
AGENDA ITEM SUMMARY / STAFF REPORT
FLORENCE PLANNING COMMISSION

ITEM NO: 4
Meeting Date: *April 13, 2021*

ITEM TITLE: Fairway Estates Phase II Vegetation Clearing Violations

OVERVIEW:

This AIS is an update of those previously posted on February 23rd and March 9th. The background information is retained to avoid inclusion of past AIS in the attachments. The process and recommendations sections have been updated, additional wetland information added, testimony included and reference to powerpoints, site photos and video added.

Process: This agenda item was placed on the February 23rd Planning Commission meeting. A postponement was requested by Michael Pearson so he could prepare and participate in the meeting. On March 9th the Planning Commission discussed the item. They continued the topic until April 9th so they could schedule a site visit. The PC visited the site on April 2nd at 2pm after giving public notice of a possible quorum. At this site staff observed the 2nd wetland area south of the one retained had been cleared.

Background: 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 28th 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 31st and January 13th staff performed two site visits and took photos and video of the cleared area.

On January 15th 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.
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- 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 enforcement letter.

ISSUES/DECISION POINTS:	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 Title 4 Chapter 6 Vegetation Preservation Section 6: Penalties .
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ALTERNATIVES:	Options laid out in Title 4 Chapter 6 Section 6 and listed above.
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RECOMMENDATION:	<ul style="list-style-type: none"> • Additional fine of \$500 for each property where clearing was performed off-site including but not limited to western Golf Course property and northern City of Florence property if applicable. Other than the golf course property the determinations will be performed in conjunction with the survey work for Fairway Estates. • Replant 20' property line perimeter adjacent to Mariners Village with evergreen trees meeting the species standards
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of street trees and a size standard of FCC 10-34 in a density of one per 20' linear feet.

- Replant other 20' property line perimeters and 50' wetland buffers to the previous density if a tentative subdivision plat application is not received within 3 months—July 13, 2021.
- Replant the 50' wetland buffers and the cleared southern wetland to the previous density if a wetland delineation is not performed and provided to the city by May 31, 2021.
- If a tentative subdivision plat application is not received within 1 year—April 13, 2022 replant plant the entire site to the previous density if vegetation has not grown to a height determined by Planning Commission.
- Replant off-site clearing to its previous density if vegetation does start regrowth within 1 year—April 13, 2022.

AIS PREPARED BY:

Wendy FarleyCampbell, Planning Director, AICP

ITEM'S ATTACHED:

- City of Florence Violation Letter dated January 15, 2021
 - AR 20 04 Veg 02 – Vegetation Clearing Permit for Fairway Estates Phase 2
 - Photos of site post clearing
 - Vegetation Clearing Notice with Site Maps
 - Mariner's Village HOA Letter, dated Feb. 23, 2021
 - Mariners Village HOA Letter, dated August 4, 2020
 - Marks Letter, dated Feb. 22, 2021
 - Rhodes Letter, dated March 8, 2021
 - Sheely Letter, dated March 8, 2021
 - Pacific Golf Communities Letter, dated March 9, 2021
 - Wobbe Letter and Survey, dated February 23, 2021
 - Site Visit Photos
 - March 9, 2121 Staff Presentation to PC
 - Video of log stacks (City Website for PC Meeting)
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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

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 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 4th: 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.

FLORENCE CITY CODE

TITLE 4: CHAPTER 1: BUILDING REGULATIONS

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)

TITLE 4: CHAPTER 6: VEGETATION PRESERVATION

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.

TITLE 9: CHAPTER 5: STORMWATER

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)

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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.

TITLE 10: CHAPTER 7: SPECIAL DEVELOPMENT STANDARDS

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.

VI. CONCLUSION

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

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.

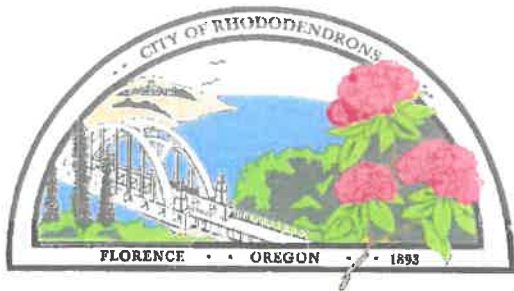
VIII. EXHIBITS

- "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

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

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> 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 →

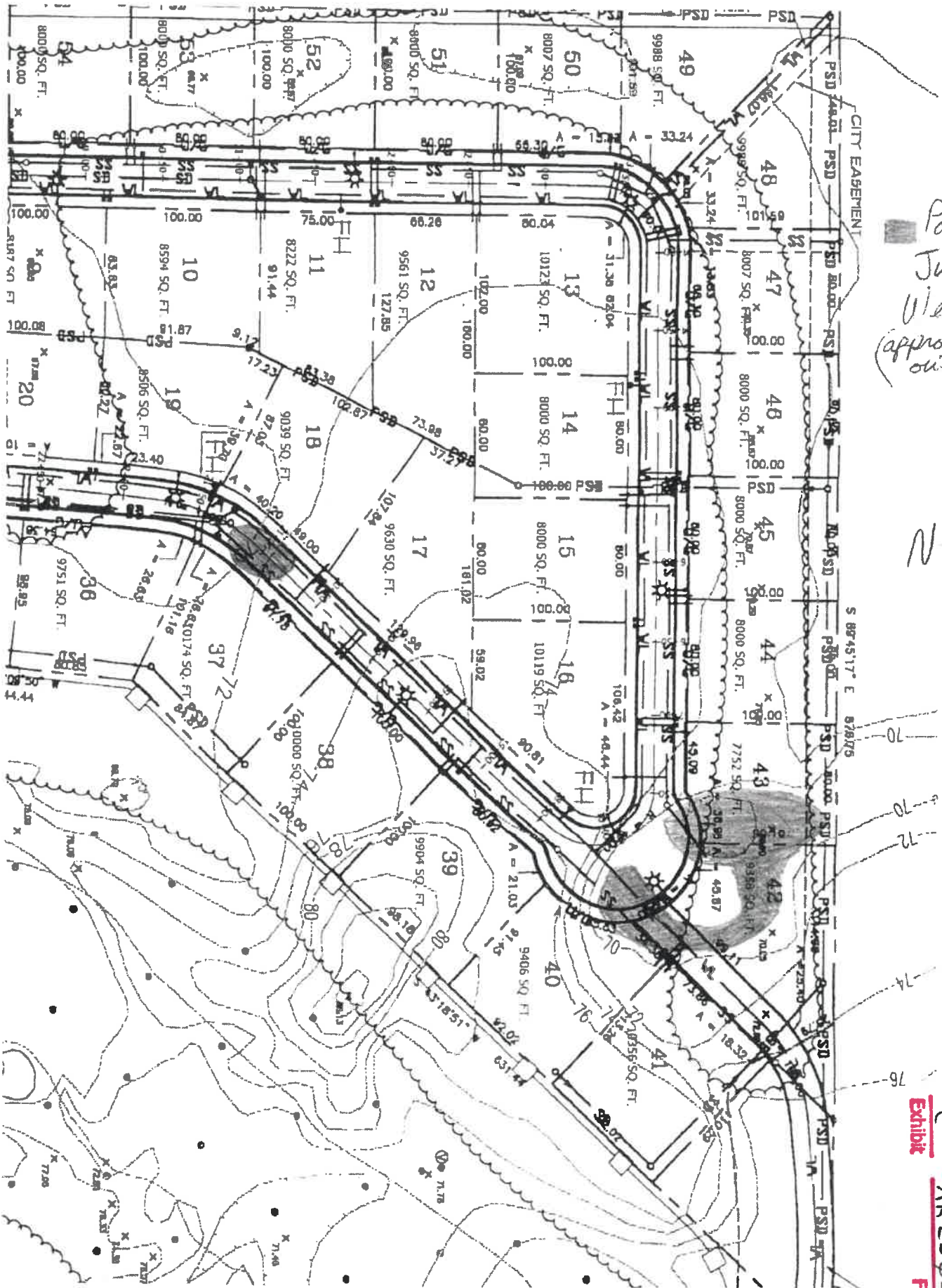
Exhibit

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

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. 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, 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

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

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

Via: 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.

From: [joel marks](#)
To: [Wendy Farley-Campbell](#)
Subject: Fairway estates testimony and violations
Date: Monday, February 22, 2021 12:08:15 PM

Hi Wendy.

I am amazed and chagrined at the violations of vegetation and other violations pursuant to Fairway Estates Mr Pearson and take great umbrage at the clear cutting done which seems also to need adjustments to city code. The planning commission I hope will not let further development of Fairway Estates until these matters stated by the city are taken care of. It is the responsibility of Fairway Estates to respect the Mariner Village HOA and not violate any additional city codes. This certainly effects many homes in MV particularly on its perimeters.

Thank you reading this testimony into the planning commission records and meeting tommortow night.

Thsnks again, Joel R Marks

PS Wendy, I hope you can put this testimony in the planning commission meeting for tommorrow

Thanks again, Joel

Joel Marks

> I live at 9 Mariners Lane. My property backs up to the north end of Fairway Estates Phase II. I am appalled by the violations committed by the developer, as outlined in your letter to Pacific Gold Communities LLC (J. Michael Pearson) on January 15, 2021. I know that the previously scheduled meeting to discuss this matter was postponed by Mr. Pearson and will be held tomorrow.

>

> My understanding is tomorrow's meeting will discuss the penalties. I presume you will also discuss time frames for payment of fines, securing permits, and submitting a revegetation plan, etc. I hope the seriousness of these violations will be fully considered when deciding the outcome. Otherwise, I suspect that these offenses may continue—especially if not overseen.

>

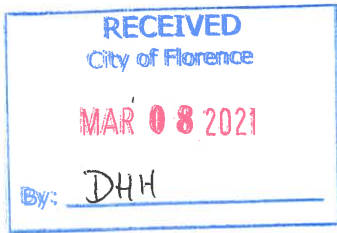
> My concern is what will the city do to watch over the developer and his crew once they resume their clearing activity? As a Florence resident that pays city taxes, I want to know that my city—specifically the Planning Department—is looking out for the residents of Mariner's Village, particularly those affected by this development. I would like to know that all activity going forward will be closely scrutinized by the city as the developer moves forward.

>

> Thank you for your consideration.

> Nancy Rhodes

> 9 Mariners Lan



Craig and Karen Sheely
14 Mariners Lane
Florence, OR 97439
Phone: 541-902-0590
Date: March 8, 2021

City of Florence Planning Commission:

We are disturbed with the clearing violation conducted by Pacific Golf Communities, LLC prior to December 28, 2020 on land that is adjacent and directly east of our property in Mariners Village. This was a flagrant violation of the City's Fairway Estates Phase II Vegetation Clearing Permit. This Permit requires Pacific Golf Communities, LLC to obtain approval prior to vegetation clearing within the 20' buffer along property lines (green belt areas) and 50' buffer along wetland boundaries.


These are critical buffer areas for the residents of Florence as well as the property owners within Mariners Village. The green belt areas (20' buffer) provide important visual landscaping and screening benefits that can reduce some of the impacts of subdivision development on the visually attractive City of Florence. These benefits include construction noise and dust abatement. If this permit violation is not rectified, a beautiful area of Florence will be degraded, including our property, and the entity responsible for this transgression will have no reason to prevent such future activities.


The 50' buffer along wetland boundaries is also important. Important resource values associated with wetlands can be destroyed or adversely impacted. The serious flooding in 2017 and previous years has reminded many City residents of the need to very carefully manage these areas that can lead to flooding if excess rain or storm water run off occurs. Mariners Village had significant subdivision flooding in 2017, partly due to large vegetation clearing and development to the east. If the buffer areas within Fairway Estates are not managed by the City properly, Mariners Village could see even greater storm water run off flooding in the future.

To mitigate the unauthorized vegetation removal by Pacific Golf Communities, LLC, the following should be done to restore the damaged area. Prior to any further development within Phase II, the buffer areas, both green belt and along wetland boundaries, should be re-vegetated to the condition prior to the unauthorized removal. This means planting mature trees and shrubs where such age class was present prior to removal. Planting seedlings and small shrubs does not provide adequate screening or watershed support to the land. Sources are available that plant mature vegetation.

We request that the City of Florence take the appropriate action on this permit violation.

Sincerely,


Craig Sheely


Karen Sheely

From: Ron McCutcheon <lucypals@charter.net>
Sent: Friday, April 9, 2021 12:51 PM
To: planningdepartment
Subject: AR 20 04 VEG 02 - Fairway Estates Phase II Vegetation Clearing Violation Comments
Attachments: Fairway Estates Phase 1 Vegetation clearing Google Maps.docx

Categories: Testimony

To: City of Florence Planning Commission c/o Planning Department
Subject: AR 20 04 VEG 02 - Fairway Estates Phase II Vegetation Clearing

My name is Ron McCutcheon and I live at 40 Spyglass Lane in Mariners Village. I wish to comment on the pending Planning Commission action related to the Fairway Estates vegetation clearing violations presented at your March 9 hearing, specifically assertions and statements made by Mr. Pearson in his written and oral testimony.

For the record, I currently sit on the Mariners Village Home Owners Association (MVHOA) Board of Directors; however, this letter contains my personal observations and opinions only and is not presented as a statement of the Board or any other Mariners Village resident, nor should it be interpreted as such.

At approximately fifty minutes into the recording of the March 9 hearing, Michael Pearson makes the statement that the vegetation had grown up over 12-15 years since Gene Wobbe had last been there. In fact, the whole of the boundary with Mariners Village had been cleared by Pacific Golf Communities when the land was being prepared for Phase 1 construction in 2019. They cleared all the way through to the northwest corner. Later in his testimony he confirms this and calls it a “nature path.” There was no need to clear again within 20 feet of our boundary to gain access. At approximately 69 minutes into his presentation, Mr. Pearson states there was no sign of encroachment into Mariners Village property and he is “absolutely sure” there was no encroachment when the “nature path” was cleared in 2019. He goes on to say that Mariners Village should be grateful for the \$50,000 he has invested in constructing this “nature trail”/drainage ditch area which will protect both communities.

I fully agree that the drainage ditch is necessary to protect both communities. However, Mr. Pearson omits to mention that the ground was levelled on the Fairway Estates side of the boundary and several natural seasonal ponds to the east and south of Mariners Village boundary had been filled in to create lots for building. Since these natural ponds have been filled in, the “nature trail”/drainage ditch mitigates this by creating replacement areas which can hold water. The suggestion that this was done for the benefit of Mariners Village, and that Mariners Village should be grateful, is at best misleading and appears disingenuous.

Approximately seventy-nine minutes into the hearing, Commissioner Young asked about the boundaries and whether it was necessary to remove the vegetation. Since the boundary with Mariners Village had already been marked by Gene Wobbe and the “nature trail” was created on this boundary in 2019, it could not have been necessary to remove the vegetation again on that boundary. It had been growing for only 18 months in this area and was at most three feet high. Members of the MVHOA Board had walked it in the summer of 2020, without difficulty, to investigate requests from some homeowners that we consider

erecting a fence on our boundary with Fairway Estates, in part prompted by the loss of screening and wildlife infiltration due to the clearing and construction; as well as MVHOA homeowners with property on that boundary having contacted the Board with concerns about the clearing encroaching the MVHOA greenbelt.

The MVHOA Board addressed these concerns in a series of Board actions, recorded in Board meeting minutes, and contracted with Gene Wobbe to mark the Mariners Village boundary, work that was completed in February of 2020. Following completion of that work, some Board members walked the boundary to check the work and authorize payment of the invoice. At this time, it was evident by taking a sight line from one marker to another, that in a few places (notably behind #10 & #11 Mariners Lane) there had been minor encroachment of perhaps a few feet into our greenbelt area. This encroachment was trivial, and as good neighbors no complaint was made, expecting that this vegetation would grow back in time. However, it did confirm that homeowners were right to be concerned and that we would need to keep an eye on this boundary. A screengrab from Google Maps (attached) from a photograph apparently taken in early summer of 2019 shows the newly cleared line along the boundary all the way up to the NE corner of Mariners Village/NW corner of Fairway Estates Phase II. You can see those two locations behind #10 & #11.

On September 3, 2020, the City issued “AR 20 04 Veg 02 – Vegetation Clearing Permit for Fairway Estates Phase 2” containing its findings and conditions for the work. The MVHOA Board sent all residents a statement of support for the conditions of the permit as they addressed concerns presented to the City prior to the issuance of the permit. However, a December 26, 2020 viewing revealed a very different situation from what we could expect if the conditions of that approval had been followed. This led to a complaint being submitted to the Planning Department and their subsequent investigation and finding of violations.

It was further found that Mr. Pearson’s non-compliance with City code, rule and procedure resulted in having no actual vegetation removal permit in place at all. If allowed, this sets a significantly dangerous precedent.

Mr. Pearson made statements in both his written and oral testimony which appear to infer that the inevitable permit fees that will accrue to the City should excuse and negate his violations of code and rule, as well as the adverse impacts on neighboring property owners in Mariners Village. If this was his intent, we as a community are on shaky ground.

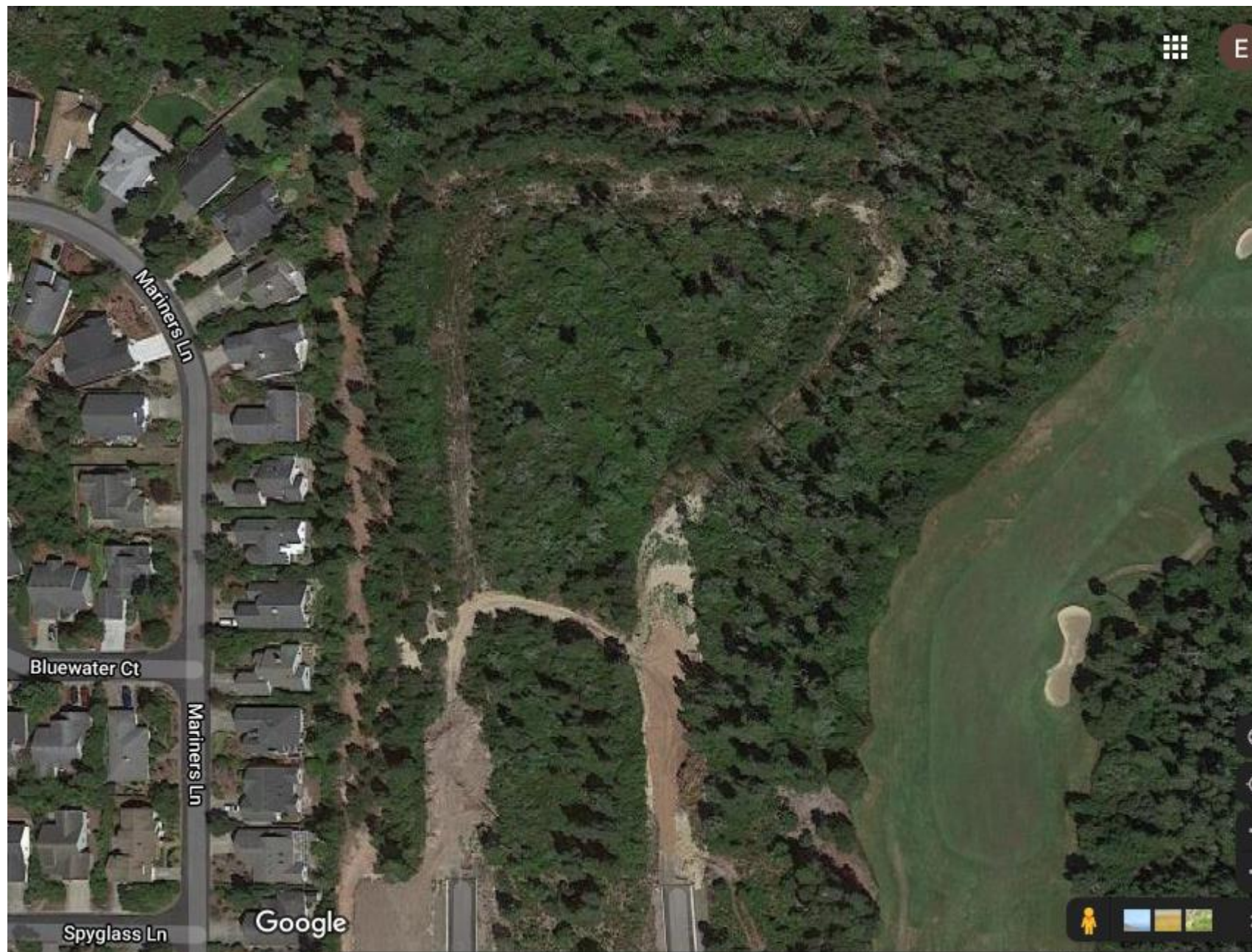
Mr. Pearson appeared to question whether trees constitute “vegetation” for the purposes of permitting and clearing. For clarification, I refer him to Title 4, Chapter 6 of the Florence City Code, “Vegetation Preservation” and to the City of Florence Community Development Department’s “Native Vegetation and Rhododendron Preservation” publication.

I ask that the Planning Commission uphold the Planning Department’s proposed action of additional fines and replanting. I would urge that these conditions specify replanting to approximate the prior-existing conditions, including mature trees and shrubs, in order to provide adequate watershed and erosion control, property screening and wildlife habitat.

I wish to thank the Planning Commission and the Planning Department for the opportunity to express my views and concerns in seeking resolution to unfortunate and unnecessary impact upon the residents of Mariners Village and the City of Florence.

Ron McCutcheon

Satellite image made in the summer of 2019



Satellite image made in the summer of 2019



Pacific Golf Communities, LLC
PO Box 3094 • Florence, OR 97439
(541) 350-4854 cell (541)-902-9222 home

March 9, 2021

City of Florence
Planning Department
250 Highway 101
Florence, OR 97439

Attn: Wendy Farley-Campbell
Subject: Vegetation Permit
Property: Fairway Estates Phase 2
File: AR 20 04 VEG 02

Dear Wendy:

I am writing today in response to recent emails between you and I regarding the Planning Commission meeting that has been rescheduled per my request for Tuesday, March 9, 2021, wherein my company, Pacific Golf Communities, LLC was named in a complaint by the City Staff of how our approved vegetation permit work was completed on site and my neighbors' adjacent site (Florence Golf Links property).

It is my understanding although my company has paid the fines you assessed in February in the amount of \$2,000 for the violations listed below, you are now recommending to the Planning Commission to consider additional penalties as outlined below in the Penalties section, 4-6-6.

Let me be clear. I believe through this entire process I have had a solid working relationship with you, and I admire the collaboration I've had with all the members of your staff. I have been a cheerleader for the City's Planning Commission and staff privately and publicly, and have praised the kindness, cooperation and professionalism of both during the three years it has taken to get Phase I approved by the City and recorded with Lane County. Unfortunately, for me to now discover a vegetation removal permit was never required to begin with for the topographic and boundary surveys is very frustrating, not to mention costly.

Considering I have paid the fines the City imposed as mentioned above, I was additionally surprised to learn you are recommending the Planning Commission consider imposing additional penalties, as well as denying PUD approval of Phase II, building inspections, issuance of building permits for our current Phase I, and recommending me to be required to plant additional species that were actually "cut and trimmed" not "cleared" in Phase II.

Page Two
W. Farley-Campbell
March 9, 2021

Following is my response to the allegations as set forth in a letter dated January 15, 2021 from Roxanne Johnston:

Violation #1 – Failure to Secure a Vegetation Clearing Permit
City Code FCC 4-6-3: Vegetation Clearing Permit Required

1. After being presented with paperwork and written citation demands from the City of Florence Police Department and delivered to me personally at my home by your enforcement officer, in addition to writing a check for \$2,000 for to cover the fines on January 21, 2021, I have carefully reviewed the Vegetation Approval, Staff Report and Findings of Fact, Agreement of Acceptance, Vegetation Preservation-Title 4, Chapter 6 of the City code, along with numerous emails between Wendy Farley-Campbell and I. According to current City code I found on the City's website that outlines the vegetation clearing as referenced above, it appears my company is exempt from being required to obtain a permit since the exemption states the following in section 4-6-3, Subsection B: "*Exemptions:* Subsection A of this section does NOT apply to removal or clearing of native vegetation under the following conditions:" Paragraph 4: "Cutting and trimming of native vegetation necessary for boundary surveying or topographical mapping." Boundary surveying and topographical mapping is the very reason we needed to remove the vegetation. In addition, it is not only a requirement of the City for us to submit the topographical survey prior to applying for Phase II platting, there was no possible way for Wobbe & Associates to do their work in surveying the property without cutting and trimming back the vegetation (see attached letter from Wobbe & Associates).

As an aside, the vegetation and standing dead trees located on the adjacent golf course property had not been thinned, trimmed or maintained for many years, and much of the brush and shrubs were 10-15 feet tall and extremely dense along the perimeter of the subject Phase II property. In addition to blocking the viewing corridor of the golf course for homesites, mowing the excessive vegetation also eliminated a potential fire hazard for both phases of the development were the shrubs not trimmed and mowed. Also, it is not unreasonable to think fires could break out considering the high degree of homeless camps popping up in our community in densely vegetated areas. I have seen these camps for myself on my property, and vagrants trespassing the golf course property. All it would take for a disastrous fire to start is an unattended campfire, or an arsonist to start a blaze that could devastate subdivisions close by. Let's not forget five Oregon communities that were destroyed by fire last year, with over one million acres burned. The Alameda Fire alone destroyed more than 2,357 homes in Phoenix, Talent and Medford Oregon.

Violation #2 – Clearing of Vegetation within a 20' Buffer Along Property Lines
Condition 4.1

I believe Condition 4.1 was clarified to you in my email response of August 25, 2020 regarding one of my contractor's crew members in 2019 mowing foliage inside the 10' buffer zone belonging to Mariner's Village HOA. I was unaware this occurred until I received the email from you on August 4, 2020 with the president of Mariner's Village HOA email to you. I personally inspected the area and saw no such disturbance within their property.

2. **Definition of Clearing:** In my August 14, 2020 email to you I reiterated we were not going to be conducting any clearing (as defined in 4-6-2 of the City Code) which reads as follows: CLEAR: "The use of manual or mechanical equipment to remove vegetation material and root mat necessary to the survival of the vegetation". As I wrote in the original application submitted to the City on April 4, 2020: "Will retain root mat over entire property and will remove brush and hazard trees as necessary." According to the City codes referenced previously, no permits are required for clearing. In addition, as all the grindings were kept on site and disbursed over the entire property, erosion will not occur and the vegetation will remain intact.

The western boundary of our property borders Mariner's Village. In 2019 we established a nature walking trail along this border of our two properties to improve the connectivity of our development to the City, County, and BLM's property to the north. We had the same contractor grind a path along that western boundary with strict instructions to stay away from Mariners Village property lines. Although a path was mowed down on the most westerly 10-15 ft. of our property, there doesn't appear to be any encroachment from the mowing last month, or during the first mowing two years ago. To the best of my knowledge, the only foliage mowed down, (not cleared) most recently was salal. None of the root-mat was dug up or removed! This foliage will grow back rapidly. In the meantime, it will allow homeowners to enjoy the nature path. This pathway will also serve both communities with storm drainage relief in heavy rains. I sincerely wished the Mariners Village HOA president and others who live there would've been a bit more grateful for the \$50,000 we invested to make that happen rather than delaying the platting process for our second phase. Our work on this nature path has and will continue to help mitigate some of their storm drainage issues.

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

3. Prior to any trees being felled, I began ribbon marking trees for the City's approval when one of the crew said he would complete the ribbon marking of leaning and dead trees for me. When I returned the next day most of the trees had been removed! When I questioned him about it, he said the equipment operator was waiting some time for him to complete the tagging of the trees. Thus, the operators began to fell trees that were ribboned by myself and the crew member. He also told me, "the equipment operator was aware of which trees were badly leaning and which were dead, so they thought it wouldn't hurt to get the job done." I'm sure he didn't realize what kind of trouble he would get me in! My sincere apology for making this error. The bottom line is they took down 75-90 dead standing and leaning trees that needed to be taken down. Otherwise, the trees would not allow the subdivision streets and homes to be constructed if left to stand. There were another 50-60 trees that had already fallen over the years, which were removed. As you may know, all of the trees contained onsite are Coastal Pines and are very susceptible to being blown down during heavy winds and rain, which would jeopardize nearby homes.

Violation #4 – Clearing of Vegetation within at 50' Buffer from Wetland Areas

4. It is true that the contractor who completed mowing/grinding of the vegetation did mow brush closer than 50' of the delineated wetlands area as pointed out by my current wetlands consultant and licensed surveyor. Although I failed to convey to my contractor to stay outside the 50' barrier, I did place ribbons around the entire wetland area, which eliminated the possibility of any of the designated wetland area being disturbed. The reasoning behind not adhering to the 50' setback is the fact I simply forgot about the additional footage. This is admittedly my fault and I take full responsibility for that miscue.

There is an issue I would like to mention that I believe is germane to this subject. The wetland area in question, which amounts to approximately .15 acre negatively impacts the planned roadway within the subdivision and will therefore need to be filled in and made level before any construction begins. Section FCC Section 4-6-3 is mentioned in regards to "...significant riparian corridor or significant wetland buffer zone." As best I can tell from looking at the "Significant Wetlands and Riparian Corridors Plan on the City's website, our small area of wetlands is not in a significant wetland area and is quite insignificant. This is why we will purchase mitigation bank credits for this miniscule area.

When I asked you in February of 2020 about what I needed to start the application process for a new plat approval for Phase II, you said I would need to get a wetlands delineation and report from a wetlands consultant prior to removing any vegetation. At the time it didn't make sense to me since we had already contacted the local "Wetlands Bank" to arrange with them for me to acquire the needed mitigation credits to eliminate the issue and would allow the area to be filled in.

Page Five
W. Farley-Campbell
March 9, 2021

I was informed I still was required to attain a wetlands report, and it had to be completed prior to the issuance of a vegetation clearing permit. This also stopped us from having our surveyor get started on the topographic map and boundary survey. In addition, this requirement took me an additional four months to track down a consultant who wasn't so busy to review the property and provide at least a letter to the City explaining the wetlands area is the same as in 2006 (when a previous delineation and report was completed by the previous developer). This entire timeframe, from trying to begin the application process until today has been over a year! If the City did not require this unnecessary wetland letter issuance, it would have saved me an additional five months in the application process. We have now received our topographic and boundary survey and the new wetlands report should be available by the end of March.

As I mentioned previously, it has taken us over three years to complete Phase I, and I certainly hope and pray it won't take another three years to finish Phase II. The City has made its message very clear in the last few years they are in desperate need for housing in our community. In an effort to meet the demands for housing, developers and contractors are working very hard to accomplish this goal.

It is worth mentioning Phase I and Phase II of Fairway Estates will provide the City over \$1.6 million through building permits and system development charges. Phase II of Fairway Estates will contribute over \$800,000 to the City's coffers once the homes start construction, so let's work together in order to make that happen in an expeditious manner.

Accordingly, I do hope you will consider advising the Planning Commission requiring me to replant ten acres of vegetation, which already has a fully-intact root mat, is unreasonable and a waste of time since it will grow back within the next several months on its own.

Best regards,


Michael Pearson
Managing Member
Pacific Golf Communities, LLC

WOBBE & ASSOCIATES, INC.

P.O. BOX 3093510 KINGWOOD STREET
FLORENCE, OREGON - 97439

Phone (541) 997-8411

February 23, 2021
City of Florence
250 Hwy 101
Florence, Oregon

Regarding Fairway Estates Phase 2:

I have recently conducted a topographic survey of the parcel for the proposed subdivision of Fairway Estates – Phase 2. Title 11 - Subdivision Regulations, Section 11-3-2: C.7 requires a topographic survey of the proposed subdivision for the Tentative Plan. A topographic survey is also need for the engineer to design street elevation/grade as well as sanitary sewer and storm water facilities. Current “on-site” storm water practices require a more detailed topographic survey than in the past. For sites like this, the dense vegetation makes it impossible to conduct a typical survey radially from survey station points. A Cross Section survey typically would survey cross sections on a 25 foot grid by cutting parallel lines at 25 foot intervals across the property. For this site, that would have involved approximately 4 miles of brush cutting. Doing so would not have picked up much of the topographic detail required because of being obscured by brush between the lines. Having a brushed site allowed the survey to follow each topographic feature of toe of slope, top of bank and top of ridge as well as being able to see swales and low points. The survey tied over 1700 topographic points. To conduct the survey as done with these details would have required almost 8 miles of line brushing (See the attached Work Sheet for surveyed points and lines). Also attached is a topographic map of the site prepared from the surveyed points.

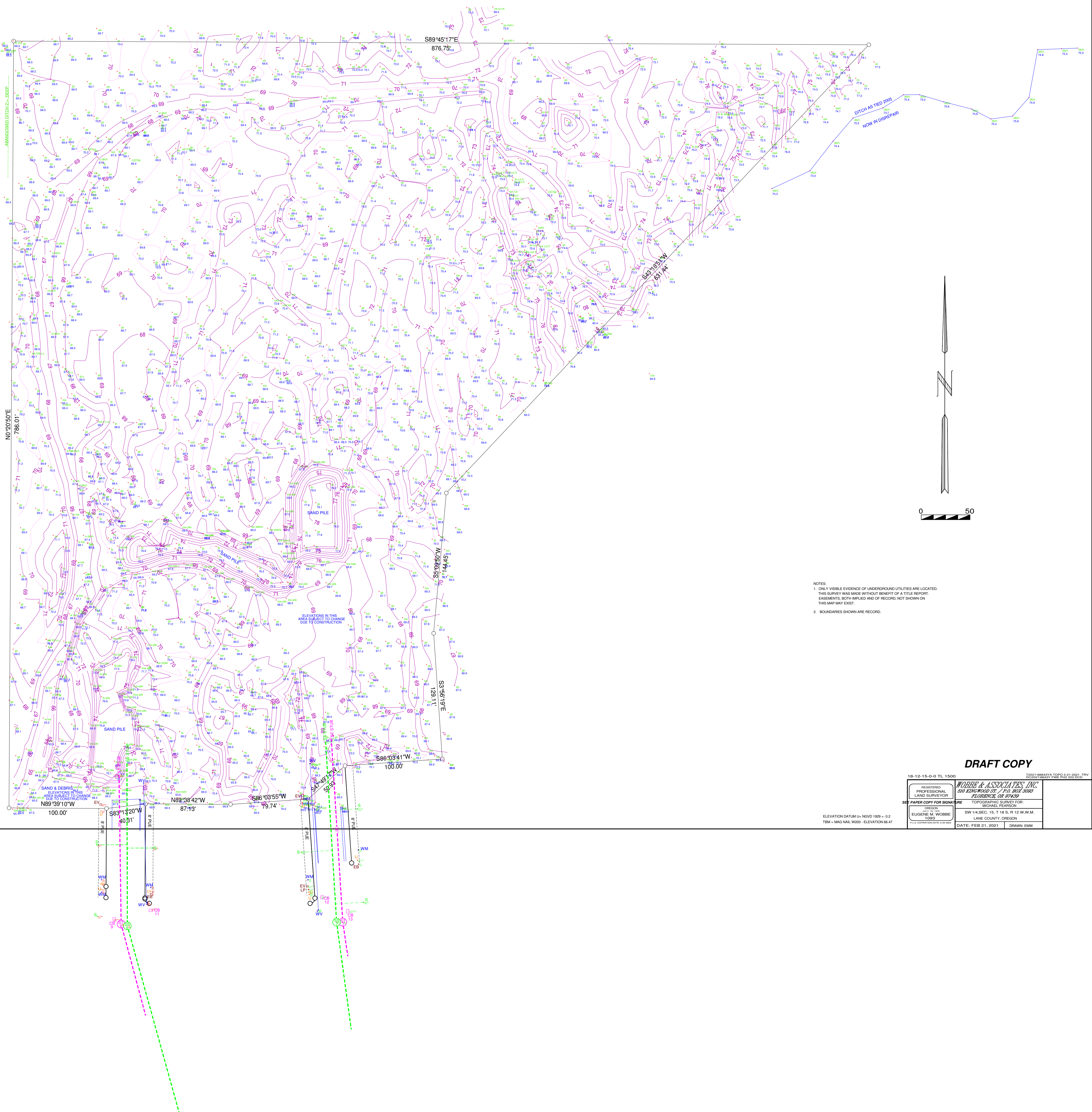
Respectfully submitted,

EMW

Eugene M. Wobbe PLS WRE



ALPINE MEADOWS - FACING NORTH



NOTES:
1. ONLY VISIBLE EVIDENCE OF UNDERGROUND UTILITIES ARE LOCATED.
THIS SURVEY WAS MADE WITHOUT BENEFIT OF A TITLE REPORT.
EASEMENTS, BOTH IMPLIED AND OF RECORD, NOT SHOWN ON
THIS MAP MAY EXIST.
2. BOUNDARIES SHOWN ARE RECORD.

DRAFT COPY

10-12-15-0-0 TL 1500	
REGISTERED PROFESSIONAL LAND SURVEYOR EUGENE M. WORBE 1000 700 S. COMMERCIAL AVE. SUITE 100 EUGENE, OREGON 97401	WORBE & ASSOCIATES, INC. 400 KING ROAD, SUITE 100 FLORENCE, OREGON 97439 TOPOGRAPHIC SURVEY FOR MICHAEL PEARSON SW 1/4 SEC. 15, T14N 24E, R12E W.W.M. LANE COUNTY, OREGON DATE: FEB 21, 2021 DRAWN: EMW

ELEVATION DATUM UTM - NAD83 1985 - 0.2
TBM - MAGN. VAL. W200 - ELEVATION 86.47