

Cannery Station – April 9, 2019

PC 18 33 PUD 02 – Cannery Station, Phase I Final Planned Unit Development (PUD)

PC 18 34 SUB 01 – Cannery Station, Tentative Subdivision (SUB)

PC 18 35 DR 03 – Assisted Living Facility

PC 18 40 DR 08 – Transitional Cottage Fourplex #1

PC 18 41 DR 09 – Transitional Cottage Fourplex #2

EXHIBIT K – CANNERY RESPONSE MEMOS



MEMORANDUM

TO: Wendy FarleyCampbell

FROM: Zach Galloway, AICP

DATE: April 2, 2019

SUBJECT: Cannery Station Phase 1 Final PUD and Tentative Subdivision – Applicant Responses to Proposed Conditions of Approval (201823/1.3)

The following memo is a starting point for City staff and the Applicant's design team to revisit the proposed conditions of approval related to the two subject applications, Final PUD and Tentative Subdivision. The responses seek clarification or specificity that will allow the team to revise plans and meet the City's expectations directly. In other responses, the applicant requests a complete revision of the proposed condition, and in those responses, an alternative condition and supporting rationale is provided.

Conditions of Approval for discussion are included below in **bold**, with applicant responses/requests below in plain text, and staff responses/proposed revised Conditions of Approval in **red text**. Staff responses which clarify or respond to TBG Architects email of March 27, 2019 are in green text.

ALTERNATIVE CONDITIONS OF APPROVAL

GENERAL COMMENT

The conditions of approval in Resolution PC 18 33 PUD 02 & PC 18 34 SUB 01 are drafted broadly. It is not clear to which application each condition is applicable. In the absence of such necessary clarity, it will be difficult to meet the intent and future plan sets will be needlessly complex.

Applicant requests the Resolution be revised to apply conditions to the either the Final PUD or the Tentative Subdivision.

STAFF RESPONSE: Staff will break out conditions of approval to apply to their respective Resolution.

RESPONSE 2: No additional comments.

PLANNED UNIT DEVELOPMENT (PC 18 33 PUD 02) + TENTATIVE SUBDIVISION (PC 18 34 SUB 01)

- 1. Approval for shall be shown on: [list of all exhibits] 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 Building Codes, will require approval by the Community Development Director or Planning Commission/Design**

Exhibit K1.1

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Review Board.

RESPONSE: This is not a condition. Please advise how applicant should address this.

STAFF RESPONSE: Standard condition of approval. No need to specifically address.

Revised text:

Approval shall be shown on: [list of all exhibits] Findings of Fact attached as Exhibit "A" and Supplemental Findings of Fact as [probably] Exhibit "A1" are incorporated by reference and adopted in support of this decision.

1. Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Planning Director or Planning Commission/Design Review Board.

RESPONSE 2: No additional comments.

2. Regardless of the content of material presented for this Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees 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 Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval.

RESPONSE: Recommend inclusion in both Final PUD and the preliminary subdivision plat.

STAFF RESPONSE: Included in both.

RESPONSE 2: No additional comments.

3. The applicant shall revegetate any areas that do not have either a Public Works approved infrastructure construction plan or a building permit issued and foundation inspection completed within 5 years of this approval. The cleared areas must be monitored for noxious vegetation and exposed soils. Both situations are nuisances and shall be addressed.

RESPONSE: This item is best applied to the conditions for the preliminary subdivision plat. Applicant requests clarifying language added to the condition, as follows.

The applicant shall revegetate any areas within the boundary of Phase 1 Final PUD or the disturbed areas of Tract D that do not have either a Public Works approved infrastructure

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construction plan or a building permit issued and foundation inspection completed within 5 years of this approval. The cleared areas must be monitored for noxious vegetation and exposed soils. Both situations are nuisances and shall be addressed.

STAFF RESPONSE: Staff agrees with this assessment, but it is also applicable to Design Review applications.

RESPONSE 2: See Applicant response noted after Staff's revised Condition 3.

Additionally, Applicant requests the City provide specificity related to the following items.

- Provide an approved list of plants the jurisdiction considers noxious or invasive, or a State source for something similar. Please advise if the online brochure at <https://www.ci.florence.or.us/planning/landscapingvegetation-information> is the preferred source for this condition.

STAFF RESPONSE: Yes, full list is available within Oregon Department of Agriculture list under "Additional Invasive Plant Information" in Noxious Weed Brochure.

RESPONSE 2: See Applicant response noted after Staff's revised Condition 3.

- As currently crafted, the condition is not effective until 5 years after approval and the cleared area can remain as-is for five years. Please clarify intent.

STAFF RESPONSE: Condition, namely erosion control for exposed soils, is effective upon commencement of any activity that disturbs the ground. Revegetation must be accomplished within five years of ground-disturbance. Noxious and invasives monitoring is always.

RESPONSE 2: See Applicant response noted after Staff's revised Condition 3.

- Are there interim means within the first 5 years to minimize erosion or stabilize the exposed dune to prevent blowing sand?

STAFF RESPONSE: Please see 2008 Portland Erosion and Sediment Control Manual BMPs. Sand management plan will be required as part of building permit application.

RESPONSE 2: See Applicant response noted after Staff's revised Condition 3.

- After the five-year term expires, how long does the applicant have until the exposed areas must be revegetated?

STAFF RESPONSE: Prior to expiration of five-year term.

RESPONSE 2: See Applicant response noted after Staff's revised Condition 3.

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- What are the standards the revegetation work will be required to comply with?

STAFF RESPONSE: Along streets – landscaping as specified within submitted plans. Within all other areas, replanting to approximate density and species present prior to clearing.

RESPONSE 2: See Applicant response noted after Staff's revised Condition 3.

As an alternative to the requested specificity, the Applicant proposes the condition be revised to include a requirement to (1) provide a long-term erosion control and dune stabilization plan with the grading plan, and (2) limit the focus of such plan to the appropriate means of stabilization (e.g., beach grass, shrubs, etc.) and not to completely revegetate the area, which would create unintended consequences for future site development.

STAFF RESPONSE: Following our phone conversation on March 27, 2019, Staff has the following:

Revised CoA 3: The applicant, for any cleared areas within of Phase 1 of Cannery Station, shall:

- a.) Revegetate all cleared and unbuilt areas within five years of Planning Commission approval approximating the density and species diversity present at the time of approval. Areas within proposed street right-of-ways shall be revegetated according to the Landscape Master Plan (applicant submitted page LA-2).

RESPONSE 2: Applicant sought clarity on the portion of the proposed condition related to the street right-of-way. Based on a conversation with staff on April 2, 2019, Applicant wants to confirm that only unimproved street rights-of-way will be subject to the revegetation condition. Furthermore, as Applicant understands the intent of the condition, those areas that must be revegetated should be revegetated to resemble the prior natural state, not the planting plan as proposed on sheet LA-2. Applicant requests the final sentence is deleted from the condition.

- b.) Monitor cleared areas and prevent the planting or establishment of vegetation as described within Oregon's official Noxious Weed Priority List as designated by the Oregon State Weed Board and Oregon Department of Agriculture as well as those included within Lane County Public Works' Noxious & Invasive Weed Management List.

RESPONSE 2: No additional comments.

- c.) Manage noxious weeds through mechanical means and only utilize herbicide application as a last resort through consultation with the City of Florence Planning and Public Works Departments.

RESPONSE 2: No additional comments.

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- d.) Manage erosion and soil stabilization through Best Management Practices established through the 2008 Portland Erosion and Sediment Control Manual.

RESPONSE 2: No additional comments.

- 4. All finished foundation elevations for buildings are greater than 84'. Buildings and their footings within all of Cannery Station shall be located greater than 84' elevation to avoid inundation with ordinary high ground water.**

RESPONSE: This condition belongs in the subdivision application.

STAFF RESPONSE: No issues, but would also apply to design review applications.

RESPONSE 2: No additional comments.

- 5. The proposed stormwater drainage plans, prepared by an engineer, did not include engineering evidence of appropriate foundation slope clearance between the stormwater basin in Open Space A and the church building to the south. The final infrastructure construction plans shall include evidence of engineering appropriate to meet the foundation slope clearance in accordance with Oregon Building Codes.**

RESPONSE: The design team coordinated directly with the city's contracted peer reviewer and received general approval of the stormwater analysis. Please clarify and explain the code-based origin of the condition.

STAFF RESPONSE: The following change is needed:

- 5. The proposed grading plan, prepared by an engineer, did not include engineering evidence of appropriate foundation slope clearance between the stormwater basin in Open Space A and the church building to the south. The final infrastructure construction plans shall include evidence of engineering appropriate to meet the foundation slope clearance in accordance with Oregon Building Codes.*

The condition is a result of building code requirements that surrounding properties and structures not be endangered by work on applicant's site. Subdivision and DR condition.

RESPONSE 2: Applicant requests the condition is deleted. The building code is not relevant to land use applications, and therefore, it is not applicable at this time.

- 6. The applicant shall provide a pedestrian count of Highway 101 crossings within a ¼ mile of the site to be conducted between the months of July and October following issuance of the final building occupancy permit issued for Phase 1. The applicant shall participate monetarily for the proportionate trips for construction of a pedestrian activated crossing.**

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7. *In coordination with ODOT a pedestrian crossing shall be demarcated across Highway 101 from the 47th St. intersection and constructed prior to issuance of final occupancy of the first building permit.*
8. *The Cannery Station site is located within a ¼ mile of the Fred Meyer transit stop. Pedestrian connectivity to the transit stop at Fred Meyer is required in accordance with Title 10 Chapter 35-4. This requires demarcation of a crossing across Highway 101 from and to improved ADA accessible pedestrian facilities.*

RESPONSE: Conditions nos. 6-8 are related to the pedestrian crossing of Highway 101 that aligns with 47th Street. The City bears the burden of demonstrating compliance with Dolan's constitutional requirements for imposing the condition. Applicant notes for the record that the City has not made findings required by Dolan that justify the proposed exaction. The City may not shift its burden to the Applicant and require the Applicant to demonstrate that facts do not exist that support the proposed exaction. Additionally the TIA included in the record finds that the proposed development will not generate the pedestrian trips necessary to meet ODOT criterion to approve a crossing of this street type. The foregoing notwithstanding, Applicant is willing to participate in a proportionate share of the total cost to construct the proposed crosswalk.

RE: no. 6 – Applicant requests this condition be deleted.

RE: no. 7 – Given the uncertainty of coordination with a third party (i.e., ODOT) and the current lack of referral comments requesting a crossing, the Applicant requests the condition be revised to remove the connection to the building permit. Failure to remove the temporal element could result in a certificate of occupancy never being issued if ODOT does not approve the crossing. Also, Applicant requests that any 'proportionate share' payment be tied to the certificate of occupancy, as the impact will not occur until the facility opens and is operations.

RE: no. 8 – This condition is redundant with no. 7. Applicant requests this condition be deleted for simplicity.

STAFF RESPONSE: The TIA included in the record does not address these particular conditions with relation to the required crossing for the apartment complex, only the ALF and commercial pads. The applicant has cited 20 trips per peak hour per MUTCD as the necessary cutoff for providing a pedestrian crossing, yet has not provided any estimated counts or analysis for how many trips per peak hour were expected. Per FCC 10-1-1-6-3-E, the burden of proof is upon the applicant.

What ODOT criterion are you citing with regard to the perceived lack of generated pedestrian trips? ODOT has provided previous conceptual approval of the crossing project through TSP coordination with the City. We are still, however, waiting for additional comments from ODOT.

Condition 8 is code related.

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Crash data, speed, elderly walk-rate, and ODOT concurrence through the TSP warrant a crossing. Further, transit provider has provided referral comments that transit service cannot be provided at a stop within the development. Either a crossing or pull-out along the Highway would be required in order to provide transit connection as per FCC 10-35-4.

These conditions could be relocated to address subdivision and/or design review criteria rather than Final PUD.

STAFF RESPONSE: CoA 7: ODOT has conceptually approved the crossing through the coordination of the 2012 TSP.

STAFF RESPONSE: CoA 8: Please remember that the “alternative” pull-out only relates to transit access, which is a criteria for *each* Design Review application in addition to the Final PUD.

RESPONSE 2: No additional comments beyond Applicant’s original response above.

9. Phase 1 building permit applications that include impervious open space areas shall include an illustrated true-to-color design proposal. If using a brushed technique more than one direction of brushing shall be used at an interval of one every other panel or include border designs in a paver or stamped concrete design.

RESPONSE: Recommend the condition be applied to the PUD. Please add specificity for the desired minimum width of the border design.

STAFF RESPONSE: This is a PUD condition of approval related to open space hardscape.

RESPONSE 2: No additional comments beyond Applicant’s original response above.

10. Final utility, storm, and street light construction plans shall be submitted for review and approval by the City prior to construction.

RESPONSE: Recommend the condition be applied to Final Subdivision (e.g., “prior to the approval of final subdivision”).

STAFF RESPONSE: Subdivision condition of approval. Changes proposed as follows:

Revised CoA 10: Final utility, storm, and street light construction plans shall be submitted for review and approval by the City prior to construction and approval of Final PUD unless bonding for these improvements is provided.

RESPONSE 2: Based on a conversation with Staff on April 2, 2019, Applicant proposes changes to add clarity to Revised Condition 10, as follows. Please revise to ensure the intent is met.

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Revised CoA 10: Final utility, storm, and street light construction plans shall be submitted for review and approval by the City prior to construction of private improvements and approval of Final PUD unless bonding for these privately engineered public improvements is provided.

11. The agreements, provisions, and covenants cannot include standards contradictory to the land use approval or city code.

RESPONSE: Applicant assumes this relates to the CC&Rs. As noted elsewhere herein, these are private agreements not subject to public regulation. Please see Section 16.6 (page 52) of the CC&Rs, which state that local regulations preempt the CC&Rs. Applicant requests this condition be deleted.

STAFF RESPONSE: Findings will be re-written to address Page 52 of the CC&Rs.

RESPONSE 2: Applicant requests that all references to CC&Rs are deleted.

12. The side street setback areas where 10' of landscaping is not provided shall have hardscape treatments that include multiple patterns and colors so that the same or better result is achieved as 10' width of code compliant landscape.

RESPONSE: Recommend the condition be applied to the PUD, and combined with no. 9 to avoid redundancy.

STAFF RESPONSE: Condition of Approval 12 specifically refers to Final PUD requirements for side street landscape setback exception.

Examples of compliant hardscape landscaping would be more than one color per sidewalk panel – including a pattern element or at least two colors per panel.

RESPONSE 2: No additional comments beyond Applicant's original response above.

13. The Public Works Department is concerned about damage to the streets from the continued development as it is unlike a residential subdivision. As proposed, the developer is to provide a means through an owners' association, to ensure maintenance of the street and other private infrastructure is provided until the rights-of-way are dedicated to the city upon project completion.

RESPONSE: Applicant proposes the following Final PUD alternative condition of approval, which achieves the City's intent and maintains its responsibility to receive public streets as proposed in the approved preliminary PUD and tentative subdivision.

All construction traffic related to development of Phase 1 and/or future phases of the project shall enter and exit the site via an approved construction access located on Munsel Lake Road.

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STAFF RESPONSE: The proposed amended condition of approval does not address turns onto other intersections, i.e. 47th north onto Spruce Street or in and out of the ALF. It also only addresses the 47th Street exit. Control and regulation of individual contractor movements on the site is impractical and/or impossible. Also unaddressed by the applicant is the connectivity issue of the public providing and maintaining an access to a private development without an expected thru-access.

RESPONSE 2: Based on prior conversations with Staff, the Applicant understands that the concern here is with construction-related impacts to public streets. Therefore, Applicant proposes the following changes to the revised condition.

Not less than 60 days after the issuance of the certificate of occupancy for the Assisted Living Facility, with reasonable flexibility allowed for weather-related complications, the applicant shall apply the final asphalt paving (e.g., top lift) to the public streets.

14. Phase 1 of the Cannery Station project contributes trips to the future development of the signal at the intersection of Highway 101 and Munsel Lake Rd. The applicant shall contribute their proportionate share of the construction of the signal in conjunction with each building permit application.

RESPONSE: The City bears the burden of demonstrating compliance with Dolan's constitutional requirements for imposing the condition. The approved Traffic Impact Analysis for this project concludes that the trips generated by the Cannery Station project fall within the City's adopted level of service standards and do not meet the necessary warrants for a traffic signal at this location. The City has not made findings required by Dolan that justify the proposed exaction. The City may not shift its burden to the Applicant and require the Applicant to demonstrate that facts do not exist that support the proposed exaction.

The foregoing notwithstanding, Applicant may be willing to participate in a proportionate share of the total cost to construct the planned traffic signal. Applicant proposed a methodology to address this condition. The resultant equation and financial obligation was provided to the City of Florence via email on Monday, March 18th. If the City accepts the methodology, Applicant requests that payment be tied to the certificate of occupancy, as the impact will not occur until the facility opens and is operations.

STAFF RESPONSE: Proportionate share contribution to public facilities directly impacted, e.g. streets, water, sewer, etc., by development, i.e. Cannery Station, Phase 1, is normal, appropriate, and constitutional for projects which generate, in this case, a measurable increase in traffic as to require a Traffic Impact Assessment and present or future mitigation by public agencies. The burden borne by the City is, in part, created directly by the applicant's project, and therefore it is reasonable that the applicant bear a share of the associated costs. These findings are nearly universal within Oregon and the United States, but the applicant is welcome to contest that fact through appeal.

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The City's engineering consultant has reviewed the proposed methodology and proposed a similar, but slightly different, calculation in order to determine proportionate share contribution. Staff will forward the calculation to the applicant. The elements of the calculation will include:

- Use the year of the development, not the year of signal installation because it is a known date, and not unknown as the year when the signal is to be installed.
- Average Daily Traffic (ADT) of development versus peak-hour trips through the intersection has been in proportionate calculations; however, trips through the intersection tends to be more defensible on a relative impact basis.
- Cost would be adjusted using ENR for the year of a building's C of O issuance for instance: Adjust the signal cost in the 2012 TSP using the 20-City Average cost index. ENR 2012 = 9,176, February 2019 ENR = 11,227.88 an increase of 22.36% or a signal cost of \$599,564 in today's dollars.

Staff is amenable to a reasonable timeline tied to issuance of the Certificate of Occupancy.

RESPONSE 2: Applicant has no additional comments regarding the methodology proposed above. Applicant does request that the condition included in the resolution include the full equation resulting from the methodology.

15. The existing curb cut along Munsel Lake Rd. shall be removed and the right-of-way blended to match the existing right of way design (storm ditch).

RESPONSE: Recommend the condition be applied to the subdivision.

STAFF RESPONSE: No issues.

RESPONSE 2: No additional comments.

16. The walkway within Phase C previously proposed to connect to Munsel Lake Road was modified to be truncated due to the wetland in Tract D. The Tract C open space path shall be constructed to connect to Munsel Lake Road prior to application for Phase 2. Coordination and permitting with the Lane County shall be required.

RESPONSE: Recommend the condition be applied to the Final PUD. Applicant requests that the condition be revised as follows.

The recreational enhancements in the unimproved portions of Tract C, including the Tract C sidewalk connection to Munsel Lake Road, shall be completed as part of the future Phase 2.

STAFF RESPONSE: Staff agrees that this Condition of Approval should relate to the Final PUD approval, however, staff proposes the following:

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16. Prior to application for Phase 2 of Cannery Station and following approval by the Department of State Lands and US Army Corps of Engineers that wetlands within the Tract C area are either not jurisdictional, or upon their approved mitigation, Tract C connection to Munsel Lake Road shall be constructed. Coordination and permitting with Lane County shall be required prior to construction.

RESPONSE 2: Applicant maintains our objection to a current condition of approval being tied to a future application. Therefore, we recommend sidewalk connection to Munsel Lake Road instead is conditioned on another mechanism, such as final plat recording.

17. If at the time of final plat recording the code has changed the easement width shall be modified to meet code.

RESPONSE: Land use applications are subject only to the existing adopted land use code criteria in effect on the date the application was filed with the City. Applicant requests this condition be deleted in its entirety.

STAFF RESPONSE: No issues with this deletion.

RESPONSE 2: No additional comments.

18. Final infrastructure construction plan review and approval will include continued coordination efforts with the applicable agencies. All development and design standards will be expected to be met except where Planning Commission has specifically listed and acknowledged a change or the approving agency has granted approval or exception.

RESPONSE: This is not a condition. Applicant requests this statement be deleted in its entirety.

STAFF RESPONSE: No comments other than to suggest text be modified to read as follows:

18. Final infrastructure construction plan review and approval **shall** include continued coordination efforts with the applicable agencies. All development and design standards **shall** be met except where Planning Commission has specifically listed and acknowledged a change or the approving agency has granted approval or exception.

RESPONSE 2: No additional comments.

19. If any of the commercial uses change from typical uses in a shopping center (retail sales and services, deli, etc....) a supplement to the TIA and its calculations will be required with design review or building permit whichever includes the change.

RESPONSE: Sandow Engineering's approved Traffic Impact Analysis (TIA) used a conservative methodology to ensure maximum trip generation values were established for the overall project site. This

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was intentional to avoid subsequent TIAs. Applicant requests the condition be revised as follows.

If Applicant proposes to change any of the approved land uses in a manner that deviates significantly from the uses described in the approved Traffic Impact Analysis and the deviations are found to trigger criteria described in FCC 10-1-1-4-E-2, Applicant shall prepare a supplement to the TIA and submit the new analysis with the associated design review or building permit application, as appropriate.

STAFF RESPONSE: No issues with the amended condition of approval.

RESPONSE 2: No additional comments.

20. Open Space C to include its fence shall be constructed in conjunction with clearing of that adjacent area within the tract.

RESPONSE: Applicant requests City staff delete this condition in its entirety. This condition is not significantly different than nos. 46.i. and 51 in the preliminary PUD. The prior conditions control, and the submitted plans fulfill those conditions.

STAFF RESPONSE: Staff disagrees. Preliminary PUD conditions do not address the specific timing of each section of Open Space Tract C fencing. Additional conditions of approval are reasonable.

RESPONSE 2: No additional comments beyond Applicant's original response above.

21. The applicant shall record a Covenant of Release which outlines the hazard, restrictions and/or conditions that apply to the property as outlined in subsection (D) of FCC 10-7-7, Review and Use of Site Investigation Report, and shall state "The applicant recognizes and accepts that this approval is strictly limited to a determination that the project as described and conditioned herein meets the land use provisions and development standards of the City Code and Comprehensive Plan current as of this date. This approval makes no judgement or guarantee as to the functional or structural adequacy, suitability for purpose, safety, maintainability, or useful service life of the project." This shall be recorded prior to submittal of any additional building permit applications or prior to final Subdivision Plat.

RESPONSE: Recommend the condition be applied to the Final PUD and subdivision.

STAFF RESPONSE: Staff agrees with this assessment.

RESPONSE 2: No additional comments.

22. All proposed streets will be eventually dedicated as public right-of-way. For Phase I, this includes the southern-most sections of Spruce and Redwood Streets and 47th Street. The applicant shall include the ownership of the street rights-of-way on the final plat.

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RESPONSE: Applicant requests the condition be revised to maintain consistency with the preliminary PUD and for general simplicity, as follows.

All proposed streets shall be dedicated public right-of-way and noted as such on the plat.

STAFF RESPONSE: Staff disagrees. Please see earlier concerns regarding maintenance and connectivity of the street "network."

RESPONSE 2: Based on prior conversations with Staff, the Applicant understands that the concern here is with construction-related impacts to public streets. See Condition 13 for the related, revised condition. Applicant recommends the originally proposed alternative condition is applicable here.

23. *There is no numerical naming of contour intervals proposed or existing other than those within Phase 1. The data provided is incomplete. A grading plan shall be resubmitted that includes the required information in 11-3-2-C-7.*

RESPONSE: Recommend this be a condition for the subdivision.

STAFF RESPONSE: Staff agrees with this assessment.

RESPONSE 2: Based on prior conversations with Staff on April 2, 2019, the Applicant confirms that these changes to the grading plan shall be provided to staff within 30 days of Planning Commission approval.

24. *The applicant provided no timing plan for the proposed improvements. A timing plan will need to be provided and approved prior to the issuing of any building permits.*

RESPONSE: Applicant requests clarification. Does this condition refer to the infrastructure improvements? Or, is the timing related to building construction? Is there a code criterion on which this condition is based?

STAFF RESPONSE: Yes, infrastructure FCC 11-3-2-C-17, subdivision condition.

RESPONSE 2: No additional comments.

25. *The applicant will be expected to proceed with final survey and to make preparations for final subdivision approval within the timeframes outlined unless otherwise provided for through approved and allowed extensions from the Planning Commission.*

RESPONSE: Applicant requests clarification of the "timeframes outlined". Does this refer to codified timeframes? If so, please add specificity to cite the applicable timeframe or code citation.



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STAFF RESPONSE: Staff agrees with this assessment, specificity will be added to the Condition of Approval.

RESPONSE 2: No additional comments.

26. Crosswalks shall be designated with striping and crossbar and travel lanes shall have sharrow markings as required by Public Works.

RESPONSE: Applicant requests specificity related to the street markings. Specifically, provide locations for the crosswalk striping and stop bars (i.e., at all public street intersections). Also, sharrows are typically employed on low-speed or low-volume streets where a dedicated bicycle route is provided. If the city has such a network, please indicate which streets should receive this treatment. Recommend this be a condition for the subdivision.

STAFF RESPONSE: Staff agrees with this assessment – condition applicable to subdivision. Condition will be reworked to address specific locations (the street intersections). Sharrows in this instance are required due to the narrow proposed street width, but also low-speed nature of the streets and lack of bicycle lanes within the development.

RESPONSE 2: Applicant requests language is added to the condition that clarifies this issue will be resolved with the Public Works Department outside of the land use application process.

27. An accessway/multi-use path meeting the standards in FCC 10-36-2-9-C shall be constructed in Open Space B connecting to the path in Open Space C to meet the standards in FCC 10-36-2-10 for Phase 1. Phase 2 will require an additional accessway meeting FCC 10-36-2-9-C in Tract D to meet the block length connection standards. The plat shall be modified to create the easement required for this condition.

RESPONSE: There are two conditions cited within no. 27, multi-use path and block length standards.

- Please clarify the area of concern or provide the dimensional standard that should be provided in the site plan.
- Since sidewalk connections are proposed in Open Space B and in future project phases, please recommend a location for the requested connection (i.e., new connection or additional connection that aligns with 47th Street) that meets the staff interpretation of the code requirements.

Applicant notes for the record that this is a significant deviation from the approved preliminary PUD, one which would create a cascade of design changes potentially resulting in modifications to approved plans. Furthermore, the intent of the connectivity code standards is not fulfilled by the proposed conditions, because there is no opportunity to connect to properties to the east (Florentine Estates). The preliminary PUD conditions to erect a fence and provide extensive planting in Open Space C render this issue moot. Applicant requests staff reconsider the effect of the proposed condition and delete in its entirety.

STAFF RESPONSE: This is a subdivision criterion for approval, hence why it was not addressed during

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Preliminary PUD.

RESPONSE 2: The Applicant's interpretation is that the standards under FCC 10-36-2-9-C do not apply because the residential private open spaces and the associated recreational paths within the Cannery Station PUD project are not public facilities, and if strictly applied, would cause unique and unnecessary hardship to the Applicant in subdividing or partitioning the subject area because the recreational paths are part of comprehensive private dedicated open space areas. Therefore, per FCC 11-7-1-A, the Applicant is requesting a modification to the Subdivision criterion requiring compliance with FCC 10-36-2-9-C because these criteria are not applicable.

Although the Applicant is requesting a modification because the standards in FCC 10-36-2-9-C do not apply, the design and modification of these provisions would not be contrary to the purpose of this Title and meets the general intent of these standards as follows.

The proposed connections to the private recreational paths within the open space areas from the street system are provided at varying distances, which are all less than a standard 600' block length for a public facility. Within the larger Cannery Station PUD, the greatest distance between the recreational path connections to a street is about 594' (from the private recreational path located off Spruce Street just north of Lot 3, which heads north along Open Space C and then west to another connection on Spruce Street north of Lot 14). See Sheet A0.10. Referencing the Phase 1 Subdivision Sheet 2, the distance from Munsel Creek Road along Track C to the intersection at 47th Street and Spruce Street is about 585', which is less than a standard 600' block length for a public facility.

The planned private recreational paths within the open space areas range from about 5' to 8' wide, which can accommodate the proposed recreational uses. The recreational paths/areas are proposed to be bark chips for running, walking and exercising on a softer, more natural surface. Where the private recreational paths connect with a public right-of-way, the Applicant proposes a concrete transition strip from the public sidewalk to the bark surface to prevent bark from directly spilling over into the public right-of-way. The designation of open space areas with associated easements within the Cannery Station PUD meet the intent of the easements required within this code section.

28. Lane County, ODOT, City of Florence Public Works, and peer review engineers provided referral comments that are to be incorporated into the record and are included as conditions of approval.

RESPONSE: If there are additional conditions beyond the Munsel Lake Road right-of-way dedication (no. 29) and need to restore the existing ditch (no. 15), Applicant requests these conditions be included in the resolution. If there are no additional conditions, Applicant requests this item is deleted in its entirety.

STAFF RESPONSE: Staff agrees with this assessment. This condition of approval will be deleted.

RESPONSE 2: No additional comments.

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29. Additional right-of-way width is required for Munsel Lake Rd. The applicant shall modify the tentative plat to dedicate additional right-of-way for widening of Munsel Lake Rd. The amount of right-of-way required shall be coordinated with the City of Florence and Lane County for improvements required by both jurisdictions since the Florence Transportation Systems Plan has been co-adopted by Lane County.

RESPONSE: Lane County has requested a ROW dedication 5-feet in width on the south side of Munsel Lake Road only. Applicant has provided this on the tentative subdivision plat. Please state five feet in the condition and clarify that Cannery Station is only required to provide additional ROW along frontage within its control and ownership. Recommend this be a condition for the subdivision only.

STAFF RESPONSE: Staff agrees with this assessment. Condition of approval will be deleted.

RESPONSE 2: No additional comments.

30. Additional right-of-way width is required for Highway 101. The applicant, after consultation with ODOT, shall revise the tentative plat to provide the width required for additional lane width along the highway proposed under Project 15 of the TSP and installation of a traffic signal at the intersection of US HWY 101 and Munsel Lake Road proposed under Project 9 of the TSP. The amount of right-of-way required shall be coordinated with ODOT.

RESPONSE: ODOT has not requested additional ROW for future TSP projects. Per ODOT referral comments, a maximum of 59 feet of ROW would be required to construct the improvements ODOT described in its comments dated October 19, 2018. There is currently 60 feet of ROW measured from the centerline at the narrowest point along the existing frontage. No additional ROW dedication is required on Highway 101.

STAFF RESPONSE: Keith Blair, dated March 7, 2019, requests provision of adequate storage length to accommodate 95th percentile queue length in build year for 2028. Specifically, he stated separate westbound left and right turn lanes with at least 125' and 225' of storage length respectively. Staff cannot determine coordination between ODOT staff. We will reword condition that "Prior to final plat submittal applicant shall coordinate with ODOT to determine if right-of-way width is required...."

RESPONSE 2: Condition 30 is discussing ROW needs for City of Florence TSP Project 15 and Project 9. Project 15 is a widening of Highway 101; there is sufficient ROW to accommodate any future widening. Project 9 is to ensure enough ROW to install the signal. There is enough ROW for the signal equipment.

Keith's (ODOT) 3.7.19 email item 2 is that on 47th Street (at Highway 101 intersection) "provide separate westbound left- and right-turn lanes with at least 125' and 225' of storage length." The westbound turn lanes requested are on 47th Street (turns from the development onto Highway 101) and do not require widening of Highway 101 or any additional right of way on Highway 101. Therefore, Keith's comment is not relevant to Condition 30.

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31. In accordance with FCC 10-36-2-9-B the pavement for Redwood and Spruce Sts. shall extend to the northern edge of the phase and include turnarounds either hammerhead or bulb-shaped constructed to Oregon Fire Code. 47th St. at Highway 101 shall be developed to meet FCC 10-36-2-12 for medians and shall be coordinated ODOT during access permitting.

RESPONSE: As indicated on the tentative plat, hammerhead turnarounds will be provided north of terminus of Redwood Street. With the inclusion of the temporary emergency access road, please clarify whether a hammer head turn around constructed on Tract D s necessary.

Also, clarify the reference to a median. No medians are proposed in the project. The applicant has proposed, and ODOT has approved, an access with unrestricted turning movements. That ODOT conditional approval is included in the record.

Applicant requests that the first half of this condition be applied to the subdivision only, and that the second half regarding a median be deleted in its entirety.

STAFF RESPONSE: Researching at the time of writing.

RESPONSE 2: No additional comments beyond Applicant's original response above.

32. Final construction plans and utility facility specifications are required to be submitted for City review and approval prior to commencing construction. Stamped approval will be shown on the utility plans.

RESPONSE: Recommend this be a condition for the subdivision only.

STAFF RESPONSE: Staff agrees with this assessment. This condition will apply to the subdivision.

RESPONSE 2: No additional comments.

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MEMORANDUM

TO: Wendy FarleyCampbell

FROM: Zach Galloway, AICP

DATE: April 2, 2019

SUBJECT: Cannery Station Lot 2 Design Review for Assisted Living Facility – Applicant Responses to Proposed Conditions of Approval (201823/1.3)

The following memo is a starting point for City staff and the Applicant's design team to revisit the proposed conditions of approval related to the Design Review application. This memo relates specifically to the Assisted Living Facility (PC 18 35 DR 03), as the conditions are largely repeated in the three sets of proposed conditions related to the overall Design Review application for Lot 2. The responses seek clarification or specificity that will allow the team to revise plans and meet the City's expectations directly. In other responses, the applicant requests a complete revision of the proposed condition, and in those responses, an alternative condition and supporting rationale is provided.

Conditions of Approval for discussion are included below in **bold**, with applicant responses/requests below in plain text, and staff responses/proposed revised Conditions of Approval in **red text**. Staff responses which clarify or respond to TBG Architects email of March 27, 2019 are in green text.

ALTERNATIVE CONDITIONS OF APPROVAL

GENERAL COMMENT

During the March 12, 2019 public hearing, a Planning Commissioner asked about the materials used on the proposed buildings. In response to that inquiry, the design team offers the following proposed condition:

No vinyl siding or vinyl shingle finish materials will be installed on the project.

DESIGN REVIEW/ ASSISTED LIVING FACILITIES (PC 18 35 DR 03)

Design Review Condition of Approval 1: Approval shall be shown on: [list of all exhibits] 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 Building Codes, will require approval by the Planning Director or Planning Commission/Design Review Board.

RESPONSE: This is not a condition. Please advise how applicant should address?

Exhibit K2.1

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STAFF RESPONSE: Standard condition of approval. No need to specifically address.

Revised text:

Approval shall be shown on: [list of all exhibits] Findings of Fact attached as Exhibit "A" and Supplemental Findings of Fact as [probably] Exhibit A1 are incorporated by reference and adopted in support of this decision.

Design Review Condition of Approval 1: Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Planning Director or Planning Commission/Design Review Board.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 2: *Regardless of the content of material presented for this Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees 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 Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of a building permit.*

RESPONSE: Recommend it apply to both the Final PUD and the subdivision plat.

STAFF RESPONSE: Staff agrees with this assessment – will apply to all five applications. Please see updated Resolutions for included Condition.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 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.*

RESPONSE: Recommend it apply to both the Final PUD and the subdivision plat.

STAFF RESPONSE: Staff agrees with this assessment – will apply to all five applications. Please see updated Resolutions for included Condition.

RESPONSE 2: No additional comments.

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Design Review Condition of Approval 4: Prior to issuance of building permits, applicant shall submit revised landscape plan conforming to criterion F above, or appropriate response in narrative form. Planter boxes shall not be less than 3-feet in height and any fence or evergreen hedge shall be well kept and maintained. Plan and or response shall be submitted to City of Florence Planning Department for review and approval.

RESPONSE: This is a standard condition of approval that will result is a revision to the final plan set. Applicant requests the condition be revised as follows.

As per FCC XXX [insert code citation], planter boxes shall not be less than 3-feet. Applicant shall submit a revised landscape plan that provides dimensional information for the planter boxes on the west side of the transitional cottages.

STAFF RESPONSE: Staff agrees with this assessment – also including “in height.”

Revised Design Review Condition of Approval 4: As per FCC 10-3-8-F and FCC 10-34-3-7-A, planter boxes shall not be less than 3-feet in height. Applicant shall submit a revised landscape plan that provides dimensional information for the planter boxes on the west side of the transitional cottages.

RESPONSE 2: No additional comments. The Applicant will submit a revised landscape plan that provides dimensional information for the planter boxes on the west side of the transitional cottages.

Design Review Condition of Approval 5: Prior to issuance of building permits, applicant shall submit revised plans to show short term bicycle parking located and displayed in accordance with FCC 10-3-10 (D & G).

RESPONSE: This is a standard condition of approval that will result is a revision to the final plan set. Applicant requests reference to building permits be deleted.

STAFF RESPONSE: Alternate timeline proposed for revised Condition of Approval:

Revised Design Review Condition of Approval 5: Within 60 days of approval by the Planning Commission, the applicant shall submit revised parking plans which demonstrate short-term bicycle parking to be constructed in accordance with FCC 10-3-10 (D & G).

RESPONSE 2: No additional comments. The Applicant will submit revised parking plans which demonstrate short-term bicycle parking to be constructed in accordance with FCC 10-3-10 (D & G).

Design Review Condition of Approval 6: Should Siuslaw Valley Fire and Rescue determine the 47th Street loading zone is not acceptable, prior to issuance of building permits, the applicant shall provide an alternative second loading space consistent with criterion listed in FCC 10-3-11.

RESPONSE: Applicant requests replacement of this speculative condition with a definitive condition that

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can be addressed in the final PUD plan set.

STAFF RESPONSE: Staff proposes revised condition of approval. Emergency services could realistically just block the street and redirect traffic, so our concern is *only* with loading/unloading within the street ROW, which has not been designated to provide any designated parking spaces.

Revised Design Review Condition of Approval 6: In addition to the required 10' x 35' loading zone which shall be designated as a "Commercial Loading and Pickup Only – 1 Hour Maximum Parking" zone, the applicant shall sign the 47th Street right-of-way adjacent to the northern property line of Lot 2 as "Loading and Pickup Only – 20 Minutes Maximum Parking." Signage shall be placed approximately every 150 feet between Redwood and Spruce Streets. The curb shall be painted to inform drivers that the area does not permit parking other than that for loading and pickup.

RESPONSE 2: Applicant requests clarifying language added to the condition that indicates the issue will be addressed outside of the land use application process and, instead, it is tied to the Public Works Department's review of the proposed public improvements.

Design Review Condition of Approval 7: Prior to issuance of certification of occupancy, applicant shall obtain, and place appropriate sign indicating active loading/unloading is to be kept to a maximum of one hour for the loading zone located on the western edge of the right-of-way on 47th Street.

RESPONSE: Noted. This will be coordinated with the Public Works Department during construction of the public streets. The proposed loading zone is located on the south side of 47th Street. Applicant requests clarification on the correct location so notes can be added to the Final PUD plans.

STAFF RESPONSE: See above DR CoA 6.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 8: Prior to final plat approval, to mitigate some impacts associated with the proposed construction on Lot 2, the construction, demolition, alteration, or repair of any building or the excavation of streets associated with Phase 1 of the PUD, shall take place between 7 a.m. and 7 p.m. on weekdays. In cases of emergency, construction or repair noises are exempt from this condition. This condition that construction, demolition, alteration, or repair of any building or the excavation of streets associated with Phase 1 of the PUD, shall take place between 7 a.m. and 7 p.m. shall be recorded on CC&Rs.

RESPONSE: The general contractor has requested to work on the interior portions of the buildings on weekends. Applicant requests a more flexible approach to the hours of operation listed here, as included in the proposed alternative condition below. As stated herein, all references to the CC&Rs should be removed from the conditions.

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Design Review Condition of Approval 8: Prior to final plat approval, To mitigate some impacts associated with the proposed construction on Lot 2, the construction, demolition, alteration, or repair of any building or the excavation of streets associated with Phase 1 of the PUD, shall occur during the following timeframes.

- Weekdays (Monday-Friday) from 7:00 a.m. to 7:00 p.m.
- Weekends (Saturday and Sunday) from 9:00 a.m. to 5:00 p.m.
- Interior work can occur 7 days a week 7:00 a.m. to 7:00 p.m.

In cases of emergency, construction or repair noises are exempt from this condition. This condition that construction, demolition, alteration, or repair of any building or the excavation of streets associated with Phase 1 of the PUD, shall take place between 7 a.m. and 7 p.m. shall be recorded on CC&Rs.

STAFF RESPONSE: No issues with the revised Condition of Approval.

RESPONSE 2: The Applicant made a copy/paste error in the original request and therefore, requests the condition be revised to remove the first five words, as follows.

Revised Design Review Condition of Approval 8: ~~Prior to final plat approval,~~ To mitigate some impacts associated with the proposed construction on Lot 2, the construction, demolition, alteration, or repair of any building or the excavation of streets associated with Phase 1 of the PUD, shall occur during the following timeframes.

- Weekdays (Monday-Friday) from 7:00 a.m. to 7:00 p.m.
- Weekends (Saturday and Sunday) from 9:00 a.m. to 5:00 p.m.
- Interior work can occur 7 days a week 7:00 a.m. to 7:00 p.m.

In cases of emergency, construction or repair noises are exempt from this condition. This condition that construction, demolition, alteration, or repair of any building or the excavation of streets associated with Phase 1 of the PUD, shall take place between 7 a.m. and 7 p.m. shall be recorded on CC&Rs.

Design Review Condition of Approval 9: Prior to the issuance of building permits, the applicant shall submit for review, and approval by the City Engineer or his or her designee a revised erosion control plan.

RESPONSE: No comment.

STAFF RESPONSE: No issues.

RESPONSE 2: No comment.

Design Review Condition of Approval 10: Prior to issuance of building permits, applicant shall provide a response either in the form of plans or written narrative in what their proposal takes into consideration of public health, safety and general welfare, including noise and light nuisances and plans for a secure construction site during non-construction hours and days. Plans or written narrative shall be submitted to City of Florence Planning Department for review and approval.

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RESPONSE: Applicant requests City staff provide the code citation, standard, or requirement for the proposed condition. If not, applicant requests this condition is deleted.

STAFF RESPONSE: FCC 10-6-5-A through -N. That being said, staff will revise this Condition of Approval to simply require securing of the site through some method, likely fencing. Applicant narrative specifically addressing those code criteria is not required. Light and noise nuisances are addressed either through code criteria and will be dealt with through code enforcement or other Conditions of Approval such as those in DR CoA 8.

Revised Design Review Condition of Approval 10: Within 30 Days of Design Review application approval by the Planning Commission, the applicant shall submit a statement to the Florence Planning and Building Departments declaring their proposed methods of site security with the intent of protecting the health and safety of the general public during construction.

RESPONSE 2: Applicant requests the revised condition of approval is further clarified to limit the area to only Lot 2, as follows.

Revised Design Review Condition of Approval 10: Within 30 Days of Design Review application approval by the Planning Commission, the applicant shall submit a statement to the Florence Planning and Building Departments declaring their proposed methods of site security for the Lot 2 construction site with the intent of protecting the health and safety of the general public during construction.

Design Review Condition of Approval 11: Prior to the issuance of building permits, 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.

RESPONSE: This will be covered in the grading plan for the Final PUD and subdivision.

Applicant notes that this issue has been addressed with a proposed condition in the Final PUD and Subdivision resolution. Because subsequent applications must be reviewed against the PUD or subdivision for consistency, applicant questions the necessity of this proposed condition.

STAFF RESPONSE: I believe the only issue Staff has with this assessment is that, because of the issues pointed out below as part of DR CoA 12, if the Final PUD or Tentative Subdivision approvals are not issued, and because the buildings on Lot 2 could still be approved without those larger approvals, this condition is needed. As we discussed on the phone, the site's stormwater and grading elements are too dependent on the larger approval to resign them to not having a Condition of Approval.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 12: Prior to the issuance of building permits, the applicant shall provide the City with an approved Joint Fill Permit.

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RESPONSE: Applicant requests that the broad heading of “building permit” be presented in a more nuanced manner that reflects the varied stages of the development process. Therefore, applicant requests the following three alternative conditions.

- The applicant shall not commence any development activities in the southwest corner of the site where the wetlands are located, unless and until the US Army Corps of Engineers (USACE) issues a Jurisdictional Determination that concludes the Wetlands are not Waters of the United States and not subject to the Corps’ jurisdiction. If the USACE determines that the wetlands in the southwest corner of the site are Waters of the United States and subject to the Corps’ jurisdiction, Applicant shall not commence any development activity in the southwest corner of the site where the wetlands are located unless and until Applicant (1) submits evidence that the USACE has approved and issued a fill permit for the wetlands located in the southwest corner of the site, or (2) the Planning Commission approves an amendment to the Final PUD Plan and Tentative Subdivision for the southwest portion of the site that is affected by wetlands.
- Prior to the applicant receiving a jurisdictional determination or a fill permit from the USACE, all development activities shall be limited to the upland portions of the site. Development activities shall be limited to clearing vegetation, site grading, or other activity that is required by the land use code or conditions of approval.
- Construction of the Assisted Living Facility may proceed prior to the applicant receiving a jurisdictional determination or a fill permit from the USACE. Prior to issuance of the certificate of occupancy, applicant shall meet all stormwater management standards of the City of Florence by one of the following means: provide mechanical treatment on Lot 2, amend the PUD to re-locate the stormwater facility, or after a USACE determination or permit is issued, place the stormwater facility in Open Space A as proposed in the Final PUD.

STAFF RESPONSE: Stormwater is currently infiltrated through facilities within and adjacent to the parking lot, then to Open Space Area A. Open Space Area A is within the approximate area of possible USACE jurisdictional wetlands. Delineated wetlands are also collocated with 47th Street primary proposed access, transit connection, etc.

Staff proposes alteration of the condition as follows:

Design Review Condition of Approval 12a: The applicant shall be allowed construction access via Munsel Lake Road/Redwood Street, with future access through possible jurisdictional wetland to be determined. Alternate primary or secondary emergency access, as required by Fire Code or USACE disapproval of applicant’s Joint Permit Application shall require submittal of amended PUD application with special consideration of amended TIA, amended site plans, amended access and circulation plans, and amended stormwater plans and calculations. Certificate of Occupancy for the Assisted Living Facility shall not be issued until secondary emergency access is provided.

RESPONSE 2: No additional comments.

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Design Review Condition of Approval 12b: The applicant shall not commence any development activities in the southwest corner of the site where the wetlands are located, unless and until the US Army Corps of Engineers (USACE) issues a Jurisdictional Determination that concludes the Wetlands are not Waters of the United States and not subject to the Corps' jurisdiction. If the USACE determines that the wetlands in the southwest corner of the site are Waters of the United States and subject to the Corps' jurisdiction, Applicant shall not commence any development activity in the southwest corner of the site where the wetlands are located unless and until Applicant (1) submits evidence that the USACE has approved and issued a fill permit for the wetlands located in the southwest corner of the site, or (2) the Planning Commission approves an amendment to the Final PUD Plan and Tentative Subdivision for the southwest portion of the site that is affected by wetlands.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 12c: Prior to the applicant receiving a jurisdictional determination or a fill permit from the USACE, all development activities shall be limited to the upland portions of the site. Development activities shall be limited to clearing vegetation, site grading, or other activity that is required by the land use code or conditions of approval.

RESPONSE 2: As written, the second sentence restricts development activity on the site to removal of vegetation and site grading. The condition does not permit any site development work in the upland areas that are outside of the delineated wetland, thereby making it inconsistent with 12d, below, which permits work on the ALF in upland areas. Applicant proposes a revised condition 12c, as follows.

Design Review Condition of Approval 12c: Prior to receiving a jurisdictional determination from the USACE the wetlands in the SW corner of the site are not Waters of the US or obtaining any required fill permit from the USACE, applicant may commence development activities in upland areas of the site only. Permitted activities in upland areas may include vegetation clearing, site grading, installation of public infrastructure improvements, and other development activities required by the land use code or the conditions of approval.

Design Review Condition of Approval 12d: Construction of the Assisted Living Facility may proceed prior to the applicant receiving a jurisdictional determination or a fill permit from the USACE. Prior to issuance of the Certificate of Occupancy, applicant shall meet all stormwater management standards of the City of Florence by one of the following means: providing mechanical treatment on Lot 2 for all stormwater which can be treated and managed in this way; amending the PUD to re-locate the stormwater facility; and/or, after a USACE determination or permit is issued, placing the stormwater facility in Open Space A as proposed in the Final PUD.

RESPONSE 2: Applicant proposes a revised condition 12d to address prior inconsistencies between it and condition 12c.

Design Review Condition of Approval 12d: Applicant may commence construction of the Assisted Living Facility and associated accessory buildings on Lot 2 in upland areas of the site prior to the applicant

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receiving a jurisdictional determination or a fill permit from the USACE. Prior to issuance of the Certificate of Occupancy, applicant shall meet all stormwater management standards of the City of Florence by one of the following means: providing mechanical treatment on Lot 2 for all stormwater which can be treated and managed in this way; amending the PUD to re-locate the stormwater facility; and/or, after a USACE determination or permit is issued, placing the stormwater facility in Open Space A as proposed in the Final PUD.

Design Review Condition of Approval 13: Prior to issuance of building permits, the applicant shall submit for review and approval by the City of Florence Planning Department or their designee an erosion control plan that addresses elements as described in FCC 10-7-7 REVIEW AND USE OF SITE INVESTIGATION REPORTS.

RESPONSE: Recommend this be addressed in the conditions of approval for the Subdivision.

STAFF RESPONSE: Site erosion control, due to site soil conditions, is a requirement of all design review approvals as well as PUD [and] Subdivision approvals.

Staff recommends **Design Review Condition of Approval 13** be amended as follows:

Within 60 days of Planning Commission approval, the applicant shall submit for review and approval by the City of Florence Planning Department or their designee an erosion control plan that addresses elements as described in FCC 10-7-7 REVIEW AND USE OF SITE INVESTIGATION REPORTS. Erosion control plan shall address best management practices of the 2008 City of Portland Erosion and Sediment Control Manual, per FCC 9-5-1-8.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 14: Prior to final PUD approval, the applicant shall record a Covenant of Release which outlines the hazard, restrictions and/or conditions that apply to the property as outlined in subsection (D) of FCC 10-7-7, Review and Use of Site Investigation Report, and shall state "The applicant recognizes and accepts that this approval is strictly limited to a determination that the project as described and conditioned herein meets the land use provisions and development standards of the City Code and Comprehensive Plan current as of this date. This approval makes no judgement or guarantee as to the functional or structural adequacy, suitability for purpose, safety, maintainability, or useful service life of the project."

RESPONSE: This will be included as a condition of approval for the final PUD and/or the subdivision. Because subsequent applications must be reviewed against the PUD or subdivision for consistency, applicant finds no need to include it in every application.

STAFF RESPONSE: Staff agrees with this assessment. Staff can transfer the requirement to Final PUD approval.

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RESPONSE 2: From a conversation with City staff (date April 2, 2019), applicant understands that this condition will be moved to the Final PUD resolution and deleted here.

Design Review Condition of Approval 15: Prior to the issuance of building permits, the applicant shall submit plans for review and approval by the City of Florence Planning Department that satisfy all vision clearance requirements as listed in FCC 10-35-2-14.

RESPONSE: Vision clearance areas are shown on the Street Plan (see sheet C6.0). Please clarify what part of the cited code should be provided on final Design Review plan sets.

STAFF RESPONSE: Condition of Approval will be deleted.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 16: Living plant materials shall cover a minimum of 70 percent of the required landscape area within 5 years of planting. This requirement shall be included and recorded on CC&Rs associated with the development on Lot 2.

RESPONSE: Applicant has no comment regarding the substance of the proposed condition. Appropriate notes will be added to the landscape plans. However, CC&Rs are private agreements that exist outside of the land use approval process of any jurisdiction. Applicant requests that references to the CC&Rs are deleted, as proposed below.

Design Review Condition of Approval 16: Living plant materials shall cover a minimum of 70 percent of the required landscape area within 5 years of planting. This requirement shall be noted on the final landscape plans, included and recorded on CC&Rs associated with the development on Lot 2.

STAFF RESPONSE: Staff agrees with this assessment.

Revised Design Review Condition of Approval 16: Living plant materials shall cover a minimum of 70 percent of the required landscape area within 5 years of planting.

RESPONSE 2: Applicant wants to confirm that the condition applies only to the landscape area within the Lot 2 development site boundary. It does not relate to open space standards applicable to the overall Phase I Final PUD area.

Design Review Condition of Approval 17: Prior to issuance of certification of occupancy, applicant shall utilize a pocket-planting method with a soil-compost blend around plants and trees to ensure healthy growth.

RESPONSE: No comment.

STAFF RESPONSE: No issues.

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RESPONSE 2: No additional comments.

Design Review Condition of Approval 18: Prior to issuance of certification of occupancy, noxious Weeds shall be removed during site development and the planting of invasive or noxious weeds is prohibited.

RESPONSE: Applicant requests the proposed condition be applied to the Final PUD, as it is the application that addresses site grading. If staff feels it is should restate the condition here, Applicant requests the same additional specificity and clarification as in proposed condition no. 3 for the Final PUD. An alternative proposed condition follows.

Design Review Condition of Approval 18: Prior to issuance of certification of occupancy for buildings on Lot 2, noxious weeds shall be removed during site development from Lot 2. and the Planting of invasive or noxious weeds is prohibited.

STAFF RESPONSE: Condition of Approval is result of code which will be reviewed with each application and is included in Landscaping Code. Condition changes are agreeable. Staff proposes addition of State of Oregon Noxious Weed List and Lane County Noxious Weed List for clarity of what constitutes a noxious weed, as mentioned at the hearing.

Revised Design Review Condition of Approval 18: Prior to issuance of certification of occupancy for buildings on Lot 2, noxious weeds shall be removed during site development from Lot 2. The planting of invasive or noxious weeds is prohibited.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 19: Prior to issuance of building permits, applicant shall submit a final plant and tree selection plan in accordance with FCC 10- 34-3-4 and FCC 10-34-4 (Street Trees) for review and approval by the City of Florence Planning Department.

RESPONSE: Applicant requests more specificity within this condition. The required landscape plans were submitted as part of the Final PUD and the Design Review applications. Please advise if there are specific code requirements within FCC 10-34-3-4 that were not addressed in the submitted plans?

The final landscape plans will be revised to add street tree species selected from the current Tree and Plant List for the City of Florence (dated: October 12, 2009).

STAFF RESPONSE: Street trees proposed were not listed as applicable species of street trees. No issues if street trees selected from Tree and Plant List for the City of Florence.

RESPONSE 2: The Applicant will provide a plan illustrating street trees selected from Tree and Plant List for the City of Florence at the time of building permit submittal.



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Design Review Condition of Approval 20: Prior to issuance of building permits, applicant shall obtain an approved stormwater plan.

RESPONSE: Stormwater plans will be submitted and approved with subdivision infrastructure improvement plans. Applicant requests this condition be revised, as follows.

Design Review Condition of Approval 20: Prior to issuance of building permits, applicant shall provide Lot 2 stormwater infrastructure that is consistent with the approved stormwater plans.

STAFF RESPONSE: Staff agrees with this assessment.

Revised Design Review Condition of Approval 20: Prior to issuance of any Certificate of Occupancy associated with Lot 2, the applicant shall provide stormwater infrastructure consistent with approved stormwater plans.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 21: Prior to final plat approval, and to be recorded on CC&Rs, the applicant shall maintain their landscaping and replace any failed plantings with an equivalent specimen within six months of their dying or removal.

RESPONSE: The proposed condition appears to be internally inconsistent. For example, “prior to final plat approval” is a short period of time, but the directive to include this issue in the CC&Rs suggests that the City wants this in perpetuity. Please provide a specific timeframe in the condition. Applicant requests the condition be clarified, as follows.

Applicant shall maintain all landscaping and shall replace any plantings that fail with an equivalent specimen within six months after the planting dies or is removed.

As noted herein, applicant requests removal of all references to CC&Rs.

Lastly, there is no basis to condition recording of the plat on a design review condition, as this application does not include a subdivision.

STAFF RESPONSE: Staff agrees with this assessment.

Revised Design Review Condition of Approval 21: The applicant shall maintain their landscaping and replace any failed plantings with an equivalent specimen within six months of their dying or removal.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 22: Prior to issuance of certification of occupancy, the

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applicant shall plant the proposed street trees with root guards to preserve the adjacent sidewalks, as well as pocket-plant the trees with a soil-compost blend in order to ensure healthy growth.

RESPONSE: No comment

STAFF RESPONSE: No issues.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 23: Prior to issuance of certification of occupancy, applicant shall obtain building permits for fences that exceed 7-feet in height.

RESPONSE: No comment.

STAFF RESPONSE: No issues.

STAFF FOLLOW-UP RESPONSE: As pointed out by Henry during the Wednesday, March 27, 2019 conference call, Title 10, Chapter 30 calls for fencing to be 8-feet in height between residential districts and the North Commercial District. No exception was requested or asked for by the applicant during the Preliminary PUD process.

There are also differences between submitted plans which call out for a 6-foot fence and an 8-foot fence on the eastern property line. Staff recommends adding a condition within the PUD approval which requires an 8-foot fence within the Open Space B/C areas.

RESPONSE 2: Applicant agrees with the staff proposal to place the condition in the Phase 1 Final PUD resolution. Applicant will provide the 8-foot fence along the eastern property line.

Design Review Condition of Approval 24: Prior to final plat approval and recorded on CC&Rs, for safety and for compliance with the purpose of this Chapter, walls and fences shall be maintained in good condition or otherwise replaced by the property owner.

RESPONSE: This is a speculative statement that relates to long term maintenance by a property owner and/ or City code enforcement. Applicant requests removing this condition.

STAFF RESPONSE: Staff agrees with this assessment. Condition may be removed as code requires this maintenance regardless of Condition of Approval.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 25: Prior to issuance of building permits, the applicant shall submit for review and approval by the Public Works Director plans for driveway approaches as

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indicated in FCC 10-35-2-12(A).

RESPONSE: No comment. Typical driveway details are provided on sheet C6.3.

STAFF RESPONSE: No issues.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 26: Prior to Final PUD Approval, it shall be recorded on CC&Rs that vertical clearances are maintained at all times, including but not limited to, the maintenance and trimming of mature trees and vegetation that has the ability to impede vertical clearance.

RESPONSE: Applicant requests this condition be struck in its entirety. First, it relates to the Final PUD, not the subject application. The issue is not related to the Design Review application; it is a code enforcement issue common to many jurisdictions in Oregon. Also, the issue of CC&Rs has previously been discussed herein, and references should be removed.

STAFF RESPONSE: Staff agrees with this assessment. Code requires this maintenance regardless and Condition may be removed.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 27: Prior to issuance of building permits, applicant shall submit revised plans for review and approval by City of Florence Planning Department that complies with the criterion of FCC 10-35-2-14.

RESPONSE: No comment

STAFF RESPONSE: See response to DR CoA 15. Condition may be deleted.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 28: Prior to final plat approval, the maintenance of sidewalks and planter strips on the right-of-way is the continuing obligation of the adjacent property owner shall be included in the CC&R's and recorded.

RESPONSE: This condition is largely redundant with proposed condition no. 26. Additionally, there is no basis to condition recording of the plat on a design review condition, as this application does not include a subdivision. Applicant requests deleting this condition in its entirety.

STAFF RESPONSE: Staff agrees with this assessment. Code requires maintenance of these elements regardless. Condition may be deleted.

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RESPONSE 2: No additional comments.

Design Review Condition of Approval 29: The applicant shall receive final plat approval for the subdivision prior to issuance of occupancy for the ALF and TCHs on Lot 2.

RESPONSE: The ALF can exist as a single structure on a single tax lot served by a private driveway. Applicant requests that the condition be revised, as follows, to state that no occupancy for the cottages may occur until the plat is recorded.

Design Review Condition of Approval 29: The applicant shall receive final plat approval for the subdivision prior to issuance of a certificate of occupancy for the ALF and TCHs transitional cottage housing on Lot 2.

STAFF RESPONSE: The ALF and, as associated accessories to the primary use, Transitional Cottage Housing buildings could all be approved without either Final PUD or Subdivision approvals, only intermingled stormwater, parking, and access concerns require either of these other approvals in relation to the Design Review approval. Staff recommends deletion of the condition.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 30: Prior to issuance of building permits, applicant shall submit plans for review and approval by City Engineer or his or her designee in accordance with FCC 10-36-2-18, Curbs, Curb Cuts, Ramps, and Driveway Approaches.

RESPONSE: No comment.

STAFF RESPONSE: No issues.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 31: Prior to issuance of building permits, sanitary sewer, water, stormwater plans shall be submitted to the City Engineer or his or her designee for review and approval. No Building permits shall be issued until approved.

RESPONSE: Applicant requests inclusion of additional permit types in the proposed conditions. This will enable certain site development activities (e.g., site grading) to progress while the public improvement permitting is being reviewed. An alternative approach would be to state that the final certificate of occupancy for the ALF is conditioned upon completion and acceptance of public infrastructure improvements necessary to serve the site and the permitted building improvements.

STAFF RESPONSE: Staff agrees with this assessment. Staff proposes revised condition.

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Revised Design Review Condition of Approval 31: Final Certificate of Occupancy for the Assisted Living Facility is conditioned upon completion and acceptance of public and private infrastructure and utility improvements necessary to serve the site. Public and private infrastructure improvements shall be submitted and accepted by the Public Works Department and City Engineer or his or her designee prior to construction of said infrastructure and utility improvements. Signoff by the Building, Planning, and Public Works Departments for infrastructure improvements will be required for each stage of construction.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 32: *Prior to issuance of building permits, applicant shall submit for review and approval to the City Engineer or his or her designee utility plans in accordance with FCC 10-36-5: Utilities.*

RESPONSE: This is a similar issue to that described above with proposed condition no. 31.

STAFF RESPONSE: See above. Staff recommends deletion of Design Review Condition of Approval 32 in response to newly proposed Design Review Condition of Approval 31.

RESPONSE 2: No additional comments

Design Review Condition of Approval 33: *Prior to issuance of certification of occupancy it shall be recorded on CC&Rs that exterior lights for the main ALF, landscaping and parking lots shall be extinguished at the end of business hours with a minimum lighting remaining for personal building security and safety hours, in accordance with FCC 10-37-4 (D).*

RESPONSE: Applicant has reviewed the cited code and notes that there is no standard provided in FCC 10-37-4-D. It is not appropriate to fully extinguish the exterior lighting. Please provide a clear and objective standard the city will apply to determine the minimum acceptable lighting requirements that can be met through revisions to the currently proposed lighting plan (see Sheet LG1.0). Alternatively, if the city intends that the condition shall apply as written, Applicant requests that the city execute an agreement to indemnify, defend, and hold Applicant harmless from and against any claims or causes of action arising out of or related to Applicant's failure to provide adequate lighting.

As noted previously, Applicant requests that all references to or attempts to regulate the private CC&Rs are removed from these conditions.

STAFF RESPONSE: Staff recommends deletion of Design Review Condition of Approval 33.

Findings demonstrate that appropriate and adequate lighting is provided on the site, despite areas demonstrated by the photometric plan that do not meet code minimums. The City will determine through lighting review, as mentioned below, if installed lighting demonstrates a nuisance and will require, if needed, adjustment of lighting fixtures, timing, or other aspects of submitted lighting specifications and

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plans.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 34: A thirty-day review period beginning with the first day in business using the new lighting system shall be required to evaluate and adjust illumination levels of lighting. This review period applies to Lot 2 of Phase 1 of the PUD. This condition shall be recorded on CC&Rs associated with the development of Lot 2 in Phase 1 of the PUD.

RESPONSE: Applicant provided a photometric lighting plan that fulfills the requirements of the Florence lighting standards in Chapter 37. As per the requirements of FCC 10-37-4-E, the applicant welcomes the staff inspections to ensure compliance with the overall standards of FCC 10-37-4. Please provide a clear and objective standard the city will apply to determine the minimum acceptable lighting requirements that can be met through revisions to the currently proposed lighting plan (see Sheet LG1.0). As noted previously, Applicant requests that all references to or attempts to regulate the private CC&Rs are removed from these conditions.

STAFF RESPONSE: Staff agrees with this assessment. Note the inspection will review for compliance with all of Chapter 37. Condition of Approval 34 will be deleted.

RESPONSE 2: No additional comments.

Design Review Condition of Approval 35: The application for design review will expire following one (1) year (March 12, 2020) from the date of approval, March 12, 2019.

RESPONSE: Applicant requests deletion of the public hearing date. Instead, state clearly that the approval will expire one year from the date the planning commission decision becomes final, which is after notice of the decision is posted and the applicable appeal period expires.

STAFF RESPONSE: Condition of Approval will be updated to reflect the final date of approval. Code is worded to require expiration of the design review from the date of approval by Planning Commission. An extension of up to one year is possible through application prior to the expiration of the design review approval.

RESPONSE 2: No additional comments beyond Applicant's original response above.

Design Review Condition of Approval 36: The applicant shall pave the first fifty feet (50') of Redwood Street/temporary fire & construction access road from the entrance of Munsel Lake Road. Paving shall meet all requirements of Lane County and the City of Florence.

RESPONSE: The condition of approval relates to property that is not subject to the land use code approval criteria. The proposed activity here takes place on Lane County right-of-way, and as such, should only be subject to Lane County Public Works Department conditions of approval placed on the

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access permit application. Applicant requests the following revision.

Design Review Condition of Approval 36: The applicant shall pave the first fifty feet (50') of Redwood Street/temporary fire & construction access road from the entrance of Munsel Lake Road. Paving shall meet all requirements of the Lane County and the City of Florence Public Works Department access permit application.

STAFF RESPONSE: The secondary access is a proposal of Lot 2's design review and by association is subject to applicable land use conditions such as 10-3-8 drive-way apron and 10-35-2-12-B-2 & 3. Condition of Approval can be added to Final PUD and Subdivision approvals, however, it is important to note that as a fire access, the Redwood Street/temporary fire & construction access road need only be 12' in width. As a two-way construction access, a width of 18' would be needed.

Revised Design Review Condition of Approval 36: The applicant shall pave the first fifty feet (50') of Redwood Street/temporary fire & construction access road from the entrance of Munsel Lake Road. Paving, driveway, curb cut, and other aspects of the access shall meet all requirements of the Lane County and the City of Florence Public Works Department access permit applications.

RESPONSE 2: No additional comments.

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