
AGENDA ITEM SUMMARY**ITEM NOs:** 1 & 2**FLORENCE PLANNING COMMISSION**Meeting Date: March 8, 2022

ITEM TITLES:

1. Review Title 4 Chapter 6 – Vegetation Preservation
2. Commercial/Industrial metal building architecture alternatives

DISCUSSION/ISSUE:

On March 8, 2022 the Florence Planning Commission will discuss Florence City Code Title 4 Chapter 6 Vegetation Preservation and architecture alternatives for metal buildings. The Environmental Management Advisory Committee's (EMAC) subcommittee self-assigned to address Title 4 Chapter 6 has been invited to attend the work session to participate in that part of the discussion. Additionally, planning staff will participate to share their experiences and ideas on the topics as appropriate.

BACKGROUND: On July 13, 2021 the Florence Planning Commission made formal recommendation to the City Council of their Year 1 Work Plan projects. Priority 6 includes the following: "Vegetation preservation concerns related to development proposals and code infractions are on the rise. The Planning Commission for Year 1 would like to update the city code to implement the related Comp Plan policy, remove ambiguous language and modernize code language to reflect current values and incorporate new practices and industry standards." Priority 2 includes updating design review and commercial and industrial zoning codes related to architectural standards for metal buildings. On July 20, 2021 the Florence Environmental Management Advisory Committee made formal recommendation to the City Council of their Year 1 Work Plan projects. Priority 1g was to "Update the vegetation preservation code with regard to commercial and residential development."

The work related to these topics would result in amendments to the associated Florence City Code chapters and implement or support objectives and policies of the Florence Realization 2020 Comprehensive Plan. It will also perform the work identified by the PC and EMAC and approved by City Council in the 2021-2023 City of Florence Work Plan.

Both bodies included vegetation preservation code updates on their respective workplans. Their sub-committees tasked with this priority will work collectively towards accomplishing them. Subcommittee members are listed at the end of the AIS.

Attached are Title 4 Chapter 6 Vegetation Preservation and two vegetation preservation application staff reports for so one can see how the criteria are being addressed.

MEETING PURPOSE: This meeting serves as an opportunity for participants to share their concerns, issues, and challenges with the vegetation preservation code and permitting process. Chairman Tarvin will share his initial research findings on

architectural alternatives for metal buildings and seek participant feedback. The information received at this meeting will provide clarity on the variety of issues and direction for additional research.

MEETING PROCESS AND EXPECTATIONS: In order to proceed with completing these two work plan tasks, the subcommittees will need input from several sources. The staff and two city volunteer bodies tasked with regulating the permitting process and developing strategies that support the landscape and biology of the area are naturally a good place to start.

Attendees will receive brief introductions to the topics. The work session participants will be asked for their input/ideas on a series of questions. They will have 3-5 minutes to write their responses down after each question is asked. Each participant in turn will be asked to read one item off their list, with each attendee being asked again until all responses are read. All non-duplicated ideas will be recorded. Clarifying questions can be asked at any time and discussion on the ideas will be held after all ideas are read off and recorded. The final lists of responses will be provided to the sub-committees to assist in their task accomplishment. Input from other sources such as EMAC, residents, businesses, and associated agencies (Depts. of Fish and Wildlife and Forestry) will be sought at later dates at other venues.

TASK SUB-COMMITTEES:

Vegetation Preservation: Eric Hauptman-PC, Erik Oshel-EMAC, Phil Tarvin-PC, Lisa Walter- Sedlacek-EMAC

Commercial and Industrial Code Updates: Phil Tarvin (architecture) & Sandi Young (site design standards)

AIS prepared by: Wendy FarleyCampbell

ITEMS ATTACHED:

- Attachment 1 – [TITLE 4 CHAPTER 6](#) VEGETATION PRESERVATION
 - Attachment 2 – AR 21 18 VEG 11
 - Attachment 3 – AR 21 10 VEG 12
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TITLE 4
CHAPTER 6

VEGETATION PRESERVATION

SECTION:

- 4-6-1: Purpose
- 4-6-2: Definition
- 4-6-3: Vegetation Clearing Permit Required
- 4-6-4: Procedure for Obtaining Permit
- 4-6-5: Appeal of Design Review Board Action
- 4-6-5: Penalties

4-6-1: PURPOSE: The City Council finds that it is necessary to regulate tree and vegetation removal on private property to:

1. Provide for revegetation and maintenance of plant materials on private property;
2. Preserve the scenic quality of the City by retaining native vegetation;
3. Protect the property from storm run-off and wind erosion.

4-6-2: DEFINITIONS: As used in this Chapter, the following definitions apply:

CLEAR The use of manual or mechanical equipment to remove vegetation material and root mass necessary to the survival of the vegetation.

FELL To remove or sever a tree or the intentional use of any procedure to cause the death or substantial destruction of the tree. Fell does not include normal pruning, trimming or topping of trees.

NATIVE VEGETATION Those woody plant species native to this region including, Shorepine, Fir, Hemlock, Spruce, Cedar, Rhododendron, Wax Myrtle, Manzanita, Madrone, Kinikinic, Salal and other associated plants.

OCCUPIED PARCEL Real property within the boundaries of a tax lot as found in the Lane County, Oregon, tax records, with one or more structures thereon, or a parcel that has been approved for a dwelling.

PARCEL Real estate within the boundaries of a tax lot as found in the Lane County, Oregon, tax records.

TREE A living, standing, woody plant having a trunk 25 inches in circumference (approximately eight inches in diameter) measured at a point 4½ feet above mean ground level at the base of the trunk.

4-6-3: VEGETATION CLEARING PERMIT REQUIRED:

- A. A vegetation clearing permit shall be required in any of the following circumstances:
1. Clearing native vegetation from any property within 120 feet or within the direct line of sight from Highway 101, Highway 126, Munsel Lake Road, 9th Street, Bay Street, Rhododendron Drive, and areas which have been designated by the City as a significant riparian corridor, significant wetland buffer zone, greenbelt, or view corridor.
 2. Removing native vegetation from any parcel for which a valid building permit has not been issued.
 3. When the Planning Commission or Design Review Board has required such a permit as a condition of approval for land development.

- B. Exemptions: Subsection A of this section does not apply to removal or clearing of native vegetation under the following conditions:
1. Action by a public employee by an employee of a corporation holding a public franchise which allows clearing or removal of vegetation or an authorized contractor to protect human life or property; install or restore services; improve deeded rights-of-way; or to maintain or restore vision clearance at street or alley intersections.
 2. Clearing or felling of native vegetation in conjunction with development of a single-family or duplex dwelling on a parcel located within a zoning district which permits such use outright, except in locations specified in Section 4-6-3-A-1.
 3. Clearing or felling of native vegetation on a residential building lot within an approved Planned Unit Development (PUD), except in locations specified in Section 4-6-3-A-1.
 4. Cutting and trimming of native vegetation necessary for site surveying or topographical mapping.
 5. Removal or trimming of trees and shrubs required by Code Section 8-4-2. (This section amended by Ordinance No. 22 Series 1994).

4-6-4: PROCEDURE FOR OBTAINING A VEGETATION CLEARING PERMIT:

- A. A vegetation clearing permit application is required unless the application includes a concurrent application for a building permit or Conditional Use Permit, except that the criteria in FCC 4-6-4 C shall also apply to any removal of native vegetation from a significant riparian or wetland buffer zone requested as part of a setback adjustment granted under FCC 10-7-4.
- B. All requests for a Vegetation Clearing Permit shall be submitted to the Planning on a form available from that department, and containing the following minimum information. (See FCC 10-7-4 for additional submission requirements for areas within significant wetland or riparian buffer zones):
1. Name, address, telephone number of applicant, property description and date;
 2. Lot dimensions and footprint of structure(s) drawn to scale;
 3. A plot plan showing trees or native vegetation to be removed and reason for clearing or felling, and location of proposed structures and other improvements;
 4. A description of any plan to replace, landscape, or otherwise reduce the effect of removal of vegetation and time of implementation.
- C. The Planning Department shall process the Vegetation Removal Permit application through the Administrative Review Procedures in FCC Title 10 Chapter 1 within thirty (30) days of filing a complete application. Review and approval shall be based on the following criteria, as applicable to the request:
1. The necessity to remove native vegetation in order to construct proposed improvements or otherwise utilize the property in a reasonable manner consistent with the City Code and policies;
 2. The environmental and physical impacts such clearing may have, including visual drainage, wind erosion, protection of adjoining property and structures, and impacts on significant riparian corridors or wetland buffer zones. Impacts on any affected significant wetland or riparian buffer zones shall be supported by a qualified professional or through consultation with staff from the Soil and Water Conservation District, Siuslaw Watershed Council, Oregon Department of Fish and Wildlife (ODFW), Oregon State University (OSU), or another person or agency with knowledge or experience with the affected resource.

3. The adequacy of the applicant's proposed landscaping or revegetation plan, including plant selection, staking, irrigation, and other maintenance provisions. (This section amended by Ordinance No. 22 Series 1994).

4-6-5: APPEAL OF DESIGN REVIEW BOARD ACTION:

Any decision of the Design Review Board may be appealed to the City Council in accordance with the procedures specified in Code Section 10-1-1-6. (This section amended by Ordinance No. 22 Series 1994).

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

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

Amended by Ordinance No. 22 Series 1994 effective 11-22-94
Amended by Ordinance No. 2, Series 2013 effective 10-5-13

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

APPROVED
City of Florence
Community Development
Department
AR 21 18 VEG 11
File Number

Application: AR 21 18 VEG 11
Date of Report: January 27, 2022

Planner: Roxanne Johnston

I. PROPOSAL DESCRIPTION

Proposal: An application for a vegetation clearing permit for the purposes of preparation of development on 12.6 acres of property.

Applicant: Ray Wells, Inc.

Property Owner: David J. Bielenberg Revocable Living Trust

Location: Assessors Map #18-12-22-11, Tax Lots 01100, 01200, and 200.
General Location: West of the Oak St. and unimproved 37th St. intersection.

Comprehensive Plan Map Designation: High Density Residential

Zone Map Classification: High Density Residential

Surrounding Land Use / Zoning:

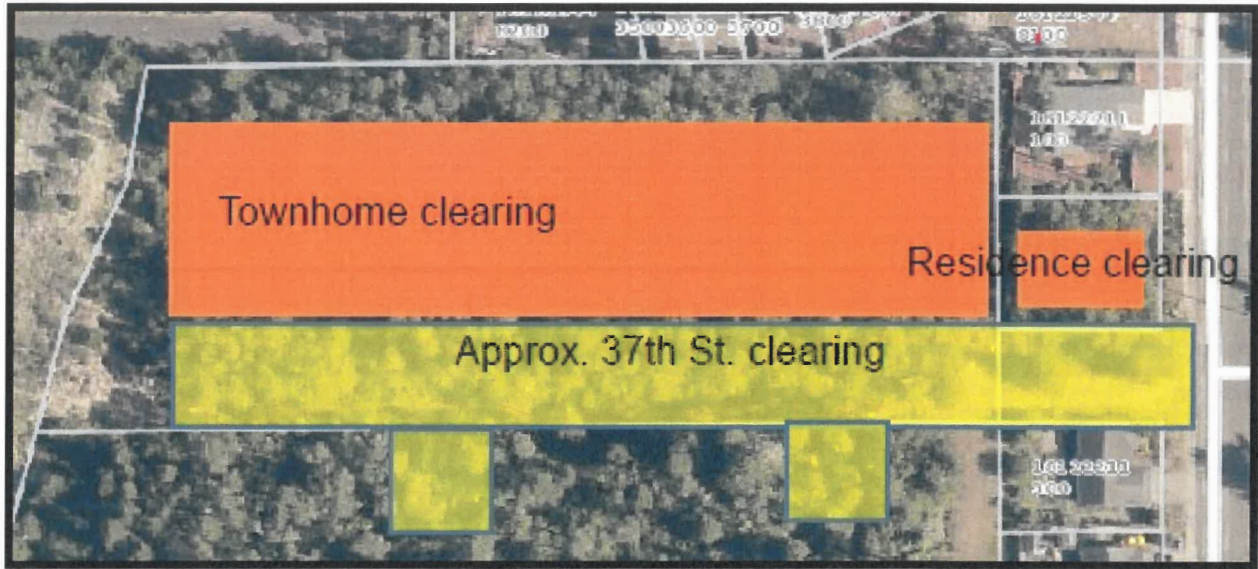
Site: Undeveloped / HDR
North: East Bank PUD & Sand Pines Golf Links/ HDR & MDR
South: Single Family residence / HDR
East: Vacant/Single family residential / HDR & Highway
West: Florence Golf Links / HDR

Streets/Classification:

South – future extension of 37th St/Local; West – None; East – Oak St./Collector
North – None.

II. BACKGROUND/NARRATIVE

The applicant has applied for a vegetation clearing permit in order to access the site in preparation of plans for residential townhome development to include infrastructure, and building permit applications. The preparations include a future extension of what is currently unimproved 37th St. The site is heavily vegetated with native trees and shrubbery. Below is an image taken from Exhibit C of these findings which displays the areas planned for vegetation removal:



III. NOTICES & REFERRALS

Notice: Noticing was performed in accordance with FCC 10-1-1-6-2-D. Notice was sent to surrounding property owners within 100 feet of the property and posted on the property's Oak St. frontage on December 9, 2021.

The City received one letter of written testimony by Lawrence and Judith Anderson. The Andersons are supportive of the proposal. They state they are *“really tired of garbage being dumped and homeless living there at time plus the vegetation is a real fire hazard.”* Additionally, they share issues about dead trees on the subject property line. (Attachment 1).

Referrals were not distributed as there are no perceived stakeholder agencies related to this proposal.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

Title 4: Chapter 1: Building Regulations, Section 15-3
Chapter 6: Vegetation Preservation, Sections 2 through 6

Title 9: Chapter 5: Stormwater Management, Sections 2-1 and 3

Title 10: Chapter 1: Zoning Administration, Section 1-6-2
Chapter 7: Special Development Standards, Section 3-H

V. FINDINGS

The criteria are listed in bold followed by the findings of fact.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ADMINISTRATIVE REVIEW

10-1-1-6: TYPES OF REVIEW PROCEDURES:

10-1-1-6-2: TYPE II REVIEWS – ADMINISTRATIVE REVIEWS

- A. **The Planning Director, or designated planning staff may make administrative decisions (limited land use). The Type II procedure is used when there are clear and objective approval criteria and applying City standards requires limited use of discretion.**
- B. **Type II (Administrative) Decisions are based upon clear compliance with specific standards. Such decisions include, but are not limited to the following:**
 - 1. **Vegetation clearing permits.**

The applicant seeks to remove vegetation for the purposes of development of one single family residence abutting Oak St., town homes and the western extension of 37th St. Presumably, future street stubs connecting to the south side of the unimproved segment of 37th St. are also included in this vegetation clearing proposal, for West and East Myrle Loop (Attachment 2). The application requires a Type II Administrative Design Review with the limited use of staff discretion. As such, this decision may be appealed to the Planning Commission per FCC 10-1-1-7.

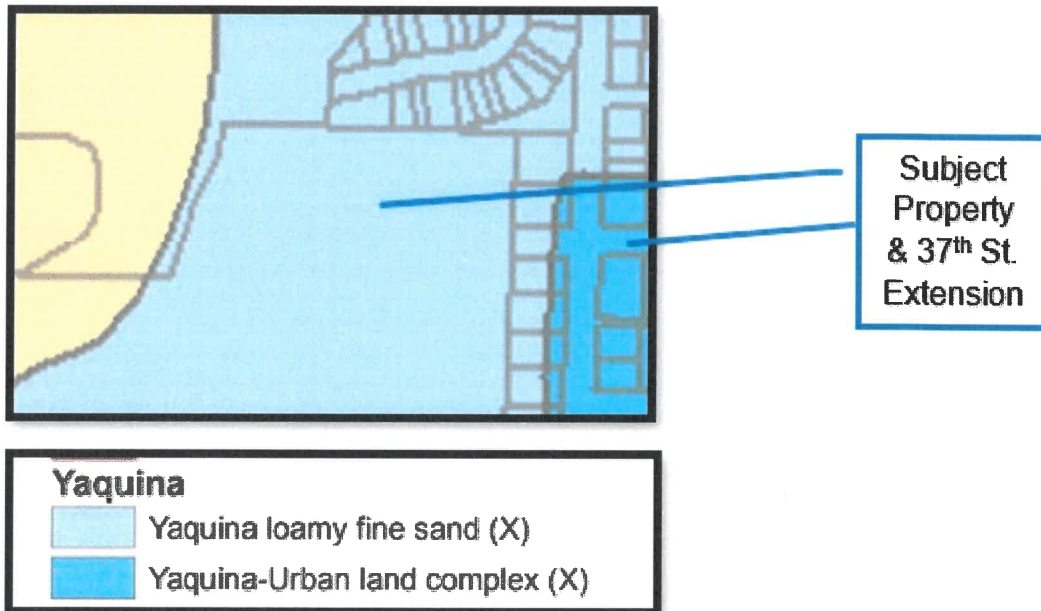
Noticing and other procedures were followed as required per FCC 10-1-1-6-2.

TITLE 10: CHAPTER 7: SPECIAL DEVELOPMENT STANDARDS

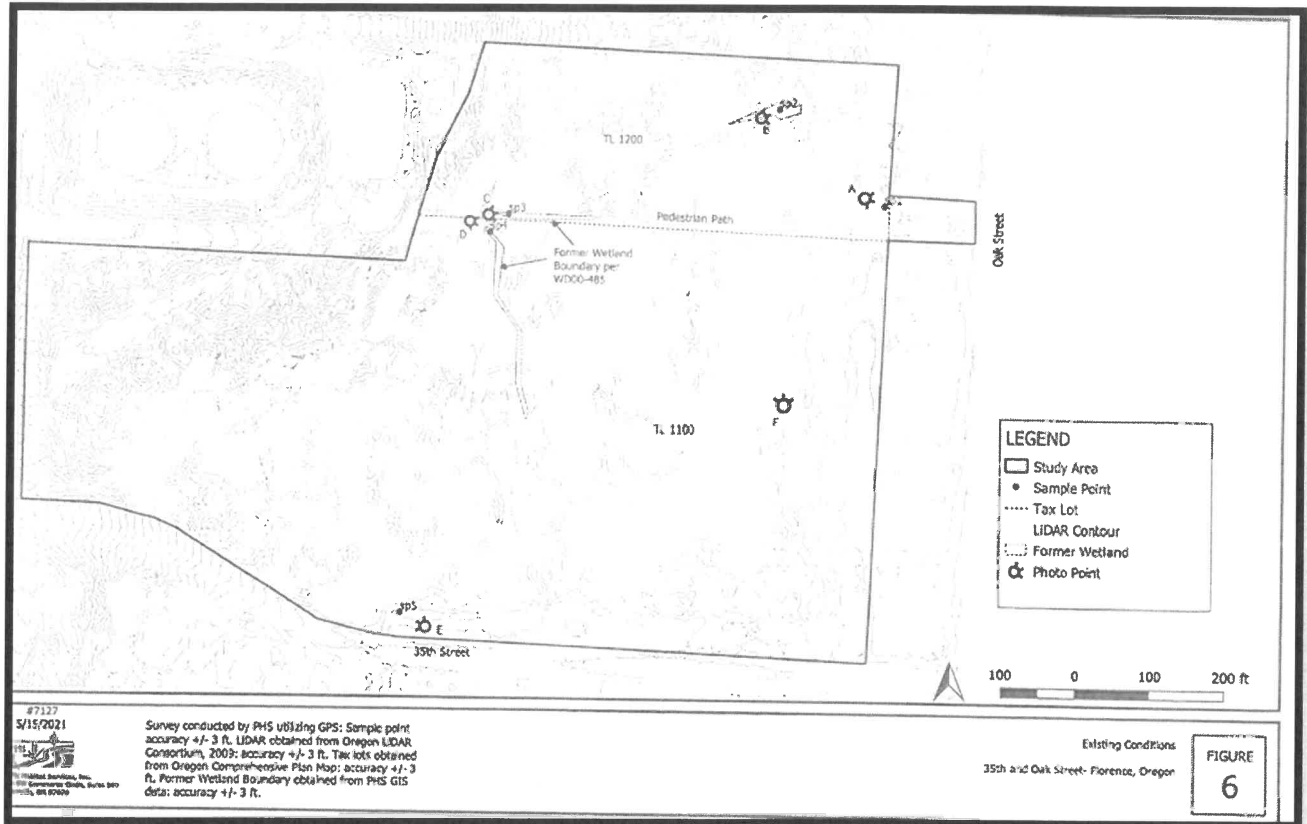
- 10-7-3: DEVELOPMENT STANDARDS FOR POTENTIAL PROBLEM AREAS: The following standards shall be applied to development in potential problem areas unless an approved Phase I Site Investigation Report or an on-site examination shows that the condition which was identified in the Comprehensive Plan or Overlay 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.**
- H. **Yaquina Soils and Wet Areas (except significant wetlands and riparian areas identified in the 2013 Wetland and Riparian Inventory, as amended): In areas**

with seasonal standing water, construction of a drainage system and/or placement of fill material shall be required according to plans prepared by a registered engineer and approved by the City. (Amended Ord. 10, Series 2009)

The area proposed for clearing primarily consists of Yaquina Loamy Fine Sand with a small strip of Yaquina Urban land complex soils located along the west side of Oak St. Below are images of the property taken from the 2009 NRCS Soils Map located in Appendix 7 of the Florence Realization 2020 Comprehensive Plan:



The applicant supplied a June 2021 Wetlands Delineation study to staff by Pacific Habitat Services, Inc., (Attachment 3). The study results outlined the absence of potential jurisdictional wetlands and waterways. The study also references the City's Local Wetlands Inventory, which displays 4 potential wetlands in the central study area and aligned with a previous 2000 delineation. PHS went on to hypothesize that nearby development or site foot traffic may have factored in to the lack of hydrology revealed in their recent study. Additionally, Attachment 4 contains a 2021 and 2010 concurrence letters, for the purposes of the state Removal-Fill law only, from the Department of State Lands, who determined there are no jurisdictional wetlands or other waters of the state within the study area. The study area is illustrated below in an excerpt taken from Figure 6 in the study, Attachment 3.



This image illustrates the former wetland boundary within the subject area related to the proposed vegetation clearing permit application which is located in the northern part of the study area. Three former wetlands are shown in the subject area and are labeled sp2, sp3 and sp4.

TITLE 4: CHAPTER 1: BUILDING REGULATIONS

4-1-15-3: SECURING LOOSE, OPEN OR RAW SAND

- A. Prior to taking any of the following actions, any person, firm, corporation, or public agency (city, special district, county, state or federal) shall contact the Community Development Department staff to determine if such actions are likely to cause off-site movement or displacement of loose sand in ways that would damage adjacent properties or create unsafe traffic conditions:
 - 2. Removal of any natural or planted ground cover, trees, shrubs, grass

If determination is made that there is a real possibility that movement of sand would cause damage to adjacent properties or create unsafe traffic conditions, then a Sand Management Plan will be required.

The area proposed for clearing is adjacent to Oak St. The applicant has indicated through their site plan that ground disturbance is proposed. Proposed removal would expose open sand, necessitating review of a sand management plan.

- B. The Sand Management Plan shall set out the means by which the applicant will ensure that its actions will not result in the off-site movement or displacement of loose, open or raw sand onto any public way, or public or private property by action of wind or water erosion. If the Community Development Department determines that the Plan includes measures (vegetative, mechanical, and/or other means of sand management) to reasonably ensure that the proposed action's movement or displacement of sand will not result in damage to adjacent properties or unsafe traffic conditions, then the Sand Management Plan will be approved.**

If vegetation removal is expected to expose sand or if the activities actually expose sand, then the applicant shall provide a sand management plan adhering to the City of Portland Erosion and Sediment Control Manual, as adopted by the City of Florence. [Condition 4] Loose sand and other soils shall be secured through grinding and spreading of root matt or gravel by the end of the same day it is exposed so that sand and soils does not move to adjacent properties or rights-of-way. [Condition 5] Sand shall not be permitted to accumulate or be left on Oak St. due to equipment use and site access. [Condition 6]

TITLE 4: CHAPTER 6: VEGETATION PRESERVATION

4-6-2: DEFINITIONS:

TREE A living, standing, woody plant having a trunk 25 inches in circumference (approximately eight inches in diameter) measured at a point 4½ feet above mean ground level at the base of the trunk.

NATIVE VEGETATION Those woody plant species native to this region including, Shorepine, Fir, Hemlock, Spruce, Cedar, Rhododendron, Wax Myrtle, Manzanita, Madrone, Kinikinick, Salal and other associated plants.

4-6-3: VEGETATION CLEARING PERMIT REQUIRED:

- A. A vegetation clearing permit shall be required in any of the following circumstances:**

[...]

- 2. Removing native vegetation from any parcel for which a valid building permit has not been issued.**

No building permits have been issued for the site. A vegetation clearing permit is required.

4-6-4: PROCEDURE FOR OBTAINING A VEGETATION CLEARING PERMIT:

- A. A vegetation clearing permit application is required unless the application includes a concurrent application for a building permit or Conditional Use Permit, except that the criteria in FCC 4-6-4 C shall also apply to any removal of native vegetation from a significant riparian or wetland buffer zone requested as part of a setback adjustment granted under FCC 10-7-4.**

- B. All requests for a Vegetation Clearing Permit shall be submitted to the Planning on a form available from that department, and containing the following minimum information. (See FCC 10-7-4 for additional submission requirements for areas within significant wetland or riparian buffer zones):**
 - 1. Name, address, telephone number of applicant, property description and date;**

 - 2. Lot dimensions and footprint of structure(s) drawn to scale;**

 - 3. A plot plan showing trees or native vegetation to be removed and reason for clearing or felling, and location of proposed structures and other improvements;**

 - 4. A description of any plan to replace, landscape, or otherwise reduce the effect of removal of vegetation and time of implementation.**

The applicant has provided an application which meets the requirements of this code section with the exception of a revegetation plan and a statement as to whether the clearing will include root mass removal or ground disturbance.

If mowed and the site is not developed within one year and the vegetation is not growing back, the site will need to be replanted. Depending on the treatment of the site, native vegetation may even reestablish itself in this time.

If, by January 27, 2023, building permits have not been obtained for the property which would have necessitated clearing, the applicant shall plant and seed the area affected by this approval such that native vegetation approximating its original condition covers 70% of the affected area within five years of this date. (Condition 7)

- C. The Planning Department shall process the Vegetation Removal Permit application through the Administrative Review Procedures in FCC Title 10 Chapter 1 within thirty (30) days of filing a complete application. Review and approval shall be based on the following criteria, as applicable to the request:**
 - 1. The necessity to remove native vegetation in order to construct proposed improvements or otherwise utilize the property in a reasonable manner consistent with the City Code and policies;**

2. The environmental and physical impacts such clearing may have, including visual drainage, wind erosion, protection of adjoining property and structures, and impacts on significant riparian corridors or wetland buffer zones. Impacts on any affected significant wetland or riparian buffer zones shall be supported by a qualified professional or through consultation with staff from the Soil and Water Conservation District, Siuslaw Watershed Council, Oregon Department of Fish and Wildlife (ODFW), Oregon State University (OSU), or another person or agency with knowledge or experience with the affected resource.
3. The adequacy of the applicant's proposed landscaping or revegetation plan, including plant selection, staking, irrigation, and other maintenance provisions. (This section amended by Ordinance No. 22 Series 1994).

Clearing the proposed area is necessary to acquire the information needed for development.

The impacts of the clearing are reasonable given that a development permit application is presumably forthcoming. The lack of a revegetation plan has been addressed by Condition 7, discussed above. The applicant submitted information that supports the lack of wetlands on the subject property. This information is discussed under FCC 10-7 of these findings.

These criteria are met or conditioned to be mitigated.

TITLE 10, CHAPTER 34: LANDSCAPING

10-34-3: LANDSCAPING

10-34-3-7: Buffering and Screening. Buffering and screening are required under the conditions listed below. Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with FCC 10-35-2-13. (See Section 10-34-5 for standards specific to fences and walls.)

- D. Abutting Land Use Buffers.** When a commercial, industrial, or other non-residential use abuts a residential district or residential land use, a visual and noise buffer shall be established and maintained immediately adjacent to the residential property line, consistent with the standards listed in the table below. In no case shall the buffer strip be less than 15 feet in width unless reduced by the Planning Commission where a lesser distance will provide adequate buffering. The buffer strip may include existing vegetation, landscape plantings, evergreen hedge, berm, fence, and/or wall components. Fence and wall structures shall be not less than 6 feet and no more than 8 feet in height (see also Section 10-34-5). The landscaped buffer shall effectively screen at least 70 percent of the view between districts within five (5) years. Significant vegetation in these buffer strips may be preserved in accordance with Section 10-34-2, and replanting of local native vegetation is encouraged.

Adjoining Land Use / Zoning	Landscaped Buffer and/or Fence or Wall
Abutting single-family Zoning or use	15 foot buffer with 6' solid wood fence or block wall or 35 foot landscaped buffer

The site abuts residential development to the north and east, and residential zoning in all directions. The site plan in Exhibit C indicates that a buffer will be observed to the north and west, and also on within Lot 200, which is intended for a future residence. The site plan is not dimensioned, but does contain a scale. The buffer shown on the north side appears to be +/- 25 feet. The buffer shown on the west side appears to vary, with the shortest distance from the area to be cleared to the west property line at about 10' to greater than 85'. Vegetated retention perimeters (buffers and property lines) illustrated on the clearing plan and/or conditioned in these findings shall be outlined with orange construction fencing or flagged before any clearing activity commences. Clearing beyond these limits will result in enforcement action and penalties. (Condition 8)

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

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

Vegetation clearing is subject to the penalties of this section. Each condition stated above and not followed will warrant a \$500 per day penalty in addition to a hearing before the Planning Commission for assignment of additional mitigation actions. These are not criteria for this review. [Informational 1]

VI. CONCLUSION

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

VII. CONDITIONS OF APPROVAL

1. Approval for this application shall be shown on:

"A" Findings of Fact
"B" Land Use Application
"C" Clearing Plan

Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. **Any modifications to the approved plans** or changes of use, except those changes relating to the structural integrity or ADA access which are regulated by Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. Regardless of the content of material presented for this approval, including application text and exhibits, staff reports, testimony and/or discussions, the property owner/applicant agree to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal action as documented by the records of this decision and/or the associated Conditions of Approval. The property owner and applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of building permits.
3. Upon encountering any cultural or historic resources during construction, the applicant shall immediately contact the State Historic Preservation Office and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. Construction shall cease immediately and shall not continue until permitted by either a SHPO or CTCLUSI representative.
4. If vegetation removal is expected to expose sand or if the activities actually expose sand, then the applicant shall provide a sand management plan adhering to the City of Portland Erosion and Sediment Control Manual, as adopted by the City of Florence.
5. Loose sand and other soils shall be secured through grinding and spreading of root matt or gravel by the end of the same day it is exposed so that sand and soils does not move to adjacent properties or rights-of-way.
6. Sand shall not be permitted to accumulate or be left on Oak St. due to equipment use and site access.

7. If, by January 27, 2023, building permits have not been obtained for the property which would have necessitated clearing, the applicant shall plant and seed the area affected by this approval such that native vegetation approximating its original condition covers 70% of the affected area within five years of this date.
8. Vegetated retention perimeters (buffers and property lines) illustrated on the clearing plan and/or conditioned in these findings shall be outlined with orange construction fencing or flagged before any clearing activity commences. Clearing beyond these limits will result in enforcement action and penalties.

Informational

1. Vegetation clearing is subject to the penalties of this section. Each condition stated above and not followed will warrant a \$500 per day penalty in addition to a hearing before the Planning Commission for assignment of additional mitigation actions.
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APPROVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, this 28th day of January, 2022.



Roxanne Johnston, Senior Planner/CFM

APPROVED
City of Florence
Community Development
Department
A AR 21 19 VEG 12
Exhibit File Number

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

Application: AR 21 19 VEG 12 & SR 21 42 SIR 12 **Planner:** Sharon Barker. Amended by Roxanne Johnston
Date of Report: January 20, 2022; amended February 22, 2022

I. PROPOSAL DESCRIPTION

Proposal: An application requesting for vegetation clearing in the absence of building permits on an undeveloped lot.

Applicant: Robbie Wright

Property Owner: Stonefield Investments, LLC

Location: *Unaddressed*, Florence, OR 97439
General Location: 410 NE of the intersection at Rhododendron Drive and Sebastian St.

Site: 4.43 Acres Shown on assessors Map 18-12-44 Tax Lot 03800

Comprehensive Plan Map Designation: Medium Density

Zone Map Classification: Medium Density Residential (MDR)

Surrounding Land Use / Zoning:

Site: Vacant/Medium Density Residential
North: Single Family Residences/Suburban Residential/Mobile Home
South: Single Family Residence, vacant/Suburban Residential/Mobile Home
East: Single Family Residences/Suburban Residential/Mobile Home
West: Single Family Residences/Suburban Residential/Mobile Home

Streets/Classification:

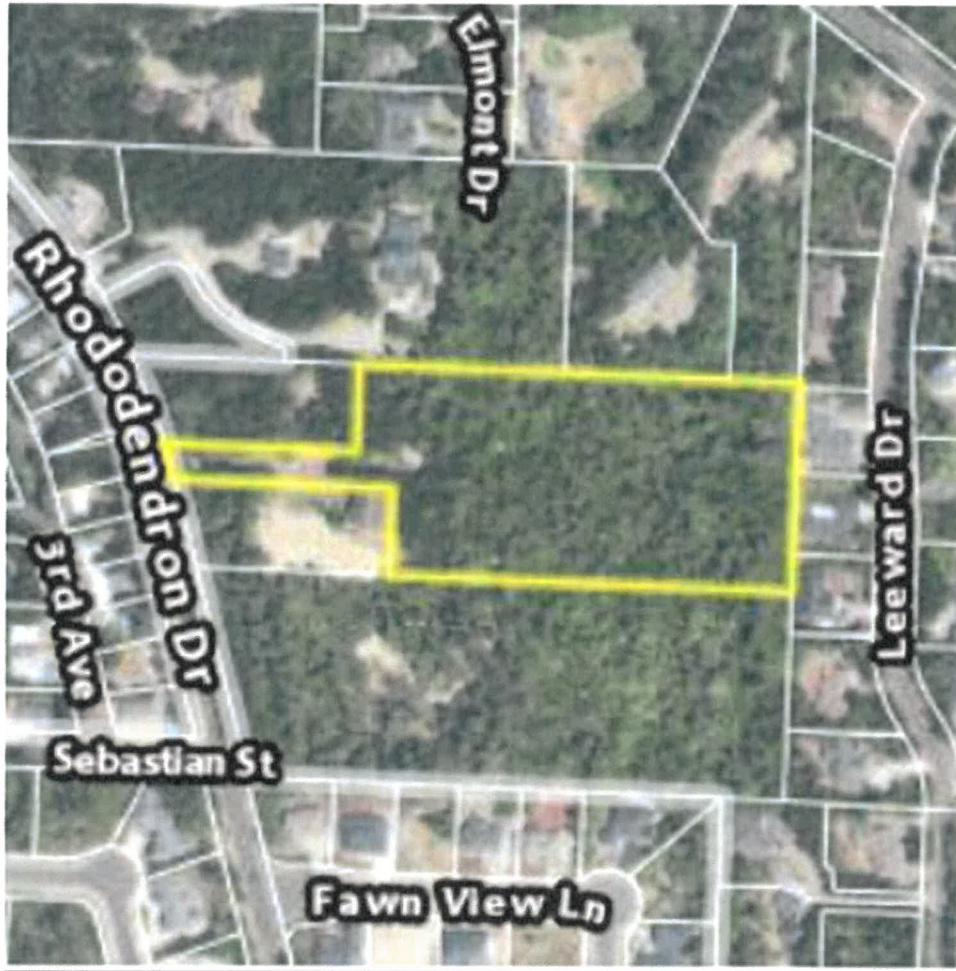
South – None; West – Rhododendron Drive; East –None; North – None.

II. BACKGROUND/NARRATIVE

The applicant is seeking a vegetation clearing permit to prepare Tax Lot 03800, for the pending subdivision application on the same lot. There was no plan indicating the clearing details submitted with the application but the grading and cut fill plans on sheet 3.3 indicate the entire lot is proposed for excavation and thus clearing. The lot is located about a half mile east of the

Pacific Ocean, with elevations at the undeveloped site in the range of about 60 to 115 feet above mean sea level. Looking eastward, the lot is densely forested with slopes ranging from about 10 to 25 degrees from horizontal. For this reason, and before the lot can be cleared and development occur, the project requires a Phase 1 Site Investigation which has been evaluated in these Findings.

Figure 1: Aerial Image of Subject Lots & Surrounding Area



III. NOTICES & REFERRALS

Notice: Noticing was performed in accordance with FCC 10-1-1-6-2-D. Notice was sent to surrounding property owners within 100 feet of the property on December 15, 2021. The property was posted on December 16, 2021.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

Title 4: Chapter 1: Building Regulations, Section 15-3
Chapter 6: Vegetation Preservation, Sections 2 through 4 and 6

	Chapter 6:	Vegetation Preservation, Sections 2 through 4 and 6
<u>Title 9:</u>	Chapter 5:	Stormwater Management, Section 2
<u>Title 10:</u>	Chapter 1:	Zoning Administration, Section 1-6-2
	Chapter 7:	Special Development Standards, Sections 3 and 6
	Chapter 34:	Landscaping, Section 3-7

V. FINDINGS

The criteria are listed in bold followed by the findings of fact.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ADMINISTRATIVE REVIEW

10-1-1-6: TYPES OF REVIEW PROCEDURES:

10-1-1-6-2: TYPE II REVIEWS – ADMINISTRATIVE REVIEWS

- A. The Planning Director, or designated planning staff may make administrative decisions (limited land use). The Type II procedure is used when there are clear and objective approval criteria and applying City standards requires limited use of discretion.**
- B. Type II (Administrative) Decisions are based upon clear compliance with specific standards. Such decisions include, but are not limited to the following:**
 - 1. Vegetation clearing permits.**

The applicant has applied for a vegetation clearing permit. This application requires a Type II Administrative Design Review with the limited use of staff discretion. As such, this decision may be appealed to the Planning Commission per FCC 10-1-1-7.

The subject property is an irregularly shaped property is undeveloped amid a residential area whereupon homes are primarily located on medium-sized to large-sized tracts of property outside of the City limits. The subject property also abuts City limits along its most western boundary where it adjoins Rhododendron Drive right of way.

The applicant has also applied for a Type 1 Phase 1 Site Investigation Report (SIR), which is a subject of review under these findings and processed concurrently with this application.

Noticing and other procedures for the Type II application were followed as required per FCC 10-1-1-6-2-D.

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.

- 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.

- H. Yaquina Soils and Wet Areas (except significant wetlands and riparian areas identified in the 2013 Wetland and Riparian Inventory, as amended):** In areas with seasonal standing water, construction of a drainage system and/or placement of fill material shall be required according to plans prepared by a registered engineer and approved by the City.

The applicant provided Phase 1 Site Investigation Report completed by Earth Engineers inc. (EEI). The Report included a general assessment of the site buildability and soils suitability. It states no plot plan was proposed at the time but the firm understood that the proposed project consists of subdividing the approximately 5-acre property into 14 single family residential lots, to include public infrastructure and drainage facilities. The Phase 1 SIR includes general recommendations related to stormwater, foundations, heavy equipment usage, and compaction on the sloped site. The applicant provided a cut and fill plan and a grading plan illustrating the proposed topography of the site. The plans also include a general stormwater plan that include locations of proposed street drainage along the south side of the proposed street and on the east side of the lot between lots 8 and 9. Because the site is in excess of 1 acre, permission to disturb the site requires approval by the Department of Environmental Quality. Prior to performing any root or soils removal the applicant shall apply for and receive a LUCS with DEQ. [Condition 4]

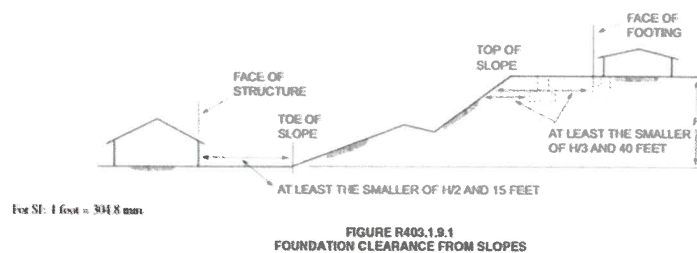
10-7-6-D3 Slopes in the 12% to 25% range: Determine the presence of soil creep, fills, or signs of past instability. If hazards are present, engineering recommendations shall be provided. If conditions require recommendations for foundation construction outside of the Building Code (IB), those recommendations shall be provided by an appropriately qualified professional engineer. If through examination of the site determines that no hazards are present, documentation by an appropriately qualified professional.

10-7-6-D8 a. Yaquina – these are somewhat poorly drained soils formed on an interdune position of old stabilized dunes. These areas are wet during the winter, but are better drained

than Heceta. A site-specific investigation would be required to determine location of swales and drainage channels

Site Conditions and Proposal: The Geotech Report (Exhibit C) includes general recommendations for site development and preparation. The Report states that the risk of slope instability on the property is considered low, based on subsurface explorations and no overly steep topography greater than about 26 degrees from horizontal. Maintaining slope stability during construction and during the life of the subdivision will require following the recommendations in their report. The site is not mapped within any known landslides. However, it appears that the site is mapped within moderate to high landslide hazard risk areas. Historic mapped landslides are located about 2 ½ miles east of the project site.

Construction: Oregon Residential Specialty Code (see below Figure R403.1.9.1) specifies the applicable criteria related to the placement and construction of buildings and structures on or adjacent to slopes steeper than one unit vertical in three units horizontal (33.3% slope). No grading plan was provided. Staff therefore cannot calculate the setbacks as illustrated below for the top and the toe of the slope (H/2).



Drainage: The NRCS Soils Map shown in Appendix 7 of the Florence Realization 2020 Comprehensive Plan explains that Waldport fine sand with 12-30% slopes is suitable for development but requires a site investigation report to insure adequate stabilization. The Phase 1 Site Investigation Report (Exhibit C) submitted by the applicant revealed slopes that then warranted review with the slope criteria. This was accomplished above. Drainage is of concern only due to the presence of the above discussed slopes and if accompanied with unstable soils. Drainage shall be addressed in accordance with Oregon Residential Code and the Florence City Code Title 9 Chapter 5. Building codes state R401.3 Drainage: Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard. Lots shall be graded to drain surface water away from foundation walls. The grade shall fall a minimum of 6 inches (152 mm) within the first 10 feet (3048 mm). Due to the on-site and adjacent off-site slopes the City's stormwater design standards shall be followed in conjunction with building code. The applicant shall provide a Stormwater Management Drainage Plan prepared by an engineer in accordance with FCC 9-5-2-1 and the City of Florence Stormwater Manual. This plan shall be provided to Public Works Department in conjunction with the detailed public improvement plan submittal and must be reviewed and approved by the City Engineer prior to commencement of public improvement construction. [Condition 5]. The system used

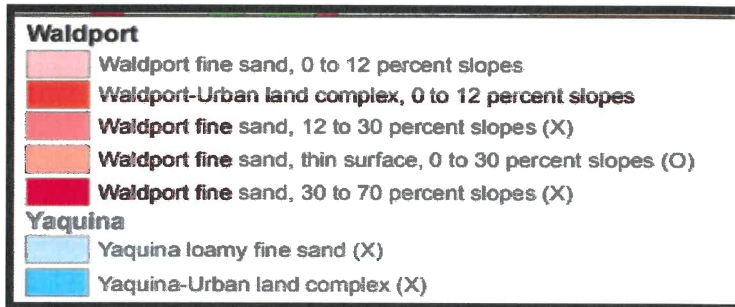
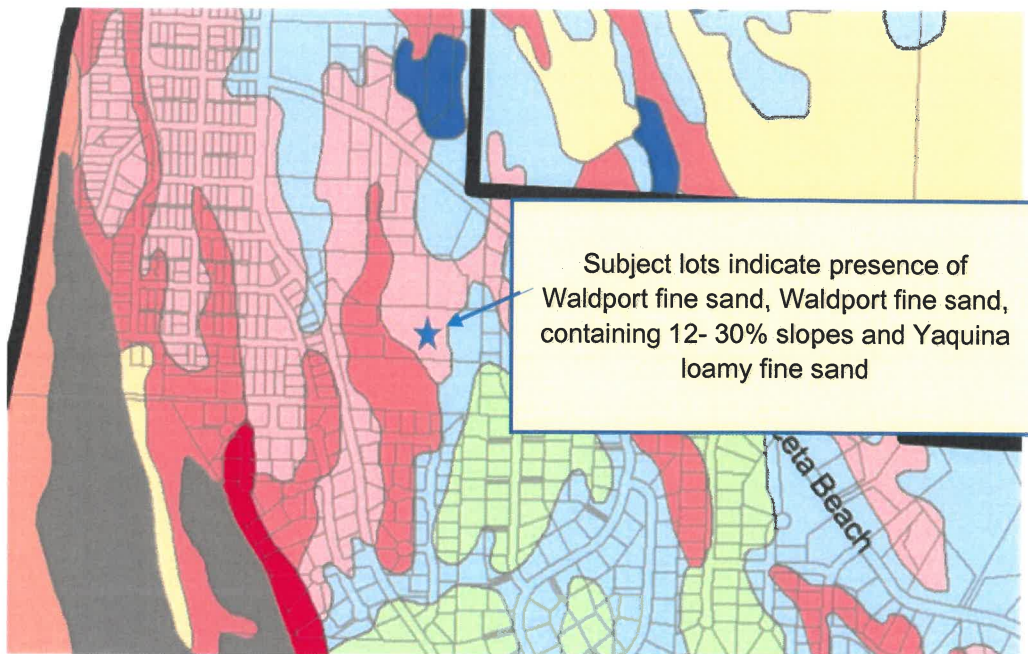
shall meet the setback requirements from structures and property lines and shall not be constructed in a manner or placed in a location where an on-site or adjacent off-site slope, property or improvement would be compromised. [Condition 6]

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.

As discussed, a Site Investigation Report (SIR) was required due to possible slopes of 12% or more as indicated on the below excerpt taken from the Natural Resources Conservation Service Soils Map, (Map C, Appendix 7 of the Florence Realization 2020 Comprehensive Plan). The applicant has submitted an SIR application and Geotech Report that includes risk mitigation recommendations to address the criteria listed above. The City has policies in place to address both slope and stormwater/wet soils and the project is conditioned in this review and the subdivision review to meet these policies. Each of the recommendations identified by the engineer in the Geotech report must be implemented throughout development of this site. Their recommendations are made to be requirements and thus conditions of approval for this vegetation clearing permit. [Condition 7]



TITLE 4: CHAPTER 1: BUILDING REGULATIONS

4-1-15-3: SECURING LOOSE, OPEN OR RAW SAND

A. Prior to taking any of the following actions, any person, firm, corporation, or public agency (city, special district, county, state or federal) shall contact the Community Development Department staff to determine if such actions are likely to cause off-site movement or displacement of loose sand in ways that would damage adjacent properties or create unsafe traffic conditions:

- 2.** Removal of any natural or planted ground cover, trees, shrubs, grass

If determination is made that there is a real possibility that movement of sand would cause damage to adjacent properties or create unsafe traffic conditions, then a Sand Management Plan will be required.

Clearing vegetation in Florence typically leads to exposure of loose sand, which poses a potential threat to infrastructure and neighboring properties as well as a risk of sedimentation in downstream bodies of water. Typically, a Sand Management Plan would be required as a component of a building permit application. It shall therefore be the owner's responsibility to ensure sand does not leave the property during and after clearing the property and during development once any building permits are received.

Any sand exposed by vegetation clearing or related activities shall be covered with mulch or contained by other means by the end of the same day it is exposed so that sand does not move to adjacent properties, rights-of-way, or public lands and waterways. [Condition 8]

Development on the site, including vegetation clearing, shall adhere to the City of Portland Erosion and Sediment Control Manual, as adopted by the City of Florence and incorporate any erosion methods needed to ensure soil stability such as armoring and buffering. Vegetated retention perimeters (property lines) shall be outlined with orange construction fencing or similar before any clearing activity commences. [Condition 9]

TITLE 4: CHAPTER 6: VEGETATION PRESERVATION

4-6-3: VEGETATION CLEARING PERMIT REQUIRED:

- A. A vegetation clearing permit shall be required in any of the following circumstances:**
 - 2. Removing native vegetation from any parcel for which a valid building permit has not been issued.**

No building permits have been issued for the site. A vegetation clearing permit is required.

4-6-4: PROCEDURE FOR OBTAINING A VEGETATION CLEARING PERMIT:

- A. A vegetation clearing permit application is required unless the application includes a concurrent application for a building permit or Conditional Use Permit, except that the criteria in FCC 4-6-4 C shall also apply to any removal of native vegetation from a significant riparian or wetland buffer zone requested as part of a setback adjustment granted under FCC 10-7-4.**
- B. All requests for a Vegetation Clearing Permit shall be submitted to the Planning on a form available from that department, and containing the following minimum information. (See FCC 10-7-4 for additional submission requirements for areas within significant wetland or riparian buffer zones):**
 - 1. Name, address, telephone number of applicant, property description and date;**

2. **Lot dimensions and footprint of structure(s) drawn to scale;**
3. **A plot plan showing trees or native vegetation to be removed and reason for clearing or felling, and location of proposed structures and other improvements;**
4. **A description of any plan to replace, landscape, or otherwise reduce the effect of removal of vegetation and time of implementation.**

The applicant has provided an application which meets the requirements of this code section with the exception of revegetation plan. Provision of this plan has been conditioned later in these findings. Although the applicant has demonstrated reasons for clearing to prepare the property for view and possible construction, until public improvement plans are filed with Public Works, reducing the impact of vegetation removal will be necessary. Requirements for a clearing and revegetation plan are discussed below.

C. The Planning Department shall process the Vegetation Removal Permit application through the Administrative Review Procedures in FCC Title 10 Chapter 1 within thirty (30) days of filing a complete application. Review and approval shall be based on the following criteria, as applicable to the request:

1. **The necessity to remove native vegetation in order to construct proposed improvements or otherwise utilize the property in a reasonable manner consistent with the City Code and policies;**

Vegetation clearing permits are generally not needed for low-impact survey work, as narrow survey paths do not create the same issues as large-scale clearing. However, staff finds that selective clearing of a larger portion of the site is warranted. Preparing sites for homes on this property will undoubtedly involve many challenges related to grading and stormwater. This work can potentially create problems, which this report tries to address using requirements from the building codes and adopted plans, but exposing a desired subdivision site is a reasonably preliminary step in grading the property in order to make buildable lots.

2. **The environmental and physical impacts such clearing may have, including visual drainage, wind erosion, protection of adjoining property and structures, and impacts on significant riparian corridors or wetland buffer zones. Impacts on any affected significant wetland or riparian buffer zones shall be supported by a qualified professional or through consultation with staff from the Soil and Water Conservation District, Siuslaw Watershed Council, Oregon Department of Fish and Wildlife (ODFW), Oregon State University (OSU), or another person or agency with knowledge or experience with the affected resource.**

The Geotech report provided with the Site Investigation Report offered some recommendations related to soil disturbance, slope stability and stormwater. It did not consider the impacts to neighboring properties. A requirement for a stormwater management and soils management have been conditioned earlier and will directly address erosion and protection of adjoining properties and structures.

- 3. The adequacy of the applicant's proposed landscaping or revegetation plan, including plant selection, staking, irrigation, and other maintenance provisions. (This section amended by Ordinance No. 22 Series 1994).**

In the event vegetation has been removed and no building permit issued and foundation placed by June 1, 2023, the applicant shall submit a replanting and irrigation plan for the cleared areas and plant those areas by June 15, 2023. The revegetation plan shall address prevention of erosion and revegetation of cleared areas. Revegetation of the site shall incorporate native species in a density approximate to that prior to the clearing using specimens and planting sizes listed in the Tree and Plant List for the City of Florence which will create 80% plant coverage within three years of planting. [Condition 10]

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

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

Vegetation clearing is subject to the penalties of this section. Each requirement stated above and not followed will warrant a \$500 per day penalty in addition to a hearing before the Planning Commission for assignment of additional mitigation actions. These are not criteria for this review.

VI. CONCLUSION

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

VII. CONDITIONS OF APPROVAL

1. Approval for this application shall be shown on:

"A" Findings of Fact
"B" Land Use Application
"C" SIR and Geotechnical Report
"D" Contours, Grading and Cut and Fill Plans

Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. **Any modifications to the approved plans** or changes of use, except those changes relating to the structural integrity or ADA access which are regulated by Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. Regardless of the content of material presented for this approval, including application text and exhibits, staff reports, testimony and/or discussions, the property owner/applicant agree to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal action as documented by the records of this decision and/or the associated Conditions of Approval. The property owner and applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of building permits.
3. Upon encountering any cultural or historic resources during construction, the applicant shall immediately contact the State Historic Preservation Office and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. Construction shall cease immediately and shall not continue until permitted by either a SHPO or CTCLUSI representative.
4. Prior to performing any root or soils removal the applicant shall apply for a LUCS with DEQ.
5. The applicant shall provide a Stormwater Management Drainage Plan prepared by an engineer in accordance with FCC 9-5-2-1 and the City of Florence Stormwater

Manual. This plan shall be provided to Public Works Department in conjunction with the detailed public improvement plan submittal and must be reviewed and approved by the City Engineer prior to commencement of public improvement construction.

6. A Drainage Plan is required for all development, except as provided in FCC 9-5-2-4. Submittal requirements are tailored to the size and impacts of the development. The submittal requirements are specified in the Stormwater Manual. Due to the on-site and adjacent off-site slopes the City's stormwater design standards shall be followed in conjunction with building code. The system used shall meet the setback requirements from structures and property lines and shall not be constructed in a manner or placed in a location where an on-site or adjacent off-site slope, property or improvement would be compromised.
7. The applicant has submitted an SIR application and Geotech Report that includes risk mitigation recommendations to address the criteria. Each of the recommendations identified by the engineer in the Geotech report must be implemented throughout development of this site. Their recommendations are made to be requirements and thus conditions of approval for this vegetation clearing permit.
8. Any sand exposed by vegetation clearing or related activities shall be covered with mulch or contained by other means by the end of the same day it is exposed so that sand does not move to adjacent properties, rights-of-way, or public lands and waterways.
9. Development on the site, including vegetation clearing, shall adhere to the City of Portland Erosion and Sediment Control Manual, as adopted by the City of Florence and incorporate any erosion methods needed to ensure soil stability such as armoring and buffering. Vegetated retention perimeters shall be outlined with orange construction fencing before any clearing activity commences.
10. In the event vegetation has been removed and no building permit issued and foundation placed by June 1, 2023, the applicant shall submit a replanting and irrigation plan for the cleared areas and plant those areas by June 15, 2023. The revegetation plan shall address prevention of erosion and revegetation of cleared areas. Revegetation of the site shall incorporate native species in a density approximate to that prior to the clearing using specimens and planting sizes listed in the Tree and Plant List for the City of Florence which will create 80% plant coverage within three years of planting.

Informational

1. Vegetation clearing is subject to the penalties of this section. Each requirement stated above and not followed will warrant a \$500 per day penalty in addition to a hearing before the Planning Commission for assignment of additional mitigation actions.

VIII. EXHIBITS

- "A" Findings of Fact
- "B" Land Use Application
- "C" SIR and Geotechnical Report
- "D" Contours, Grading and Cut and Fill Plans

AMENDMENT TO ORIGINAL FINDINGS OF FACT APPROVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, this 22nd day of February, 2022.



Roxanne Johnston, CFM
Senior Planner