



**FINDINGS OF FACT  
FLORENCE PLANNING COMMISSION  
Exhibit "A"**

**Public Hearing Date:** August 25, 2020  
**Application:** PC 20 09 EAP 01

**Planner:** Dylan Huber-Heidorn

**I. PROPOSAL DESCRIPTION**

**Proposal:** An application for extension of approval PC 18 40 DR 08, an approved design review of a 4-unit transitional cottage housing structure on Lot 2 within the Phase 1 Cannery Station PUD

**Applicant:** Charles McGlade, MD (rep. by Daniel P. Klute, AIA)

**Property Owners:** Cannery Station Development LLC

**Location:** Southeast corner of Munsel Lake Road and US Hwy 101

**Site:** Map #18-12-14-20, Tax Lot 0700

**Comprehensive Plan Map Designation:** North Commercial Node

**Zone Map Classification:** North Commercial

**Surrounding Land Use / Zoning:**

**Site:** Undergoing development / North Commercial (NC)  
**North:** Undeveloped / North Commercial  
**South:** Church, apartment buildings, offices / NC, Commercial  
**East:** Single-family residences / Medium Density Residential  
**West:** Grocery store, gas station, auto parts / North-Commercial

**Streets / Classification:**

**West – US Highway 101 / Major Arterial; North – Munsel Lake Rd. / Minor Arterial;  
East –None; South – None**

**II. NARRATIVE:**

In April 2019, the Planning Commission approved the Design Review applications for two residential structures in Phase 1 of the Cannery Station PUD. Each of the structures would house four residential units, which would be available for residents transitioning to the kinds of care provided in the adjacent and associated assisted living facility. Those approvals—PC 18 40 DR 08 and PC 18 41 DR 09—were set to expire on April 9, 2020.

As the applicants state in Exhibit B, the early stages of work on the 10-year Cannery Station project have been delayed for a variety of reasons, with the transitional housing units among the most affected. Applications to extend the 2018 design review

approvals were received on February 24, 2020, and the applications were deemed complete as of April 16, 2020.

### III. NOTICES & REFERRALS:

**Notice:** On August 5, 2020, notice was mailed to surrounding property owners within 100 feet of the property and a sign was posted on the property on the same date. Notice was published in the Siuslaw News on August 19, 2020.

At the time of publishing this report, the City had not received any written comments on the application.

**Referrals:** On August 17, 2020, referrals were sent to the Florence Building Department, Florence Public Works, Florence Building Official, and Central Lincoln PUD.

At the time of this report, the City had not received any referral comments.

### IV. APPLICABLE REVIEW CRITERIA

**Florence City Code, Title 10:**

Chapter 1: Zoning Administration, Sections 1-4 & 1-6-3

Chapter 6: Design Review, Section 11

### V. FINDINGS

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#### FLORENCE CITY CODE

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

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#### 10-1-1-5: GENERAL PROVISION

- A. 120-Day Rule:** The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions – plan and code amendments – without an applicant under ORS 227.178.)

The applicant agreed to a waiver of the 120-day timeline for land use application processing, with February 15, 2021, as the agreed deadline for a final decision by the City.

#### 10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:

Per FCC 10-6-11, reviewed below, extensions to design review approvals may be granted by the Planning Commission. This application has been processed as a Type III quasi-judicial review. This criterion is met.

**B. Notification of Hearing:**

- 1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.**
- 2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.**

Notice of the public hearing was posted on the subject property on August 5, 2020. On this same date, notice was mailed to all property owners within 100 feet of the property. Notice was also published within the Siuslaw News one time on August 19, 2020. These criteria are met.

**C. Notice Mailed to Surrounding Property Owners - Information provided:**

- 1. The notice shall:**
  - a. Explain the nature of the application and the proposed use or uses which could be authorized;**
  - b. List the applicable criteria from the ordinance and the plan that apply to the application at issue;**
  - c. Set forth the street address or other easily understood geographical reference to the subject property;**
  - d. State the date, time and location of the hearing;**
  - e. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;**
  - f. State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**
  - g. State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;**
  - h. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.**

- i. **Include the name of a local government representative to contact and the telephone number where additional information may be obtained.**

The provided notice contained all of the information listed in FCC 10-1-1-6-3-C. These criteria are met.

**D. Hearing Procedure: All Type III hearings shall conform to the procedures of Florence City Code Title 2, Chapters 3 and 10.**

**E. Action by the Planning Commission:**

1. **At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.**
2. **Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.**
3. **In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.**
4. **There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.**

The Planning Commission held a public hearing on August 25, 2020, which met the standards of FCC 2-3 and FCC 2-10. The Planning Commission received all materials provided by the applicant. The findings state whether the application criteria were met or not. These criteria are met.

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## **TITLE 10: CHAPTER 6: DESIGN REVIEW**

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**10-6-11: LAPSE OF DESIGN REVIEW APPROVAL: Authorization of a design review permit shall be void one (1) year after the date of approval of a either a Type II or III design review application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:**

**A. The request for an extension is made in writing prior to expiration of the original approval.**

The applicant applied for an extension in an application received February 24, 2020, prior to the April 9, 2020, expiration of the original approval. This criterion is met.

The April 9, 2020, approval date for Resolutions PC 18 40 DR 08 and PC 18 41 DR 09 is the date used to calculate the allowable extension, not the date of April 23, which was when the Planning Commission Chairperson physically signed the amended resolution document.

The approval for design review PC 18 40 DR 08 will expire on April 9, 2021. **(Condition 4)**

**B. There are special or unusual circumstances that exist which warrant an extension.**

In application documents, the applicant provided the narrative below as reasons for the requested extension:

*“Applicant requests a one year extension on the Design Review approval for the Transitional Cottage Housing structure on Lot 2 at Cannery Station Development.*

*“Throughout the past six months, the project team (as well as City Building and Planning staff) have been working through the building permit approval of the +/-59,000 sf Assisted Living Facility on Lot 2. The complexity of this building required extended review time by City staff, as well as collaborative effort to fulfill comment responses. In addition to this, the project team has been working to complete the Public Improvement scope for Phase 1 of the Final PUD. The roads, sidewalks, utilities, street lights, stormwater, and Tract design was a top priority to create the infrastructure of this development. We have submitted comment responses to the City for this Public Improvement scope and anticipate permit approval in the near future. Additional complexities that required the project team to adjust the overall development schedule included ODOT access, Lane County access, wetland determination, bringing utilities to the site, and managing expectations with neighboring properties.*

*“No material changes of surrounding land uses or zoning has occurred. No new land use regulations have been adopted that affect the applicant’s proposal. The design intent of the structure described in the Design Review application remains current. Our adjusted schedule is to begin construction documents on the Cottage structure following permit approval of the Public Improvement scope, and anticipate building permits and the foundation complete prior to the April 23, 2021 requested deadline (per FCC 10-6-10).”*

The applicant has focused efforts since April 2019 on site preparation activities and on the assisted living facility (ALF) portion of Phase 1 plans for Cannery Station. They state that unexpected additional time spent on infrastructure development, wetland determination, securing access, and other issues have delayed the start of development of the transitional cottages, which were a lower priority for the overall project than the assisted living facility.

The structural permit application for the ALF was received July 17, 2019. After fire review, infrastructure review, structural review, and other types of plan analysis were completed, the building permit for the ALF was ready to issue on December 5, 2019. The permit has not been requested by the applicant. The expiration date for the building permit was extended at the request of the applicant from June 6, 2020, to October 20, 2020. Plumbing and mechanical permits for the ALF have similarly been extended to October 2020.

The applicant has been involved with various time-consuming activities and working with a variety of public agencies associated with beginning a project as large as Cannery Station. Much of that work was completed in 2019. However, when the applicant was considering the culmination of those plans in 2020 and writing the narrative above, they likely were not expecting the delays many projects have faced in the past few months stemming from the Covid-19 pandemic. The applicant still intends to begin significant construction of the cottages prior to April 23, 2021, as requested in the application.

Staff finds that—given the 10-year scope of the project, the complexity of the early stages of development, and the impacts of the pandemic on the industries and processes involved—there are special circumstances which warrant an extension. This criterion is met.

**C. No material changes of surrounding land uses or zoning has occurred.**

No changes to surrounding land uses or zoning has occurred that would impact the original DR approval or this extension request. This criterion is met.

**The Planning Commission may deny the request for an extension of a design review permit if new land use regulations have been adopted that affect the applicant’s proposal. (Ord 26, 2008)**

The most notable change to land use regulations has been the recent adoption of zoning code text amendments for building height and residential uses in commercial zones (Resolution PC 20 20 TA 02 and Ordinance No. 9, Series 2020). While these changes impact the North Commercial zone, their effect was to relax zoning restrictions, not tighten them in any way that would affect the transitional cottages’ original design review approval. This criterion is met.

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**VI. CONCLUSION**

The proposed application meets the requirements of City Code with conditions.

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**VII. EXHIBITS**

“A” Findings of Fact
“B” Land Use Application
“C” Resolution PC 18 40 DR 08 ( <i>without exhibits</i> )
“D” Site Plan (rev. 05/01/2019)