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**AGENDA ITEM SUMMARY / STAFF REPORT**  
**FLORENCE PLANNING COMMISSION**

**ITEM NO: 4**  
Meeting Date: *March 9, 2021*

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**ITEM TITLE:** Fairway Estates Phase II Vegetation Clearing Violations

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**OVERVIEW:**

Background: This agenda item was placed on the February 23<sup>rd</sup> PC meeting. A postponement was requested by Michael Pearson so he could prepare and participate in the meeting. He agreed to March 9<sup>th</sup>.

Pacific Golf Communities LLC received approval on September 3, 2020 for a vegetation clearing permit for Phase II of Fairway Estates. This approval AR 20 04 VEG 02 is attached to this agenda item summary (AIS). On December 28<sup>th</sup> the City received a complaint from the Mariners Village Home Owners Association that the clearing appeared to have been performed outside the allowable scope of the approval. Staff in response contacted the representative of Pacific Golf by email and posted the site for stop work. On December 31<sup>st</sup> and January 13<sup>th</sup> staff performed two site visits and took photos and video of the cleared area.

On January 15<sup>th</sup> Code Enforcement Officer Frazier hand delivered a violation letter to Michael Pearson, representative for Pacific Golf Communities LLC and cited him with a fine of \$2000. This letter is attached to this AIS and includes in detail the violations of the clearing, penalties awarded and steps to address the violation. In summary the violations include:

- Failure to get a vegetation clearing permit for clearing. The permit was not valid without a signed Affidavit of Acceptance. Also, clearing was performed off-site, notably on the golf course property.
- Clearing of vegetation within the 20' buffer along property lines. Area was to be demarcated with fencing or tape. Within the buffer shrubs could be manually cut to a width of 24" to gain access to a survey point.
- Failure to flag trees and have them inspected prior to felling, limiting removal to those necessary for accessing survey points along lot lines, leaving vegetation within the internal areas of the proposed lots.
- Clearing of vegetation within a 50' buffer along wetland boundaries. Buffer area was to be demarcated with fencing or tape.

The applicant did not file acceptance of the approval, did not flag the site and call for an inspection, ignored the clearing limits and restrictions, and cleared property they did not own or have a permit for. In addition to a financial penalty [Florence City Code Title 4 Chapter 6 Section 6](#) offers additional opportunities for awarding penalties. One of them requires an assignment by the Planning Commission. This code section is included below:

*4-6-6: PENALTIES: Failure to obtain a permit, or comply with a condition or requirement of this Chapter shall be deemed a violation of City Code and subject to one or more of the following penalties:*

*A. Replacement of damaged or removed vegetation which approximates the site condition prior to the offense;*

*B. Replacement of damaged or removed vegetation which has been determined by the Planning Commission to provide sufficient mitigation of the offense within a reasonable time-frame;*

*C. Pursuant to the General Penalty clause contained in Code Section 1-4-1, each offense shall be punishable by a fine not to exceed five hundred dollars (\$500.00), each day constituting a separate offense.*

*D. Withholding or revocation of a business license, final PUD or subdivision approval, building permits, and suspension of building inspections until each offense has been satisfactorily mitigated. (This section amended by Ordinance No. 22 Series 1994).*

To date the applicant has paid the fine without court appearance, steps 1 and 2 of the letter.

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<b>ISSUES/DECISION POINTS:</b>	Planning Commission will discuss and decide on the award of additional penalties for not following Resolution AR 20 04 VEG 02 conditions of approval and clearing off-site without a permit in accordance with <a href="#"><u>Title 4 Chapter 6 Vegetation Preservation Section 6: Penalties.</u></a>
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<b>ALTERNATIVES:</b>	Options laid out in Title 4 Chapter 6 Section 6 and listed above.
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<b>RECOMMENDATION:</b>	<ul style="list-style-type: none"><li>• Additional fine of \$500 for clearing off-site</li><li>• Replant 20' and 50' on-site perimeters</li><li>• Replant off-site clearing</li></ul>
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<b>AIS PREPARED BY:</b>	Wendy FarleyCampbell, Planning Director, AICP
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<b>ITEM'S ATTACHED:</b>	<ul style="list-style-type: none"><li>• City of Florence Violation Letter dated January 15, 2021</li><li>• AR 20 04 Veg 02 – Vegetation Clearing Permit for Fairway Estates Phase 2</li><li>• Photos of site post clearing</li><li>• Vegetation Clearing Notice with Site Maps</li><li>• Mariner's Village HOA Letter, dated Feb. 23, 2021</li><li>• Mariners Village HOA Letter, dated August 4, 2020</li></ul>
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*City of Florence*  
Community Development Department

250 Highway 101  
Florence, OR 97439

Ph: (541) 997-8237  
[planningdepartment@ci.florence.or.us](mailto:planningdepartment@ci.florence.or.us)

January 15, 2021

Pacific Golf Communities, LLC  
J. Michael Pearson  
P.O. Box 3094  
Florence, OR 97439

Dear Mr. Pearson,

On September 3, 2020, a Land Use Application for a vegetation clearing permit, AR 20 04 VEG 02, (attached) was conditionally approved for Fairway Estates Phase II and a Notice of Decision sent to you. One of the conditions of approval included the submittal by the applicant of a signed Agreement of Acceptance (AA) to the Community Development Department. This Agreement demonstrates an understanding of the conditions of approval. To date, the Department has not received this AA and a vegetation clearing permit has not been issued.

On December 28, 2020, City staff receive an inquiry about vegetation clearing activities that had occurred on or near properties of the Fairway Estates Phase II project. On December 31, 2020 and January 13, 2021, City staff followed up the inquiry with preliminary site visits. Although research into this matter is still underway, which may result in additional penalties if violations are found, staff discovered several Florence City Code (FCC) violations of Title 4, 'Building Regulations,' Chapter 6, 'Vegetation Preservation.' Staff also discovered that possible vegetation clearing had occurred on adjacent property or properties of the golf course. Below is a list of the violations, the related City code for each item and/or the condition outlined in the related AR 20 04 VEG 02 land use approval:

Violation #1: Failure to Secure a Vegetation Clearing Permit.

City Code: *FCC 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. 3. When the Planning Commission or Design Review Board has required such a permit as a condition of approval for land development.*

Violation #2: Clearing of Vegetation within a 20' Buffer Along Property Lines.

Condition 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 ay be manually cut only as needed to provide a direct path no greater than 24 inches wide to gain access to a survey point.*

Violation #3: Failure to Flag Trees and Have Them Inspected Prior to Felling.

Condition 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.”*

Violation #4. Clearing of Vegetation within a 50’ Buffer from Wetland Areas.

Condition 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.”*

Below is the Code section outlining the City’s authority of enforcement:

FCC 4-6-6: PENALTIES: Failure to obtain a permit, or comply with a condition or requirement of this Chapter shall be deemed a violation of City Code and subject to one or more of the following penalties: A. Replacement of damaged or removed vegetation which approximates the site condition prior to the offense; B. Replacement of damaged or removed vegetation which has been determined by the Planning Commission to provide sufficient mitigation of the offense within a reasonable time-frame; C. Pursuant to the General Penalty clause contained in Code Section 1-4-1, each offense shall be punishable by a fine not to exceed five hundred dollars (\$500.00), each day constituting a separate offense. D. Withholding or revocation of a business license, final PUD or subdivision approval, building permits, and suspension of building inspections until each offense has been satisfactorily mitigated. (This section amended by Ordinance No. 22 Series 1994).

As a City, we are more interested in actively working together to find solutions to amend violations rather than continuing to fine citizens for each day they are in violation. As such, the following steps forward will help achieve a desired outcome for the community and are supported by City Code. Please contact Wendy Farley Campbell to discuss time frames on when the permitting and plan submittal for mediation will take place.

Step 1. Pay the penalty fines issued by the City’s Code Enforcement Officer or have a determination made by the City Judge.

Step 2. Provide the Community Department evidence that the fines were paid or a determination made by the City Judge.

Step 3. Submit the Acceptance Agreement letter to the Community Development Department.

Step 4. Secure the Vegetation Clearing Permit by following the conditions set forth in AR 20 04 VEG 02.

Step 5. Submit to the Community Development Department and get approval for a revegetation plan which will address prevention of erosion and revegetating the wrongfully-cleared areas. This shall be done by incorporating native plant species in a density approximate to that prior to these areas using specimens and planting sizes listed in the Tree and Plant List for the City of Florence.

Please let me or Wendy Farley Campbell know if you have questions regarding these matters. We can be reached by phone (541-997-8237), by email [planningdepartment@ci.florence.ci.us](mailto:planningdepartment@ci.florence.ci.us) or by mail – City of Florence Community Development Department, 250 Highway 101, Florence, OR 97439.

Sincerely,

Senior Planner, CFM

Cc: File AR 20 04 VEG 02  
Mariner's Village Homeowner's Association  
City of Florence Planning Commission  
APIC Florence Holdings, LLC

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

Application: AR 20 04 VEG 02  
Date of Report: September 3, 2020

Planner: Wendy FarleyCampbell

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.

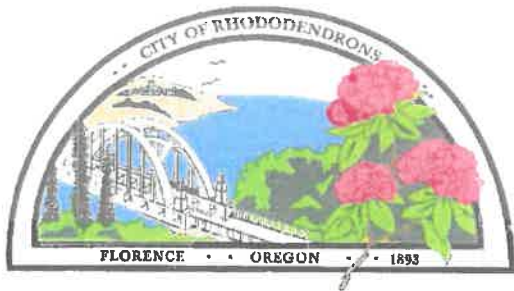
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## VIII. EXHIBITS

- "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: WMM

Approved

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

Timetable of proposed improvements: 7-30 days

Will there be impacts such as noise, dust, or outdoor storage? Yes ☐ No ☒

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

Fee: \$479.15

Received by: DHH

APPROVED

City of Florence  
and  
Community Development  
Department

B  
Exhibit

AR 20 04 VEG 02  
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

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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**

Potentially  
Jurisdictional  
Vietnam  
(approximate  
outline)

N →

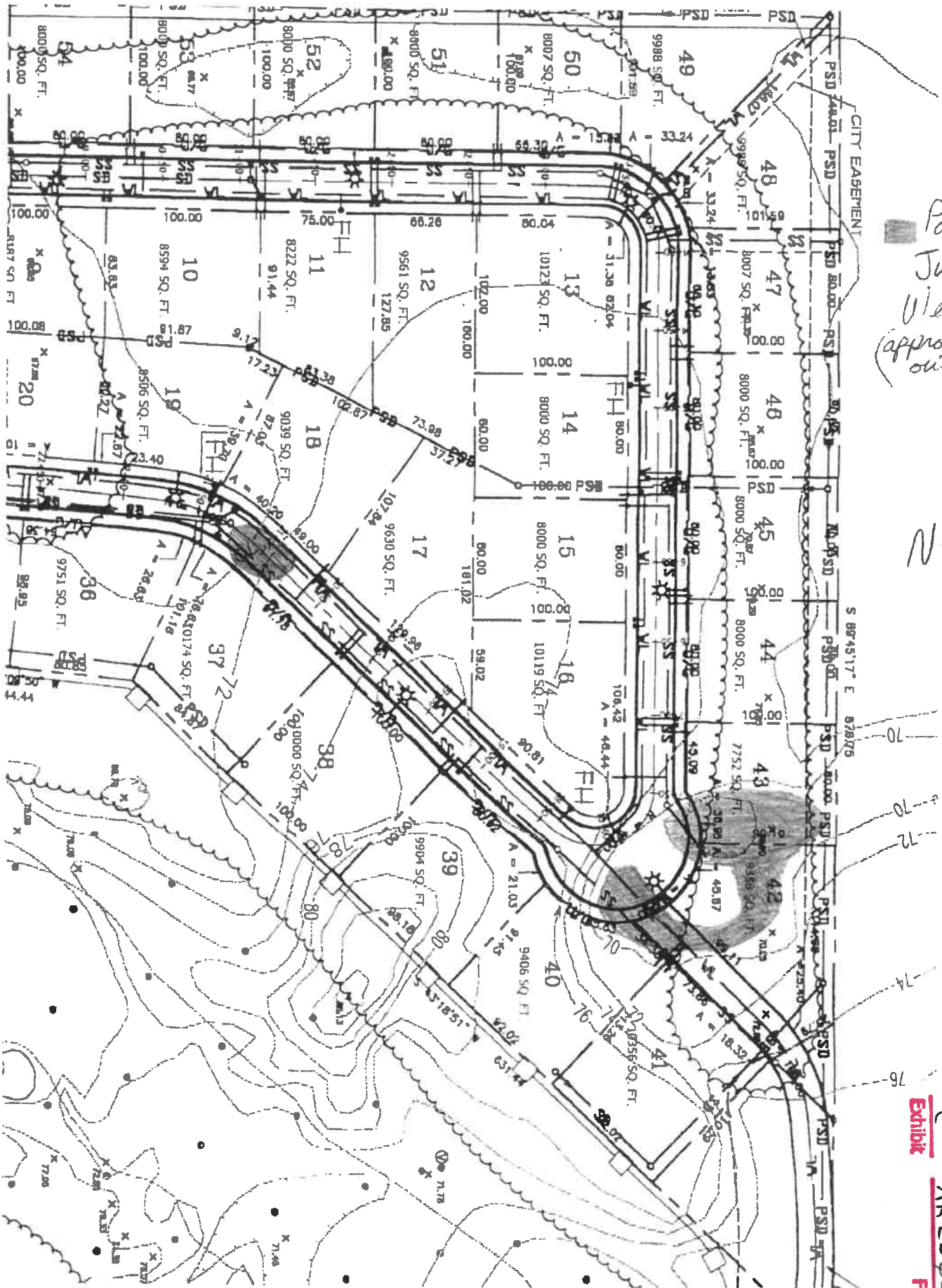
Exhibit

C

File Number

AR 2004 VEG 02

APPROVED  
City of Florence  
Community Development  
Department







*City of Florence*  
Community Development Department

250 Highway 101  
Florence, OR 97439

Ph: (541) 997-8237  
[planningdepartment@ci.florence.or.us](mailto:planningdepartment@ci.florence.or.us)

July 23, 2020

**AR 20 04 VEG 02 – FAIRWAY ESTATES PHASE II VEGETATION CLEARING  
NOTICE OF LAND USE APPLICATION FOR ADMINISTRATIVE STAFF REVIEW**

A Vegetation Clearing Permit has been submitted by J. Michael Pearson, on behalf of Pacific Golf Communities, LLC, to request approval for vegetation clearing for the proposed Fairway Estates Phase II presented conceptually via PC 17 26 PUD 01. The proposed clearing is located east of Mariners Village, west of Hole 6 of Florence Golf Links, and north of Fairway Estates Phase 1 at 4000 Rhododendron Drive, Assessors Map 18-12-15-00, Tax Lot 01500, Phase II. The subject property is within the Medium Density Residential District and regulated by Florence City Code Title 10, Chapter 10.

**Criteria Applying to this Matter for the application include:**

**Florence City Code, Titles:**

Title 4 (found at <http://www.ci.florence.or.us/council/title-4-building-regulations>)

Chapter 1: Building Regulations, Section 15-3

Chapter 6: Vegetation Preservation, Sections 2 through 6

Title 10 (found at <http://www.ci.florence.or.us/council/title-10-zoning-regulations>)

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

Chapter 7: Special Development Standards 3-H

Testimony and evidence must be directed toward the criteria described above or other criteria in the land use regulations which is believed to apply to the decision. Written testimony may be mailed to 250 Highway 101, Florence, OR 97439; delivered to the drop box at the main entrance to City Hall; or e-mailed to [planningdepartment@ci.florence.or.us](mailto:planningdepartment@ci.florence.or.us). Written testimony will be accepted until August 4, 2020 @ 4:00 PM. Please include a mailing address if submitting comments by letter. **Failure to raise an issue in person or by letter or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond precludes appeal based on that issue.**

Applicable criteria and other related materials are available for purchase at a cost of \$0.20-0.40/page or may be found on the City's website at [www.ci.florence.or.us](http://www.ci.florence.or.us), under "Planning & Zoning." Requests for printed materials will be arranged via email or phone request. For additional information, call Wendy FarleyCampbell at (541) 997-8237.

Notice of the Administrative Decision will be mailed to the applicant and all parties who have submitted testimony.







**From:** [Mariners Village HOA](#)  
**To:** [planningdepartment](#)  
**Cc:** [Mariners Village](#)  
**Subject:** AR 20 04 VEG 02 - Fairway Estates Phase II Vegetation Clearing  
**Date:** Tuesday, August 4, 2020 1:03:47 PM

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I am writing on behalf of Mariners Village Homeowners Association re:  
AR 20 04 VEG 02 - Fairway Estates Phase II Vegetation Clearing.

Our boundary is directly adjacent on the west side of the area of proposed vegetation clearing. We have a number of concerns about how the vegetation clearing will affect our association.

We believe impacts will include:

- Loss of visual screening between developments, in particular loss of mature trees on and within our boundary. How will the applicant ensure that our Common Open Area 10ft greenbelt of natural vegetation between the individual lot boundaries within Mariners Village and the HOA boundary is protected, and trees and shrubs within our boundary are not damaged or removed? During the previous clearing work for Phase I, some clearing took place beyond the Phase I area. Our greenbelt was, no doubt accidentally, encroached in some places.
- Rain water runoff is considerable in that area, and is likely to be greater without the vegetation. This is an area with seasonal standing water. What is being done to construct an appropriate drainage system?
- There is likely to be wind erosion once the vegetation is removed and before constructions and landscaping is completed. What will be done to minimize wind erosion?
- During and after the previous phase vegetation clearing, our homeowners on the west boundary noted an increase in wildlife such as rats and bears moving in their back-yards. What is being done to manage this displacement of wildlife, so that it does not create problems in adjacent areas?

Sincerely,

Eva Pinkavova  
Mariners Village Homeowners Association  
PO Box 2792



PO Box 2792, Florence, OR 97439  
[marinersvillage97439@yahoo.com](mailto:marinersvillage97439@yahoo.com)

To: Planning Commission  
City of Florence  
250 Hwy 101,  
Florence, OR 97439

Via: [planningdepartment@ci.florence.or.us](mailto:planningdepartment@ci.florence.or.us)

February 22, 2021

Dear Planning Commissioners,

**Re: Fairway Estates Phase II Vegetation Clearing Violations**

We are writing to provide testimony on behalf of Mariners Village HOA, which is a direct neighbor on the west boundary of the Fairway Estates Development.

We originally wrote to you in August 2020 to express the concerns of our homeowners, who live on the boundary with Fairway Estates, about the proposed vegetation clearing. We were reassured that the impact of the development on our community would be managed as well as possible when we received a copy of the vegetation clearing approval conditions in September 2020. We distributed these to our homeowners. Concerned homeowners contacted the Board again in December 2020, unhappy that the vegetation clearing had apparently not been done in keeping with the conditions that had been approved.

We are especially concerned about the loss of the 20' vegetation perimeter on our boundary, and we want this to be re-planted. The 20' vegetation buffer is important, as it will provide a noise, dust and visual buffer for our homeowners during the likely extensive construction period. The clearing of vegetation in such a large area also means that scotch broom will spread rapidly and extensively in the area. A re-planted 20' perimeter will help to reduce the spread of this invasive nuisance plant into our community.

More generally we believe that a developer should not be able to ignore City Code and permit conditions of approval. If a developer is not happy with the permit conditions, they should appeal to have them changed, not simply ignore them. If the City allows this to happen without any substantial consequences on this occasion, it will create a very dangerous precedent. This is a major risk at a time when the City is growing and extensive future developments are being planned.

We are therefore writing in support of the recommendations made by City staff in the AIS on this issue.

Thank you for giving this your consideration.

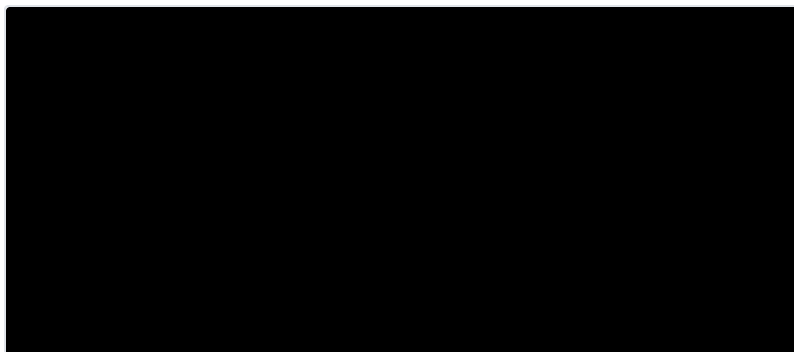
Sincerely,

pp. Mariners Village Homeowners Association Board  
Eva Pinkavova (President)  
Alan Matisoff (Vice-President)  
Ron McCutcheon (Secretary)  
Lawrence M. Franzen  
Diane Sabado



Florence, OR 97439

[Mariners Village Home Owners Association](#)



### **Mariners Village Home Owners Association**

The Mariners Village Homeowners Association is a neighborhood community in Florence Oregon.