with the loss of vegetation, wind erosion, habitat loss and encroachment onto HOA properties.

Referrals were not sent.

### IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

Title 4

Chapter 1: Building Regulations, Section 15-3 Securing Loose, Open or Raw Sand

Chapter 6: Vegetation Preservation, Sections 2 through 6

Title 9

Chapter 5: Stormwater Management, Sections 2-1 and 3

Title 10

Chapter 1: Zoning Administration, Section 1-6-2

Chapter 7: Special Development Standards 3-H

### V. FINDINGS

The criteria are listed in **bold** followed by the findings of fact.

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## FLORENCE CITY CODE

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### TITLE 4: CHAPTER 1: BUILDING REGULATIONS

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#### 4-1-15-3: SECURING LOOSE, OPEN OR RAW SAND:

- A. Prior to taking any of the following actions, any person, firm, corporation, or public agency (city, special district, county, state or federal) shall contact the Community Development Department staff to determine if such actions are likely to cause off-site movement or displacement of loose sand in ways that would damage adjacent properties or create unsafe traffic conditions:**

**2. Removal of any natural or planted ground cover, trees, shrubs, grass**

The applicant has performed and proposes the removal of natural shrub and hazard tree cover as necessary for survey purposes. This proposed removal will expose open sand, necessitating review of a sand management plan.

- B. The Sand Management Plan shall set out the means by which the applicant will ensure that its actions will not result in the off-site movement or displacement of loose, open or raw sand onto any public way, or public or private property by action of wind or water erosion. If the Community Development Department determines that the Plan includes measures (vegetative, mechanical, and/or other means of sand management) to reasonably ensure that the proposed action's movement or displacement of sand will not result in damage to adjacent properties or unsafe traffic conditions, then the Sand Management Plan will be approved.**

The applicant has proposed to secure loose sand through grinding and spreading of root mat and vegetation removed from the site. He also proposes to limit clearing to hazard trees and shrubs necessary for surveying lot lines. To reduce the opportunity for sand blowing onto adjacent properties a 20' wide perimeter of vegetation buffer shall be maintained along all property lines where vegetation shall not be removed. These buffers shall be perimetered and demarcated with either orange construction fencing or with continuous yellow caution tape or similar. Within this 20' buffer, shrubs may be manually cut only as needed to provide a direct path no greater than 24 inches wide to gain access to a survey point. (Condition 4.1) The applicant has indicated that no site modification is proposed. Site grading and topographic modification is not approved for this application. (Condition 4.2)

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**TITLE 4: CHAPTER 6: VEGETATION PRESERVATION**

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**4-6-3: VEGETATION CLEARING PERMIT REQUIRED:**

- A. A vegetation clearing permit shall be required in any of the following circumstances:**
- 1. Clearing native vegetation from any property within 120 feet or within the direct line of sight from Highway 101, Highway 126, Munsel Lake Road, 9th Street, Bay Street, Rhododendron Drive, and areas which have been designated by the City as a significant riparian corridor, significant wetland buffer zone, greenbelt, or view corridor.**

2. **Removing native vegetation from any parcel for which a valid building permit has not been issued.**

The applicant has proposed clearing within an area of a proposed PUD and so is not eligible for the exemption. The project is greater than 600' from Rhododendron Drive. The applicant does not have a building permit and so requires a vegetation clearing permit.

#### **4-6-4: PROCEDURE FOR OBTAINING A VEGETATION CLEARING PERMIT:**

- A. **A vegetation clearing permit application is required unless the application includes a concurrent application for a building permit or Conditional Use Permit, except that the criteria in FCC 4-6-4 C shall also apply to any removal of native vegetation from a significant riparian or wetland buffer zone requested as part of a setback adjustment granted under FCC 10-7-4.**
- B. **All requests for a Vegetation Clearing Permit shall be submitted to the Planning on a form available from that department, and containing the following minimum information. (See FCC 10-7-4 for additional submission requirements for areas within significant wetland or riparian buffer zones):**
  1. **Name, address, telephone number of applicant, property description and date;**
  2. **Lot dimensions and footprint of structure(s) drawn to scale;**
  3. **A plot plan showing trees or native vegetation to be removed and reason for clearing or felling, and location of proposed structures and other improvements;**
  4. **A description of any plan to replace, landscape, or otherwise reduce the effect of removal of vegetation and time of implementation.**

The applicant has provided the needed materials except for a specific plot plan of the vegetation to be removed and a plan to replace, landscape, or otherwise reduce the effect of the completed and proposed vegetation removals.

The roadways are already cleared. The applicant shall flag all trees proposed for cutting and call for an inspection prior to felling. Shrub removal shall be limited to those necessary for accessing survey points along lot lines. Vegetation internal to a proposed lot shall not be removed. (Condition 5.1) If a tentative plat application is not received within one year of this approval the applicant shall submit a replanting plan

for the cleared areas to include the roadways and shall plant those areas within three months of approval. If the tentative plan is not submitted for final plat within the required timeline plus approved extensions then a replanting plan for the cleared areas to include the roadways shall be submitted for review and approval and then planted within three months of approval. (Condition 5.2)

The revegetation plan shall address prevention of erosion, revegetation of the cleared areas. Revegetation of the site shall incorporate native species in a density approximate to that prior to the clearing using specimens and planting sizes listed in the Tree and Plant List for the City of Florence. (Condition 5.3)

**C. The Planning Department shall process the Vegetation Removal Permit application through the Administrative Review Procedures in FCC Title 10 Chapter 1 within thirty (30) days of filing a complete application. Review and approval shall be based on the following criteria, as applicable to the request:**

- 1. The necessity to remove native vegetation in order to construct proposed improvements or otherwise utilize the property in a reasonable manner consistent with the City Code and policies;**
- 3. The adequacy of the applicant's proposed landscaping or revegetation plan, including plant selection, staking, irrigation, and other maintenance provisions. (This section amended by Ordinance No. 22 Series 1994).**

The applicant has proposed that removal of native vegetation is necessary in order to survey the lots for platting. While some clearing may be helpful, wholesale clearing of the site is not justified by the need to survey, which could be easily accomplished with manual clearing. Following clearing, the areas become easily erodible, with moving sands creating nuisance issues to surrounding lots, development, and stormwater facilities.

Conditions 5.1, 5.2 and 5.3 will require the applicant to revegetate if platting does not occur within platting timelines established by code.

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## **TITLE 9: CHAPTER 5: STORMWATER**

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### **9-5-2: DRAINAGE PLAN SUBMITTAL REQUIREMENTS:**

#### **9-5-2-1: GENERAL:**

**A. A Drainage Plan is required for all development, except as provided in FCC 9-5-2-4. Submittal requirements are tailored to the size and impacts of the development. The submittal requirements are specified in the Stormwater Manual.**

- B. A registered Professional Engineer licensed by the State of Oregon shall prepare, certify, and seal the Drainage Plan whenever a Professional Engineer is required in the Stormwater Manual or state law. Furthermore, prior to land disturbing activity, the developer for the land disturbing activity shall certify that the proposed activities will be accomplished pursuant to the approved plan.**
- C. If a land use approval is required, the Drainage Plan shall be submitted and approved as part of the land use approval process. If no land use approval is required, the Drainage Plan shall be submitted as part of the application for a construction or facility permit.**

The applicant does not propose grading of the site only vegetation removal. This combined with the requirement to maintain a 20' perimeter should reduce stormwater impacts from the site.

The applicant shall ensure that sand is managed on-site and does not interfere with stormwater facilities south and west of the site. Where sand has compromised stormwater facilities, the applicant shall repair, replace, and maintain as needed to ensure their continued effectiveness. Review by the Public Works Department may be accomplished as needed to assess effective drainage of the properties. (Condition 5.4)

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## **TITLE 10: CHAPTER 1: ZONING ADMINISTRATION**

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### **10-1-1-6: TYPES OF REVIEW PROCEDURES:**

#### **10-1-1-6-2: TYPE II REVIEWS – ADMINISTRATIVE REVIEWS**

- A. The Planning Director, or designated planning staff may make administrative decisions (limited land use). The Type II procedure is used when there are clear and objective approval criteria and applying City standards requires limited use of discretion.**
- B. Type II (Administrative) Decisions are based upon clear compliance with specific standards. Such decisions include, but are not limited to the following:**
  - 1. Vegetation clearing permits.**

The applicant has applied for a vegetation clearing permit to clear vegetation in an area without a building permit. This application requires a Type II Administrative Review with the limited use of staff discretion. As such, this decision may be appealed to the Planning Commission per FCC 10-1-1-7.

Noticing and other procedures were followed as required per FCC 10-1-1-6-2.

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**TITLE 10: CHAPTER 7: SPECIAL DEVELOPMENT STANDARDS**

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**10-7-3: DEVELOPMENT STANDARDS FOR POTENTIAL PROBLEM AREAS:**

**H. Yaquina Soils and Wet Areas (except significant wetlands and riparian areas identified in the 2013 Wetland and Riparian Inventory, as amended): In areas with seasonal standing water, construction of a drainage system and/or placement of fill material shall be required according to plans prepared by a registered engineer and approved by the City. (Amended Ord. 10, Series 2009)**

Removal of vegetation in wet areas or areas with standing water could have off-site stormwater impacts. The applicant's site includes probably wetlands in the North East corner of the site as illustrated in the 2013 Wetland Inventory and the applicant's wetland professional letter. The applicant did not provide a wetland delineation as requested but rather a letter from a wetland professional who states they are probably there and provided a general location on a map. As such, the applicant shall retain a 50' buffer from the wetland areas, where no vegetation shall be removed. This buffer shall be perimetered and demarcated with either orange construction fencing or with continuous yellow caution tape or similar. (Condition 6) This requirement reduces the risk of potential drainage problems in the area.

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**VI. CONCLUSION**

Staff finds the request for a Vegetation Clearing Permit meets the applicable criteria in Florence City Code with the conditions outlined below.

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**VII. CONDITIONS OF APPROVAL**

**1. Approval for shall be shown on:**

"A" Findings of Fact
"B" Site Plan & Land Use Application

Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. **Any modifications to the approved plans or changes of use, except those changes relating to the structural integrity or ADA access which are regulated by Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.**

2. Regardless of the content of material presented for this approval, including application text and exhibits, staff reports, testimony and/or discussions, the property owner/applicant agree to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal action as documented by the records of this decision and/or the associated Conditions of Approval. The property owner and applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of building permits.
3. Upon encountering any cultural or historic resources during construction, the applicant shall immediately contact the State Historic Preservation Office and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. Construction shall cease immediately and shall not continue until permitted by either a SHPO or CTCLUSI representative.
4. **Sand Management Plan**
  - 4.1. A 20' wide perimeter of vegetation buffer shall be maintained along all property lines where vegetation shall not be removed. These buffers shall be perimetered and demarcated with either orange construction fencing or with continuous yellow caution tape or similar. Within this 20' buffer, shrubs may be manually cut only as needed to provide a direct path no greater than 24 inches wide to gain access to a survey point.
  - 4.2. Site grading and topographic modification is not approved for this application.
5. **Revegetation Requirements**
  - 5.1 The applicant shall flag all trees proposed for cutting and call for an inspection prior to felling. Shrub removal shall be limited to those necessary for accessing survey points along lot lines. Vegetation internal to a proposed lot shall not be removed.
  - 5.2 If a tentative plat application is not received within one year of this approval the applicant shall submit a replanting plan for the cleared areas to include the roadways and shall plant those areas within three months of approval. If the tentative plan is not submitted for final plat within the required timeline plus approved extensions then a replanting plan for the cleared areas to include the roadways shall be submitted for review and approval and then planted within three months of approval.
  - 5.3 The revegetation plan shall address prevention of erosion, revegetation of the cleared areas. Revegetation of the site shall incorporate native species

in a density approximate to that prior to the clearing using specimens and planting sizes listed in the Tree and Plant List for the City of Florence.

- 5.4 The applicant shall ensure that sand is managed on-site and does not interfere with stormwater facilities south and west of the site. Where sand has compromised stormwater facilities, the applicant shall repair, replace, and maintain as needed to ensure their continued effectiveness. Review by the Public Works Department may be accomplished as needed to assess effective drainage of the properties.
  
6. The applicant shall retain a 50' buffer from the wetland areas, where no vegetation shall be removed. This buffer shall be perimetered and demarcated with either orange construction fencing or with continuous yellow caution tape or similar.

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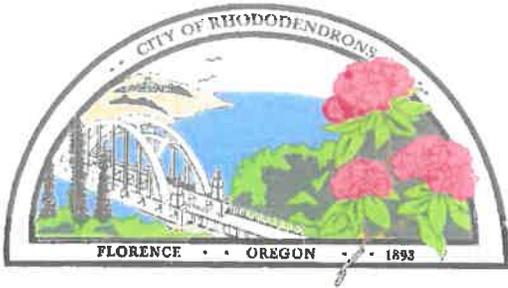
**VIII. EXHIBITS**

- "A" Findings of Fact
- "B" Land Use Application
- "C" Land and Water Environmental Services Letter, dated June 22, 2020

APPROVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, this  
3rd day of September, 2020.



Wendy FarleyCampbell  
Planning Director



*City of Florence*  
 Community Development Department  
 250 Highway 101  
 Florence, OR 97439  
 Phone: (541) 997 - 8237  
 Fax: (541) 997 - 4109  
[www.ci.florence.or.us](http://www.ci.florence.or.us)

**Type of Request**

**THIS SECTION FOR OFFICE USE ONLY**

Type I  Type II  Type III  Type IV

Proposal: AR 2004 VEG 02 - Fairway Estates Phase II Clearing

**Applicant Information**

Name: Pacific Golf Communities, LLC Phone 1: 541-350-4854  
 E-mail Address: jmichael313@gmail.com Phone 2: \_\_\_\_\_  
 Address: PO Box 3094, Florence, OR 97439  
 Signature: J. Michael Pearson Date: 2/18/20  
 Applicant's Representative (if any): \_\_\_\_\_

**Property Owner Information**

Name: Same as above Phone 1: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_ Phone 2: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Applicant's Representative (if any): \_\_\_\_\_

NOTE: If applicant and property owner are not the same individual, a signed letter of authorization from the property owner which allows the applicant to act as the agent for the property owner must be submitted to the City along with this application. The property owner agrees to allow the Planning Staff and the Planning Commission onto the property. Please inform Planning Staff if prior notification or special arrangements are necessary.

**For Office Use Only:**

Received  
**RECEIVED**  
 City of Florence  
 FEB 19 2020  
 By: JMM

Approved

Exhibit  
**APPROVED**  
 City of Florence  
 Community Development  
 Department  
B AR 2004 VEG 02  
 Exhibit File Number

Property Description

Site Address: 4000 Rhododendron Drive

General Description: Fairway Estates

Assessor's Map No.: 18 12 15 Tax lot(s): 00-01500

Zoning District:

Conditions & land uses within 300 feet of the proposed site that is one-acre or larger and within 100 feet of the site that is less than an acre OR add this information to the off-site conditions map

(FCC 10-1-1-4-B-3):

Project Description

Square feet of new: 10.33 Acres Square feet of existing:

Hours of operation: Existing parking spaces:

Is any project phasing anticipated? (Check One): Yes [ ] No [X]

Timetable of proposed improvements: 7-30 days

Will there be impacts such as noise, dust, or outdoor storage? Yes [ ] No [X]

If yes, please describe:

Proposal: (Describe the project in detail, what is being proposed, size, objectives, and what is desired by the project. Attach additional sheets as necessary)

Vegetation clearing for Phase II to accommodate a topographical survey.

WILL RETAIN ROOT MAT OVER ENTIRE PROPERTY
WILL REMOVE BRUSH AND HAZARD TREES AS NECESSARY

For Office Use Only:

Date Submitted: 4/19/2020
Received by: DHH

Fee: \$479.15

APPROVED
City of Florence
Community Development
Department
B AR 20 04 VEG 02
Exhibit File Number

**From:** [Michael Pearson](#)  
**To:** [Wendy Farley-Campbell](#)  
**Subject:** Re: FW: AR 20 04 VEG 02 - Fairway Estates Phase II Vegetation Clearing  
**Date:** Friday, August 14, 2020 7:12:11 PM

**B**  
**Exhibit**

Hi Wendy, I am not familiar with what is required of me when you receive such a letter? Do I need to address each of their questions in writing by email?

Will the approval and issuance of this permit be subject to a public hearing?

or will the issuance of this permit be determined by you and your staff?

I am happy to address each of Mrs. Pinkova's concerns by separate email if that is necessary to obtain the permit. Just let me know

To clarify the application that I submitted to your office for the vegetation removal permit, I want to be sure it is understood that we have no plans to "clear" or remove the root matt of any of the foliage on phase 2. We will be grinding the brush and foliage that is necessary to complete an accurate Topographic survey by Gene Wobbe. This vegetation removal will also allow our engineers to complete the engineering for the plat. The machinery used will not take the plants, brush, or foliage down to the sand and will therefore not result in any problems with sand blowing on adjacent properties. As a matter of fact, the grindings will be spread over the top of the area.

Additionally, regarding the wetlands issues on this site, John and I have met with Don Wilbur and Megan Gerber who represent the Wilbur Island Wetland Mitigation Bank and have received confirmation from them that they will provide all necessary documentation for the mitigation credits we plan to obtain from them for the area affected by wetlands in phase 2.

One more thing, Can I obtain from your website the application forms for the second phase plat? What other process is necessary to get a preliminary plat approval? Is my memory serving me correctly, that we need to change the zoning on phase 2 from Open space to residential before we start the plat application or can we start them both simultaneously?

Thanks,  
Michael

On Tue, Aug 4, 2020 at 1:10 PM Wendy Farley-Campbell  
<[wendy.farleycampbell@ci.florence.or.us](mailto:wendy.farleycampbell@ci.florence.or.us)> wrote:  
Michael and John,

Please see below testimony received in response to property owner noticing for your

# LAND AND WATER ENVIRONMENTAL SERVICES, INC.

P.O. Box 448, 119 NE 2nd St. Suite B (second floor), Oakland, Oregon 97462  
(541) 672-0393 or (541) 459-4141

*"Providing environmental services for industry and the public since 1992"*

www.landandwater.biz

email: office@landandwater.biz

June 22, 2020

Michael Pearson  
Fairway Homes of Florence, Inc.  
P.O. Box 3094  
Florence, OR 97439

Dear Michael,

This letter is a follow up of our site visit on June 19, 2020 to Phase II of Fairway Estates. The purpose of the site visit was to visually confirm the presence and location of jurisdictional wetlands within the extent of the Phase II development.

The property under investigation is identified as Tax Lot 1500 on the Lane County Tax Assessors Map 18121500 FLORENCE. We walked the property in a clockwise fashion, roughly following the route that the proposed street will take, with multiple excursions towards the center of the property to investigate low areas, which are the most likely areas where wetlands will be located. The investigation located two potentially jurisdictional wetlands within the active area of the Phase II development.

The first and largest wetland area identified is located in the northeast portion of Tax Lot 1500. This location is where the proposed street changes from an east-west orientation to a southwest-northeast orientation. This wetland is estimated to be less than 0.2 acres in size. This wetland was identified in the 2006 wetland delineation that was reviewed and approved by the Oregon Department of State Lands (DSL). The wetland does not appear to have changed size or shape significantly since the 2006 delineation.

The second wetland area identified is south of the previously mentioned wetland and is located near where the proposed street bends to the south. This is a small wetland, estimated to be between 0.01 and 0.02 acres in size, located within the footprint of the proposed street.

The State of Oregon Removal-Fill law specifically addresses removal, fill, or alteration of the ground. It does not address or regulate vegetation or vegetation removal. As we discussed, the current delineation has expired. The delineated wetlands do not appear to have changed in size or shape. DSL identifies the spring months, March – May as the preferred months for conducting wetland delineations, so it will be next spring before the delineation can be updated. In the meantime, the expired delineation can be used as a guideline, but do not make regulatory decisions (i.e. conduct excavation or fill activities) on it.

If you have any questions concerning this wetland investigation, please let me know.

Sincerely,

  
Loran Waldron  
President/Biologist

attachment

**APPROVED**  
**City of Florence**  
**Community Development**  
**Department**

C AR 20 04 YEG 02  
Exhibit File Number

