

from or address slope failure along the river. For this reason, a Phase 2 Site Investigation Report is required. The engineer for the applicant was to provide a Geotech report assessing specific site situations related to identified hazards to determine the ability to build on the lot and if possible then identifying mitigation measures to be taken.

The City is not making an independent decision as to the SIR accuracy, mitigation effectiveness or risk abatement. The City is relying on the analysis conducted by the professional engineering firm. Planning Commission shall identify whether the engineer's report contains sufficient information to meet the criteria. The Planning Commission decision may be appealed to the City Council at which point the engineer's report will be peer reviewed by a separate Geotech engineering firm under contract by the City.

III. NOTICES, TESTIMONY & REFERRALS:

Notices: On August 17, 2022 notice was mailed to surrounding property owners within 300 feet of the property and signage posted on the property. The public hearing notice was published in the August 24, 2022 edition of the Siuslaw News.

Testimony: At the time of this report, the City had not received any testimony.

Referrals: Referrals were not mailed as no stakeholders were identified for this project.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

Title 4: Building Regulations

Chapter 1: Building Regulations, Section 15, 1 through 3

Title 10: Zoning Regulations, Chapters

Chapter 1: Zoning Administration, Section 1-6-3

Chapter 7: Special Development Standards, Sections 2, 3B & E, 6-A, C&D & 7

Chapter 10: Residential District, Sections 2A, 4D

Chapter 19: Estuary, Shorelands, and Beaches and Dunes, Sections 3 & 6

Title 9: Utilities

Chapter 5: Stormwater Management Section 2-1

Florence Realization Comprehensive Plan 2020

Chapter 5: Native Vegetation Section Policy 3

Chapter 17: Coastal Shorelands Ocean and Lake Shorelands Policy 16e, Mgmnt Unit #1

V. FINDINGS

Code criteria are listed in **bold**, with responses beneath. Only applicable criteria have been listed.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-4: APPLICATION:

- A. Applications and Petitions required by Title 10 and 11 of this Code shall be on forms prescribed by the City and include the information requested on the application form.**

- B. Applicability of Review Procedures: All land use and development permit applications, petitions, and approvals shall be decided by using the procedures contained in this chapter. The procedure type assigned to each application governs the decision making process for that permit or approval. There are four types of approval procedures as described in subsections 1-4 below. Table 10-1-1 lists some of the City’s land use and development approvals and corresponding review procedures. Others are listed within their corresponding procedure sections.**
 - 3. Type III (Quasi-Judicial) Procedure (Public Hearing). Quasi-Judicial decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council; or in the case of a Quasi-Judicial zone change (e.g., a change in zoning on one property to comply with the Comprehensive Plan), a Quasi-Judicial decision is made by the City Council on recommendation of the Planning Commission. Quasi-Judicial decisions involve discretion but implement established policy.**

The application was submitted and deemed “Complete” as of July 22, 2022. The nature of the final PUD proposal requires a Type III (Quasi-Judicial) procedure with a public hearing whereby notice is provided. The notification procedures meet the requirements of FCC 10-1-1-5.

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

- A. Hearings are required for Type III (quasi-judicial) land use matters requiring Planning Commission review. Type III applications include, but are not limited to:**

- B. Notification of Hearing:**
 - 1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of**

the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

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

1. The notice shall:

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

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

On August 17, 2022, notice was mailed to surrounding property owners within 300 feet of the property, and signage posted on the property. The public notices contained the information

in the above code. The public hearing notice was published in the August 24, 2022 edition of the Siuslaw News. The notification procedures meet the requirements of city code.

E. Action by the Planning Commission:

- 1. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.**
- 2. Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.**
- 3. There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.**

F. Notice of Decision by the Planning Commission: A notice of the action or decision of the Planning Commission, and right of appeal shall be given in writing to the applicant. Any party who testified either in writing or verbally at the hearing must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

The Planning Commissioner held a hearing and solicited testimony and evidence. The Planning Commission will be mailed via a Notice of Decision in accordance to this Section.

CHAPTER 7 SPECIAL DEVELOPMENT STANDARDS

10-7-1: PURPOSE: The purpose of this Chapter is to apply additional development standards to areas with wetlands or riparian areas and potential problem areas, such as natural hazards or soils which are particularly subject to erosion, landslide or seasonal surface water. Compliance with these standards is required in order to obtain a permit. The standards are intended to eliminate the danger to the health, safety or property of those who would live in potential problem areas and the general public and to protect areas of critical environmental concern; areas having scenic, scientific, cultural, or biological importance; and significant fish and wildlife habitat as identified through Goal 5: Open Spaces and Scenic, Historic, and Natural Resources, and Goal 17: Coastal Shorelands. (Amended Ord. No. 10, Series 2009)

10-7-2: IDENTIFICATION OF WETLANDS AND RIPARIAN AREAS AND POTENTIAL PROBLEM AREAS: At minimum, the following maps shall be used to identify wetlands and riparian areas and potential problem areas:

- A. "Hazards Map", Florence Comprehensive Plan Appendix 7.
- B. "Soils Map", Florence Comprehensive Plan Appendix 7.
- E. Other information contained in the plan or adopted by reference into the plan, or more detailed inventory data made available after adoption of the plan may also be used to identify potential problem areas. (Amended Ord. No. 10, Series 2009)

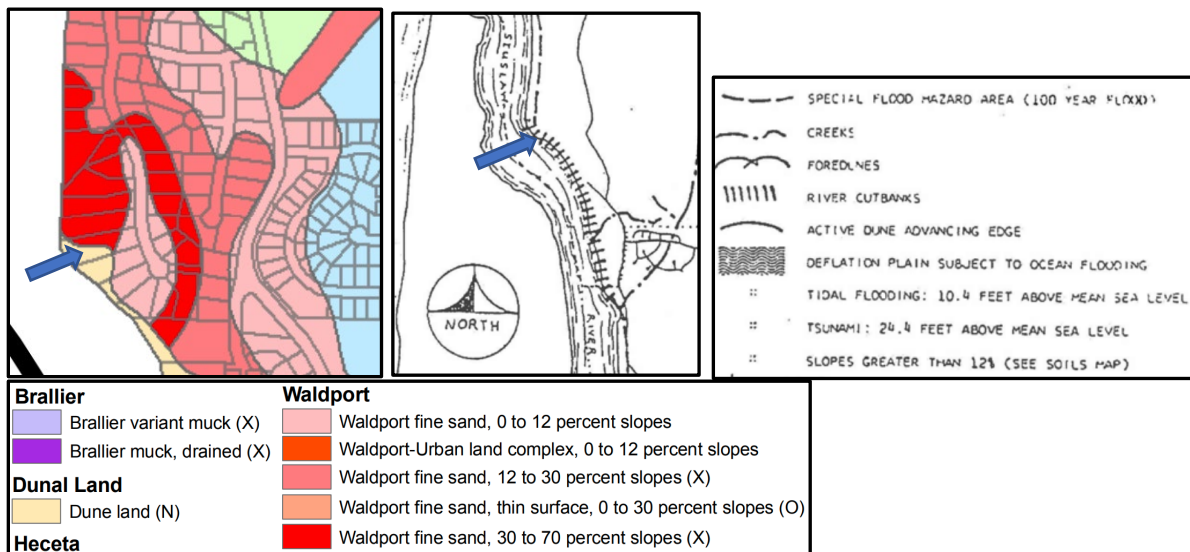
10-7-3: DEVELOPMENT STANDARDS FOR POTENTIAL PROBLEM AREAS: The following standards shall be applied to development in potential problem areas unless an approved Phase I Site Investigation Report or an on-site examination shows that the condition which was identified in the Comprehensive Plan or Overlay Zoning Map does not in fact exist on the subject property. These standards shall be applied in addition to any standards required in the Zoning Districts, Comprehensive Plan, and to any requirements shown to be necessary as a result of site investigation. Where conflicts or inconsistencies exist between these Development Standards, City Code, and the Comprehensive Plan, the strictest provisions shall apply unless stated otherwise.

[...]

- B. **River Cutbanks:** No building shall be permitted within fifty feet (50') from the top of a river cutbank.
- E. **Slopes Greater than Twelve Percent:** For development on or adjacent to steep slopes, a foundation and grading design prepared by a registered engineer and approved by the City and addressing drainage and revegetation.

[...]

(Excerpts from Florence Realization 2020 Comprehensive Plan Soils and Hazards Maps)



The adopted Soils Map illustrates Dune land, Waldport fine sand with 30 to 70% slopes and Waldport fine sand with 0 to 12% slopes on the subject site. The site is also located adjacent to a river cutbank on the Hazards Map. To identify the exact location of the cutbank and actual

presence of soils and their locations a Phase I Site Investigation Report (SIR) was required. The application did include a site plan illustrating a 50' setback line. The label states it is the top of bank. However, it does not follow the contour for top of bank but rather is a somewhat straight line aligned on the top most north-south oriented contour line. It is there where the 50' is met but where the contours wrap eastward on the south side of the lot the home is setback at most 20' from top of bank. The 50' top of bank setback from a cutbank is not met. Their home foundation is proposed to be engineered.

During review of the Phase 1 SIR, it was noted the presence of sloughing on the adjacent northern slope. The exact location of the failure relative to the property lines was not clear because the contour lines were not provided for much of the area west of the proposed home. In observance and comparison of drone aerials provided by the engineer and aerials available through county mapping services the sloughing did appear to advance onto the subject lot. While there are code and standards available to mitigate the cutbank and steep slopes which have been used on other lots in Shelter Cove (50' setback and engineered foundation), the city does not have adopted standards available to mitigate the risk of slope failure on a slope that is exhibiting signs of such. For this reason, staff required a Phase 2 Site Investigation report to ensure the above standards would be sufficient to mitigate the risk.

10-7-6: SITE INVESTIGATION REPORTS (SIR):

A. Areas identified in Section 2 and 3 above, are subject to the site investigation requirements as presented in "Beach and Dune Techniques: Site Investigation Reports by Wilbur Ternyik" from the Oregon Coastal Zone Management Association's *Beaches and Dunes Handbook for the Oregon Coast* (OCZMA Handbook), Appendix 18 of the Florence Comprehensive Plan as modified by the City of Florence. No development permit (such as building permit or land use permit) subject to the provisions of this Title may be issued except with affirmative findings that:

- 1. Upon specific examination of the site utilizing a Phase I Site Investigation Report (the checklist from the OCZMA Handbook, as modified by the City of Florence), it is found that the condition identified on the "Hazards Map" or "Soils Map" or "Beaches and Dunes Overlay Zone" or other identified problem area does not exist on the subject property; or**
- 2. As demonstrated by the Phase II Site Investigation Report that harmful effects could be mitigated or eliminated through, for example, foundation of structural engineering, setbacks or dedication of protected natural areas. (Amended by Ord. No. 10, Series 2009)**

Site investigation requirements may be waived where specific standards, adequate to eliminate the danger to health, safety and property, have been adopted by the City. This exception would apply to flood-prone areas, which are subject to requirements of the National Flood Insurance Program and other problem areas which may be adequately protected through provisions of the Building Code.

Criteria related to a Phase 1 SIR were addressed earlier and were found to not be met in that there are likely hazards present that have no adopted standards adequate to eliminate their danger. The applicant has submitted additional analysis for a Phase 2 SIR performed by Branch Engineering. The City is relying on the expert opinions within the Branch Engineering reports submitted by the applicant. The analysis is not being done by the City; the City is relying on the analysis conducted by the professional engineering firm. The City is not making an independent decision as to the SIR accuracy, mitigation effectiveness or risk abatement. These findings implement the professional opinions of the engineer(s).

B. Permit Fee: A fee to offset the cost of time required to investigate and prepare Findings may be set by Council Resolution.

C. General Requirements for Phase II Site Investigation Reports shall include at least the following information. Additional information, commensurate with the level of hazard and site conditions shall be submitted.

- 1. Identification of potential hazards to life, proposed development, adjacent property, and the natural environment which may be caused by the proposed development.**
- 2. Mitigation methods for protecting the subject property and surrounding areas from each potential hazard.**
- 3. Acceptable development density.**
- 4. Identification of soils and bedrock types.**
- 5. Identification of soil depth.**
- 6. Water drainage patterns.**
- 7. Identification of visible landslide activity in the immediate area.**
- 8. History of mud and debris flow.**
- 9. In areas prone to landslide, mudflow and where slopes exceed 25%, reports shall identify the orientation of bedding planes in relation to the dip of the surface slope.**
- 10. Recommendations for removal, retention, and placement of trees and vegetation.**
- 11. Recommendations for placement of all structures, on site drives, and roads.**
- 12. Recommendations for protecting the surrounding area from any adverse effects of the development. (Amended by Ord. No. 10, Series 2009)**

The applicant provided a site investigation report from Branch Engineering dated July 8, 2022 labeled as “Exhibit D”. Additionally, there is a Geotech report dated June 18, 2021 performed for a separate client (Colette Mathewson) in the record as Exhibit “G”.

The 2022 report contains narrative explanations of the following:

- Statement of intended density, one single family residence (3)
- Identification and origin of the site soils: both their formation history through the geologic timeline and recent modification with the development of Shelter Cove. Additional discussion of borings, soil composition, and terracing. The upper soils due to their consistency were presumed to be viscous and evidence dilatancy once wet. (4)
- Soil depths (+/-5’ MSL to 97’), and slopes (20-37 degrees). (5) Of note is the explanation of the presence of a Marine Terrace Deposit (MTD) which negatively affects vertical water infiltration.
- Discussion of inferred groundwater depths using Ash Creek’s 2006 study (21-24’ above MSL). (6) The MTD forces water horizontally towards the bank where it seeps out on the slope to the river. The MTD location was identified on-site and observance of possible erosion below the water line. (6 & 8)
- Identification of landslide activity in Sea Watch to the south and on Lot 36 immediately to the north. (7)

While the 2021 report contains mitigation actions and recommendations for development the 2022 report specifically states additional analysis is required. The 2022 engineering report does not contain the information required under items 1, 2, 9, 10, 11 and 12. Additionally, while a home is identified as the proposed density, the findings of the study should conclude whether a single home is acceptable to develop on the site to meet item 3 above. Criterion not met.

D. Specific Standards for Phase II Site Investigation Reports will be determined on the basis of the information provided in the Phase I Site Investigation Report. At a minimum, specific standards shall address the following (may include more than one category listed below):

1. **The SIR Phase II - Geologic Report shall follow the “Guidelines for Preparing Engineering Geologic Reports in Oregon” as adopted by the Oregon State Board of Geologist Examiners or shall meet the requirements for Site Investigation Reports as required by the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). The SIR Phase II – Geologic Report shall address the following:**
 - a. **An explanation of the site and scope of the study area (e.g. subdivision, by lot specific, or for public improvements)**
 - b. **An explanation of the degree the condition affects the property use in question;**
 - c. **An explanation of the measures to be employed to minimize detrimental impacts associated with the condition;**

- d. An explanation of the condition-associated consequences the development and the loss-minimizing measures will have on the surrounding properties.**

The engineering report concludes that additional analysis is required and fell short of making recommendations or providing mitigating activities. Criterion not met.

- 3. Slopes in the 12% to 25% range: Determine the presence of soil creep, fills, or signs of past instability. If hazards are present, engineering recommendations shall be provided. If conditions require recommendations for foundation construction outside of the Building Code (IBC), those recommendations shall be provided by an appropriately qualified professional engineer. If thorough examination of the site determines that no hazards are present, documentation by an appropriately qualified professional.**

- 4. Slopes greater than 25%:**
 - a. Subsurface exploration of areas above, below, and alongside known or suspected slides**
 - b. Accurate identification and measurement of the limits of the slide mass**
 - c. Identification of the stability of the slide mass and the mechanics of slide movement.**
 - d. Identification of the orientation of bedding planes in relation to the dip of the surface slope**
 - e. A site specific grading and erosion control plan for site stabilization and construction**
 - f. The methodology for determining the site stabilization plan**
 - g. Recommendation of suitable setbacks, keeping in mind the anticipated life of the structure or development.**

The percentage of slope along the bank was not provided due to the inability to locate a western property pin. From the soils maps 25% or greater is known to exist on site. They did find slopes to range from 20-37 degrees throughout the site.

The 2022 engineering report provided findings of site visits performed on May 31 and June 1 of 2022. The analysis included the use of a drone to evaluate the site's river facing slope of the subject site and the slide area. They concluded the presence of a slide to the north but stopped short of concluding that it extended onto the site. The imagery within the report and placement of lot boundaries would indicate that the slide does in fact likely extend onto the site. There is enough information from the photography to indicate the hazard is in fact on the subject lot.

The report, using historical aerial photography, discusses the timing of channel modifications by the Army Corps of Engineers, changes up slope due to grading for the Shelter Cove development, slope changes and riprap placement around 2005. City records indicate a July 27, 2004 Planning Commission approval for revetment placement on Lots 36-41 (Resolution 04-07-27-28). The records also contain the joint permit approval (32667-SP) for placement

dated September 21, 2005. Note the rip rap in the study was proposed for Army Corps land west of Lot 36 rather than actually on Lot 36. Branch notes the slide on Lot 36 to have happened between 2012 and 2015. While erosion analysis was performed and future erosion estimates calculated, recommendations for grading, erosion control, and setbacks were not proposed. Criterion not met.

- 6. Properties along the Siuslaw River Estuary:**
 - a. Angle of repose for bluff material**
 - b. Mean high tide, and highest measured tide**
 - c. Extent of recent and historical cutbank, length of area and height of cut**
 - d. Area of wave overtopping and furnishing photographs or other evidence**
 - e. Current and historic stability of riverbank and rates of erosion in general area**
 - f. Projected rate of erosion and methodology**
 - g. Environmental resources present**
 - h. Impacts to be expected**
 - i. Description and photographs of current vegetation**

The 2022 engineering report includes discussion of the mean sea level and elevations on site. Drone footage provided photography leading to a discussion about the presence of dense vegetation along the subject lot and the cutbank along Lot 37. They conclude that the area below the rip rap had eroded and was now either vertical or concave.

There are two documents in the city archives related to this criterion. First is a 1992 letter to the City from Wave Beach Grass Nursery (Wilbur Ternyik) responding to a denial from the Land Conservation and Development Commission to rip rap the “severe erosion areas” in Phase 2 of Shelter Cove and providing information on the impacts of the denial and solutions for alleviating erosion. It includes a photo of the site and analysis from Wobbe Associates on the erosion and vegetation changes. Second is report dated 2003 and two addendums from Boire Associates for the placement of rip rap. They illustrate the proposed revetment dimensioning for Lot 37 in Figure 3 (p. 10) with revetment details on Figure 6 (page 4 of Addendum 1). These reports were not available to Branch Engineering when they were making their analysis. It is suspected this information would be helpful in conducting further analysis and forming more extensive and definitive conclusions.

Based on the information they did have they stated that the greatest risk is erosion beneath the rip rap leading to eventual bank failure. They provide estimates about the rate of erosion between 1954 and 2005 to be around 20 ft. +/-20’ or greater. They estimate future erosion within the next 50 years to be 50-100 feet at the bank and 80-130 feet along the level portion. These estimates presume no corrective measures are taken to arrest erosion.

Branch provided most of the information required in this section. The angle and height of cut are the two inconclusive items. The availability of rip rap construction details should assist the analysis performed to evaluate the remaining strata beneath the rip rap. The City records indicate Shelter Cove was the applicant using an agent, Rob Ward, to process their application. Shelter Cove should confirm if the revetment was installed as permitted in the

DSL permit and if the conditions of approval were met from the 2004 PC approval, namely the engineer was present for placement to inspect that it was installed as proposed.

8. Soils: The Site Investigation Report shall address the following development constraints for the soil types.

[...]

- b. Dune Land - Development limitations on sand dunes can be slight to severe, depending on slope and whether adequate stabilization is done. These areas are superior to some of the other soil types in that there is no drainage problem. These areas are also known to include active sand dunes. Dune stabilization techniques should be addressed.**
- d. Waldport - These are sand dunes which are covered with stabilization vegetation. Conditions are moderate to severe, depending on slope. The particular need here is to preserve existing vegetation and to stabilize soil which is disturbed. Drainage is not a problem. Areas with slopes greater than 12% should not be built on unless a site investigation determines the site to be buildable.**

Evaluating the criterion for this section relies upon the information available in the slope and Siuslaw River sections. Dune Land stability at the top of the site is relying upon the western Waldport soil slopes. The slope is failing on the northeast corner of the site and appears to be related to the erosion of the cutbank. While drainage is stated to not be a problem with Waldport soils the engineer identified viscous soils subject to dilatancy and so in any future analysis should consider Title 9 Chapter 5 and provide recommendations related to the location of drainage systems from roofs and driveways so to not create additional slope stability issues for this or adjacent sites. Recommendations were not made with regard to addressing vegetation preservation, stabilization of disturbed soils, or engineering practices for the home construction, site preparation and erosion control. Criterion not met.

10-7-7: REVIEW AND USE OF SITE INVESTIGATION REPORTS

- A. The Phase I Site Investigation Report shall be reviewed administratively through a Type II Review. If it is found that the condition identified on the "Hazards Map" or "Soils Map" or "Beaches and Dunes Overlay Zone" or other identified problem area does not exist on the subject property; no Phase II report is required and the Site Investigation process is terminated. If hazards are found to exist, a Phase II report and a Conditional Use Permit shall be required.**

A Phase II Site Investigation Report was conducted but is inconclusive.

B. Required Certifications and Inspections:

For any Phase II SIR submitted, the registered professional of record shall be required to:

- 1. Review final plans for development and submit a signed and stamped certification report that all recommendations have been incorporated into development plans.**
- 2. Review subgrade excavations and fills for structures and stormwater drainage and submit a signed and stamped certification report that construction is proceeding in accordance with approved plans.**
- 3. Perform interim inspections as necessary and a final inspection of the site and submit a signed and stamped certification report that the project as constructed complies with approved plans.**

The Phase 2 SIR is not complete. This section is not applicable at this time.

- C. Conditions of approval may be imposed and/or a bond may be required to be posted prior to issuance of permit to ensure that harmful effects such as erosion, sand encroachment, destruction of desirable vegetation including inadvertent destruction by moisture loss or root damage, spread of noxious weeds, damage to archaeological resources, are mitigated or eliminated.**

Depending on the recommendations of the engineer which have not yet been provided one or more of these situations may require conditions to ensure there are no harmful effects. Criteria not applicable at this time.

- D. Approval: The property owner shall record a Covenant of Release which outlines the hazard, restrictions and/or conditions that apply to the property 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 judgment or guarantee as to the functional or structural adequacy, suitability for purpose, safety, maintainability, or useful service life of the project."**
- E. Appeal: In the case of an appeal, the City shall hire a certified engineering geologist or other appropriate certified professional to review the Phase II Site Investigation Report. All costs incurred by the city to review the development shall be the responsibility of the applicant. (Ord. No. 10, Series 2009)**

Due to the presence of Waldport Slopes greater than 12%, Dune land soils, and problems areas identified in studies adopted by the City of Florence Comprehensive Plan as

discussed and shown above, a Phase I Site Investigation Report and partial Phase 2 Site Investigation Report have been provided. Branch Engineering fell short of concluding analysis of the slope and depth of the cutbank below the rip rap, suitability for site construction and requirements and recommendations related to grading, fill, compaction, foundation design, landscape slopes, soil removal, etc. Based on these findings of Title 10 Chapter 7 the hearing should be continued to a date certain or the application denied. An appeal process is then available should the applicant or any testifier wish to have the report peer reviewed.

10-19-3: CONSERVATION ESTUARY DISTRICT (CE):

- A. Purpose and Extent: The purpose of the Conservation Estuary District (CE) is to provide for the long-term use of the estuary's renewable resources in ways which do not require major alteration of the estuary. Providing for recreational and aesthetic uses of the estuarine resources as well as maintenance and restoration of biological productivity are primary objectives in this District. The boundaries of the CE District are defined by natural features. The CE District includes minor tracts of salt marsh, tideflats, eelgrass and algae beds; and those not included in the Natural Estuary District (NE). This District also includes oyster and clam beds and areas immediately adjacent to developed estuarine areas. These are as identified on the City Zoning Map as specified by this Title.**

Rip rap maintenance, expansion and installation are permitted in this district either outright, special use permit or conditional use permit respectively. No activity in the district was proposed. Phase 2 SIR recommendations related to the existing rip rap or other construction activity in the district shall meet the criteria of the CE District.

10-19-6: SHORELAND RESIDENTIAL OVERLAY DISTRICT /SR

- A. Purpose: The Shoreland Residential Overlay District (/SR) is applied to residential development management units in the Comprehensive Plan along the Siuslaw River Estuary and Munsel Lake (a Coastal Lake). It is the purpose of the /SR Overlay District to encourage long-term human use of these coastal resources in a manner which protects the qualities of coastal water bodies and respects the natural systems. Activities which protect or enhance renewable resources are encouraged, as are recreation and public access to coastal water. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.**

The /SR District is specifically designed to carry out the following purposes:

- 1. Protection of such natural resources as soil and such natural systems as drainage courses and waterways.**
- 2. Enhancement of renewable resources such as the coastal fisheries.**
- 3. Allow for recreation and public access to coastal water.**

B. Permitted Uses: In addition to uses specifically allowed in the adjacent Estuary District, the following structures and uses, and no others, are permitted outright when consistent with all of the requirements of the adjacent Estuary District and applicable site development requirements listed in subsections E and F:

FCC 10-10 permits single family residences outright. In addition to the criteria of 10-10, construction shall meet the development requirements listed in this overlay zone.

E. Site Development Requirements: The development requirements specified herein shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.

1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section F only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).

2. Development on shorelands within dune areas shall not result in clearance of a parcel's existing vegetation in excess of what is necessary for the construction of the proposed structure or structures, accessory buildings, necessary access, and fire safety requirements.

3. In all cases, vegetative cover shall be retained on lands within the shoreland area. Construction activities shall occur in such a manner as to avoid unnecessary excavation and removal of native vegetation unless cleared vegetation is to be replaced immediately following the construction activity. Interim soil stabilization methods shall be required during the construction phase of any project.

4. A minimum fifty foot (50') buffer zone of native vegetation shall be maintained along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water).

5. The area within the 50' buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50' of native vegetation, the following kinds of modifications are allowed: a) Foot paths b) Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat. c) Replanting of the area or other areas which have been previously cleared.

6. All mature trees must be retained in the 50' buffer zone, unless they are an obvious hazard or determined by an arborist to be diseased or damaged beyond repair. If a

mature tree is removed, it shall be replaced with a tree from the City’s suggested tree list.

The proposed site plan does not include construction activity or disturbance within the 50’ buffer zone as measured from mean high tide. Buffer zone length criterion is met. Vegetation removal to place the home, utilities and vehicular access is proposed. The home is oriented, sized and/or designed to encroach onto the 50’ top of bank building setback on the north and south sides of the lot which creates a situation whereby vegetation is proposed to be removed that would otherwise be retained. Vegetation retention criterion is not met.

F. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional setback requirements specified herein.

1. In addition to the yard setbacks required in the Base zoning district, a 50 foot buffer zone is required along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water). Use of this 50 foot buffer zone shall be as specified in 10-19-6-E.

The rear and side yard setbacks are 10’ as listed in FCC 10-10. The total buffer zone length is 60’. Criterion met.

VII. CONCLUSIONS

The Phase 2 Site Investigation Report does not contain the required information as listed in the criterion. These include but are not limited to analysis of the depth and slope of the cutbank beneath the riprap, determination for allowably density (can the site support a single family dwelling) and recommendations for hazard mitigation should home site construction be supported. For these reasons the hearing should either be continued to allow introduction into the record of the required information or approval of the Phase 2 SIR should be denied.

VIII. EXHIBITS

A	Findings of Fact
B	56 Shoreline Dr. Site Plan
C	Existing Conditions Contour Map
D	SIR Phase 2 & Geotech Report
E	Drone photography
F	SIR Phase 1
G	June 2021 Geotech Report
H	Application
I, I2, I3	Boire Associates Report, 2003, Addendums 1 & 2
J	Wave Grass Slope Assessment, 1992
K	Resolution 04 07 27 28