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**City of Florence
Planning Commission Meeting
250 Hwy 101, Florence, OR 97439
March 9, 2021**

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

Chairperson Phil Tarvin called the meeting to order at 5:30 PM.

Commissioners Present: (via videoconference) Chairperson Phil Tarvin, Vice Chairperson Sandy Young, Commissioner John Murphey, Commissioner Eric Hauptman, Commissioner Ron Miller, Commissioner Andrew Miller, Commissioner Brian Jagoe.

Staff Present: (via videoconference) Planning Director Wendy FarleyCampbell, Senior Planner Roxanne Johnston, and Administrative Assistant Aleia Bailey

At 5:30 PM, Chair Tarvin opened the meeting and Aleia Bailey did a Roll call. All members were present, and Vice Chair Comm. Young led the salute to the Flag.

1. APPROVAL OF THE AGENDA

Start Time: 5:32PM

Action: Approved

Motion: Vice Chair Young

Second: Comm. R. Miller

Vote: 7-0

There was no discussion on the agenda and it was approved unanimously.

2. APPROVAL OF THE MINUTES OF FEBRUARY 23, 2021

Start Time: 5:34

Action: Approved, with no changes proposed

Motion: Comm. Jagoe

Second: Comm. A. Miller

Vote: 7-0

3. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

No Speaker's cards were received nor public comments made. Chairperson Tarvin asked if any member wished to disclose a conflict of interest. No conflict of interest, ex-parte contacts nor biases were declared by any of the Commissioners. Comm. Murphy and Jagoe disclosed that they wished to disclose themselves due to business relationships. No ex-parte conflicts no potential biases were provided.

4. Fairway Estates Phase II Vegetation Clearing Violations: Planning Commission will decide on penalties for not following Resolution AR 20 04 VEG 02 conditions of approval and clearing without a permit in accordance with [Title 4 Chapter 6 Vegetation Preservation Section 6: Penalties.](#)

Chair Tarvin opened the public hearing for Item 4 at 5:36PM and called for Wendy FarleyCampbell to deliver the report for this agenda item. FarleyCampbell explained that item was not a public hearing but that there would be an opportunity to hear from defendant Michael Pearson or anyone who submitted a speaker's card or submitted testimony on the topic. presented testimony regarding the issues listed in the violations of approval for a staff review of AR 20 04 VEG 02 vegetation clearing permit. She relayed the timeline of events that lead to the meeting discussion which included a communication from Mariner Village who expressed concerns clearing activities. A site visit commenced on December 31st by the City's Code Enforcement Officer. FarleyCampbell and the Officer went back to the site on January 13 visited the conditions of approval and to take photos of the clearing, wetland, and perimeter. A letter listing violations was sent to the Pearsons and a citation hand-delivered to them. Using maps, FarleyCampbell pointed out the phases in Fairway Estates where clearing was allowed as well as the Mariners Village, a golf link and Three Mile Prairie. She explained that the map lines have a margin of error and vary about 20 feet. She outlined the conditions of approval that applied to the violations and tied into the Planning Commission report. She explained that Mariners Village had expressed concerns about sand and clearing being done on their own property without the contractor knowing what the boundaries were. There is a condition that called on the developer to retain a 10' buffer along perimeters against City property, Mariners Village and the golf course properties. Additional concerns with vegetation removal involved the effect this removal had on stormwater runoff. She further explained that there was a caveat for the surveyor in order to get into the vegetation for getting survey (including topographic and placing ribbons on trees) done. No fill permit had been given by the state for pushing dirt around. The concern was that trees would not fall. FarleyCampbell revisited an earlier plan for Fairway Estates whereby there was a wetland area identified on site. The wetlands, according to Conditions of Approval, required a 50' buffer where no vegetation should be removed and that it was to be demarked with orange construction fencing or continuous yellow caution tape. Again, no DSL was filed. She explained that in the future, with the permit, the buffer may expand or be reduced depending on the wetland location with DSL concurrence, but that the condition was precautionary. FarleyCampbell provided photos from January 14th and walked the Commission through the property buffers and violation sites. She explained that the clearing had been done up to the HOA's setback area between Mariners Village and Fairway Estates. She was unable to locate all the flags that were to be placed. She showed a slide of the wetland area which did have grasses, trees and flags around the perimeter. The green to the golf course was cleared all the way. There was no permit to include clearing in the golf course. She noted blue flags that she believed marked property lines and discussed how clearing had taken place beyond the property line. Tree grindings were applied throughout the site. She showed areas where log decks were present. There were several piles of logs. FarleyCampbell explained the violation letter and how each condition of approval (for Fairway Estates) that was violated represented a separate offense as listed in Title 4 and the financial penalties of \$500 for each offence, a day. She explained timing of penalties. She reviewed the testimony provided in the Planning Commission packet and explained all testimony was on the website and all available the day of the hearing. This includes testimony provided by defendant Michael Pearson. She explained that due to the lateness of its submission, she did not have time to review this letter. She also explained that the site had several surveyors on the property at various times, and that the property was well documented over time with photos. FarleyCampbell explained the local stormwater events and how it effected the area and showed the plats for Phase 1 and Phase 2, illustrating that survey documents were available. Staff recommendations, she added included an additional fine of \$500 for clearing off-site (Gold Links property and possibly the City property), replant 20' and 50' on-site west side perimeters to mitigate sand that could affect wetlands, and replant off-site clearing on the golf course.

Chair Tarvin called for questions of staff. Comm. Hauptman asked who the defendant's current surveyor was. FarleyCampbell said it was Gene Wobbe and that he had provided testimony into the record for the meeting which was sent to the Commission in an email and posted on the site. Vice Chair Young asked if a wetland permit had been applied for. FarleyCampbell said that the process had not been started. Vice Chair said asked if it might make sense to postpone replanting the wetlands until a current wetland delineation was done. FarleyCampbell concurred and shared a slide of a photo of the wetland area. Vice Chair Young said that right now, the wetland is a moving target before we weren't sure of where it was and what is going to happen. She wanted to postpone the replanting. FarleyCampbell agreed and explained the biggest concern was sand and noxious weeds encroaching into them, that the buffers helped mitigate problems, and that the wetland may not be compensatable. The wetland delineation would provide clarification. Chair Tarvin asked if the area with grindings appeared to be mowed with a mowing apparatus close to the ground or was there stubby material. FarleyCampbell explained that not much was sticking up save some short stumps. She was able to walk freely thought the site. Chair Tarvin asked if the grindings existed on the golf course properties and wondered if we could assume they were from the log deck materials. FarleyCampbell said some of the grindings were from trees not worthy of being on the deck.

Chair Tarvin asked if the defendant, Michael Pearson, wanted to speak. Mr. Pearson clarified that FarleyCampbell had not read the letter he had sent that day. She had gotten through one page. Commissioners were asked by Chair Tarvin on who had a chance to review the letter. Not all Commissioners had read the letter. Chair Tarvin, who had read the letter two times, and Vice Chair Young, who had read it once, commented that there was a lot in the letter and needed to have ore time to look at it. The defendant explained that he had been responding to the materials in the violation letter and placed these in his repsonse letter, and that he did not agree with some of what FarleyCampbell discussed. He explained his frustration with the process, and that he had been told with Fairway Estates Phase II that he needed a topographic map and a boundary survey. He explained that he had 24" for which to make the survey on the property. He argued that he was exempt under code of needing a permit. He argued that the vegetation was removed to get the survey and topo down. He explained that he did not understand why he needed a wetland permit before removing vegetation, that it did not make sense to him. He stated that he contacted the Wilbur Wetlands bank and that they were in agreement and that he would buy mitigation credits to fill the wetlands to create lots. He said he told FarleyCampbell that he would mark the wetland area, and that he and his brother did, and that he was not aware of the 50' setback buffer zone. He said he had since looked over the Wetlands Riparian report done in 2013 and that he learned that the wetlands were in a significant wetlands area according to the map. He said that since it was under a half-acre, the wetland area was not 'significant' and does not require a 50' buffer zone and that the wetlands is going away anyway. He wondered how a surveyor could do a survey and keep a 20' buffer. Pearson read the letter to the Commission. This letter is on record. Pearson added various points pertinent to the letter, such as mowing near Mariners Village, a leaning tree over neighboring property (citing liability) and root mat, open space/nature clearing for pedestrian connection. He stated that there didn't appear to be foliage mowed down on Mariners Village property.

After Mr. Pearson finished presenting his letter, Chair Tarvin asked each Commissioner for questions and comments. Comm. Hauptman asked if the wetland had been surveyed and if the size was known. The defendant said it was 6500 square feet, .15 of an acre. Vice Chair Young asked the defendant if he had needed a boundary survey done and the defendant concurred. She said that if a survey had been done in 2008, then would the boundary have changed since that time? She stated she wasn't living here in 2008. There was a comment from Vice Chair that the although there was growth, the boundary didn't change and the defendant said that the vegetation had grown up he had a surveyor who needed to climb through the 15' shrubbery and brush and that the surveyor said he would not take the job if he had to go through

there. Pearson said he didn't know if there had been a survey done in 2008 when Vice Chair Young asked him and said that the surveyor should have provided it to him if one were done. She stated it wasn't clear to her if the clearing was done in the HOA boundary area. He stated that it was not. She wondered how the matter would be resolved if the HOA said that it had been done in their property. He said that he had to guess about where the boundary was. He stated that the HOA had the surveyor show where the pins were. He stated that the HOA did not have markers on where their property. When asked by Vice Chair Young if the nature path was totally on his property, he replied, "Absolutely." Chair Tarvin asked if some of the problems would be resolved if the Commission made a site visit and asked that if they were to do that, then it would be helpful to have something from a surveyor to make sure they knew what they were looking at and the Defendant said he could help by having the surveyor come out to answer questions. He also wanted an interpretation of the exemptions listed in FCC 4-6-3B. Chair Tarvin said it talked about removal or clearing and how subsection A is where the section started, and Section B are the exemptions as they related to native vegetation. There was a discussion on definition of a tree. Chair asked if a tree to the Defendant meant "vegetation," Pearson asked if there was a definition of a tree and Chair Tarvin provided the code for that. Pearson said, in looking it over, that it was not native vegetation. Chair also asked if Mr. Pearson had read the AIS and understood the proposed recommendation. Pearson said that he felt he had already paid the money the last time he paid. He clarified that he did read and understood. Chair Tarvin asked if there were any speakers. Aleia Bailey stated that there were none; only written testimony.

FarleyCampbell was given the opportunity to respond to the Defendant. She commented that she had asked a wetland specialist about the wetland area and the timing of the study and was told the best time to conduct the study was in between March and May. Two wetlands were identified. Nothing had been protected nor saved in a smaller site. The larger area was .2 acres and the smaller .01-.02 acres. She stated that the Defendant said that he was going to have a wetland survey done and that now is the time. Documentation in the summer would be disappointing. She said that the wetland in question was not significant and said the setback was conditioned because a study had not been done and that it was given it a 50' . To the Defendant's comment that he did not require a vegetation permit, FarleyCampbell disagreed and said that what he had done requires a vegetation permit. She reminded the Commission that some had worked with another Commissioner who left to work on the wetland codes since they contained many inconsistencies. She revisited the exemptions previously discussed. She pointed out the types of activities that would be exempt. She said it didn't say actual removal or clearing of the vegetation versus cutting and trimming. She said a survey was not needed for cutting and trimming. If "you" cut the tree down, it is felled, severed and now dead. Cutting and trimming to staff was not killing the species of vegetation as staff's consistent opinion. She commented that the golf course property still needed to go through the same process. She said that Fairway Estates Phase 1 received approval in the last 5 years and that Mr. Pearson had a vegetation permit to clear 14 lots and that she didn't understand why that much clearing was needed to do a final plat, especially well after the plat was filed. With regard to trees, she stated that there was a process to remove hazard trees which involved a staff visiting the site to determine its danger to life and property level, citing FCC Title 6-1, Subsection 7 -12. Otherwise, an arborist would submit something to the City confirming the condition of the tree. She stated that there was not a lot of hazard trees on the site in question. She discussed that she would need to check to see how the Commission could visit the site and that she needed more time to review the letter.

FarleyCampbell was asked if she maintained her recommendation. and based on the comments from Comm. Young and the wetlands, she agreed it didn't make sense to plant and then have it torn out again; that she stood by replanting the buffer along the HOA site; and she would relax the 50' wetland buffer. She clarified that the penalties of \$2,000 was for each of the 4 conditions of approval of this particular

vegetation permit and not the fines for the clearing on adjacent property. She said she didn't know if the golf course manager had given permission to clear the vegetation. Pearson said he had permission from the management to take down the vegetation along the golf course. FarleyCampbell said that the main thing was the conditions of approval, that there was an appeal process and the potential appellant had 12 days to appeal and, in this instance, no appeal had been filed. She said that this was about applicants following the conditions of approval and that they have a path to appeal.

Chair Tarvin asked if there was any reason to continue the item. As a group, the Commission wanted to visit the site. Vice Chair Young recommended making the site visit to the end of March when the wetland survey was completed so they could take all of the items into consideration and give time to see what the City Attorney has to say about their potential visit. Chair Tarvin concurred with Vice Chair in general and also asked the Commission to read and re-read Mr. Pearson's letter and have staff contact the golf course manager. No vote was necessary with consensus as the item is not a land use hearing. FarleyCampbell suggested April 13th as a date to revisit the item.

End time for this item: 7:25

The Commission took a 10 minute break.

5. **Shore Pines Parking Demand Analysis Scoping Letter:** Planning Commission will review and provide comment on the methodology for assessing parking demand for a proposed apartment complex in accordance with [Title 10 Chapter 3 Section 3-C](#).

Planning Director FarleyCampbell provided the AIS on this discussion item. She explained this was a continuance from February 23. And recapped 10-10 did not have criteria on how to conduct the analysis, but that an alternative parking strategy was provided there to the applicant. She explained that they had previously discussed comparisons of area multifamily housing needs and uses regarding parking. She said there were 8 follow up questions from the last meeting. She explained that the authors of the proposal could further explain. Chair Tarvin offered public speaking opportunities. Desi Bellamy, and Chris Clemhow, proponents for the NW housing project went through a list of questions from the previous meeting on the matter. She clarified that they were proposing 11 be eliminated on property, and clarified that the number of 55 and over in age were a population likely to be served, but that units would not be restricted by age. The percentage of subsidized include that they are all subsidized; some at 60%. Out of 68 total units, no market rate units. Thirty-one units would be at 30% subsidy. The remaining at 60% of subsidy. There was confusion about how ages, subsidies and size of units was configured. The reductions in rent had to do with the unit and all offered at reduced rent. Bellamy said that anyone could rent the units and clarified that the units could potentially not be filled with any seniors, all depending on income qualifications. Comm. Jagoe was concerned with how that translated into parking needs. For example, three-bedroom apartment requiring two parking spots and three working individuals sharing an apartment then they would have additional cars and working different hours. Clemhow observed that he wouldn't anticipate that the tenancy would be much different in those they already have and what parking they found in the apartments they would be reviewing for comparison around time. Timing of the studies was discussed and it was asked which hours would best capture peak demand. There were also questions from last meeting on why was the parking reduction requested, wasn't there enough room on the property, and what how would parking be addressed by the adjacent church, and what happens if the development occurs and not enough parking is provided post-reduction. Bellamy stated that there was enough room and said that they wanted to preserve the shore pines. She said they also wanted to right-size their parking to meet their need and that the study would help determine that. The arrangement with the church was not possible because off-site parking was not allowed for residential. Overall, the developers are okay with having parking on-site. FarleyCampbell confirmed that the code did not offer the opportunity for residential off-site parking – only for commercial uses. Bellamy stated that of the many multi-family apartments her company has built, such studies were done and helped determine demand. Clemhow underlined that they were concerned to find the right amount of parking and that the study would reveal more information, either way.

Comm. A Miller wanted to know how many would be required with no reductions. In this instance, 102 were required. The transit stop within a ¼ mile, FarleyCampbell confirmed, would allow a 10% reduction providing the path on church property had an easement for such use. A discussion ensued about which apartments in town would provide a like comparison. FarleyCampbell pointed to the AIS where the complexes were provided. Comm. Murphey said he did not feel that the overflow parking question was answered if the demand exceeded the approved reductions. Clemhow said that the study allows for a 10% adjustment to allow additional parking, and that overflow could be handled by the church, though the developer is not pursuing that option. Comm. Jagoe wanted to know if there was going to be an onsite manager. The answer was yes; a full-time manager would be on site. Chair Tarvin said that residential care facilities formula required much more parking and would not be a good comparison. He asked about when would be a good time to conduct their study. He reiterated that the purposes of the meeting was to provide feedback on the Commissioner's concerns for their study. The final conclusion for a traffic study was 8-10 am on the weekend. FarleyCampbell recommended Oak Terrace as a good comparison. Comm. Jagoe said it made no sense to use Senior housing as comparisons. Comm. Murphey agreed and said that all three-bedroom apartment complexes the better. Chair Tarvin asked if there was anything in the code where parking spaces could be reserved to insert additional parking. FarleyCampbell said that the analysis could have conditions of approval attached. Vice Chair Young wanted Oak Terrace as a complex to analyze.

6. Report and Discussion Items. No Planning Commission members had reports or discussion items.

FarleyCampbell provided general information work plan was underway and yurts were proposed would be reviewed at the North Jetty Road in the upcoming meeting and possibly a pedway vacation. Other upcoming applications was an annexation and appeal for Heceta Self Storage. Comm. Murphey asked for an updating for the vegetation clearing permit code.

The meeting adjourned at 8:30PM.

ATTEST:

Phil Tarvin, Chairperson

Aleia Bailey, Admin. Assistant