

TITLE 10: CHAPTER 19: ESTUARY SHORELANDS, AND BEACHES AND DUNES

10-19-1: ESTUARY DISTRICT ADMINISTRATION

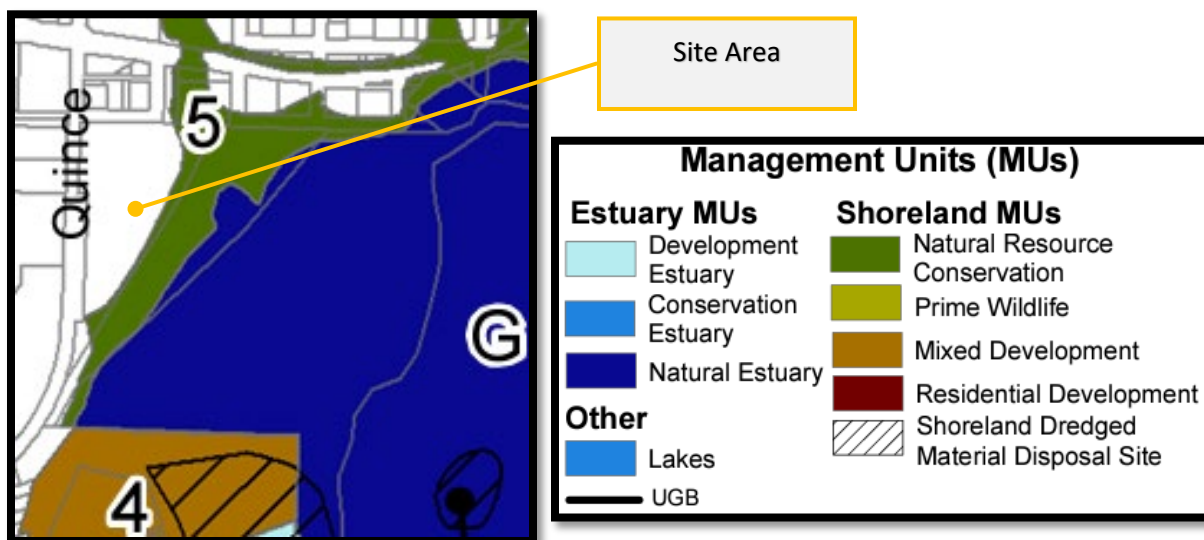
A. Applicability

1. The following three Estuary Zoning Districts apply to the Siuslaw River Estuary within the Florence city limits: Natural Estuary, Conservation Estuary, and Development Estuary. These districts implement the requirements of Statewide Planning Goal 16 and policies in the Florence Comprehensive Plan and corresponding “management units.” In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 16, Siuslaw Estuarine Resources.

2. Estuary Zoning Districts are applied to portions of the estuary within city limits as classified on the City of Florence Zoning Map.

The tentative partition for the site has been discussed and found in Exhibit L. As shown in the Florence Realization 2020 Comprehensive Plan Map 17-1 excerpts, the pre-partition property lies in Management Unit G of the Natural Estuary Management Unit. Management Unit G consists of the tide flats at the mouth of the North Fork of the Siuslaw, both north and south of the Highway 126 Bridge. All three proposed partition parcels are within the shoreland management unit of Natural Resource Conservation, specifically Management Unit 5.

*Excerpts taken from *Map 17-1 Estuary & Coastal Shorelands Management Units in the UGB*



Florence Realization 2020 Comprehensive Plan, p. XVI-13 for MU “G”:

Rationale is:

- a. Extensive seagrass beds*
- b. Benthic fauna, such as softshell and macoma clams and shrimp*
- c. Major tract of tidal marsh and productive tideflats*
- d. Shorebird use*
- e. Low intensity recreational importance*

The extensive eelgrass beds, aside from being extremely important for nutrient exchange, provide an excellent habitat for many organisms, both by direct attachment and as a result of its stabilizing effect on the substrate. One benefit of this biologically rich condition is excellent fish habitat. Furthermore, the tidal flats, because of their close proximity to the population center, are one of the most heavily used sites for recreational clam digging. A recorded tribal archaeological site is located in this Management Unit, providing evidence of tribal utilization of this habitat and confirming the long-term productivity of this habitat. When this management unit designation was assigned in 1978, the Siuslaw had approximately 750 acres of tidelands, about 20 percent of the river’s total estuarine habitat. Only the Salmon and Chetco River estuaries have smaller percentages of tidelands. Because of the unique value of these lands for nutrient productivity and biological habitat, combined with the scarcity of tideland in the Siuslaw, the importance of a natural designation on this area is apparent.

Florence Realization 2020 Comprehensive Plan, p. XVI-11 for MU “5”:

“Management Unit #5 *is a 50-foot wide strip of land measured from the mean high tide line, starting at the northern boundary of MU #4 and extending to the UGB, including any adjacent lands within the 100-year floodplain.*

Rationale is:

- a. Steeply rising bank limits estuarine influence;*
- b. Adjacent tideflats limit accessibility to river channel;*
- c. Expansive tideflats limit erosion danger;*
- d. Adjacent to a biologically productive part of the estuary – marshes at the confluence of North Fork and Main Stem;*

This management unit is intended to protect the riparian vegetation and provide a buffer for the adjacent natural estuarine Management Unit. Hazard of flooding or bank erosion is limited by the steeply rising banks and the wide expanse of tideflats adjacent.”

B. Resource Capability Assessment:

- 1. Purpose: Uses Requiring a Special Use Permit (Type II Review) or Conditional Uses (Type III Review) in the Natural Estuary (NE) and Conservation Estuary (CE) Districts are allowed only if determined to be consistent with the Resource Capabilities of the area and the purpose of the management unit in which the use or activity occurs. The purpose of this subsection is to establish a procedure for making a Resource Capabilities Assessment. Major activities or uses in the estuary may require an Estuarine Impact Assessment. Those uses do not also require this Resource Capability Assessment.**

No uses are proposed with the Natural Estuary Management Unit. Therefore, this subsection “B” does not apply.

C. Estuarine Impact Assessment:

- 1. Purpose: The purpose of this subsection is to provide a procedure for evaluation of uses or activities which are major in nature and which could potentially alter the integrity of the estuarine ecosystem. Activities which require an Estuarine Impact Assessment do not also require a Resource Capability Assessment. Uses which are permitted outright do not require an Estuarine Impact Assessment. [...]**

No uses are proposed with the Natural Estuary Management Unit. Therefore, this subsection “B” does not apply

10-19-2: NATURAL ESTUARY DISTRICT (NE):

- A. Purpose and Extent: The purpose of the Natural Estuary District (NE) is to assure the protection of significant fish and wildlife habitats and continued biological productivity of the estuary and to accommodate the uses which are consistent with these objectives. The boundaries of the NE District are determined by the natural estuarine features. The NE District includes all major tracts of salt marsh, tideflats, eelgrass and algae beds. These are as identified on the City Zoning Map as specified by this Title.**

Once formally partitioned, the proposed hotel development property will not lie within the Natural Estuary District. The future Estuary Trail described in Exhibit M and supported by other Exhibits such as K, and L will be constructed in this District and what is shown as being Management Unit #5 of the *Florence Realization 2020 Comprehensive Plan*. None of the remaining code sections apply to this application as the development site is completely upland of the NE District.

10-19-5: COASTAL SHORELANDS OVERLAY DISTRICT ADMINISTRATION

- A. Coastal Shorelands Overlay Districts are applied to Coastal Shorelands within city limits as classified on the City of Florence Coastal Overlay Zoning Map.**

- B. As lands are annexed over time, Coastal Shorelands shall include all lands contiguous with the ocean, the Siuslaw Estuary, and four lake areas: Munsel Lake, Heceta Junction Lake, South Heceta Junction Seasonal Lakes, and North Jetty Lake. Upon annexation, Coastal Shorelands Overlay Zoning Districts are applied to the properties depicted on the Map 17-1 Estuary and Coastal Shoreland Management Units in the Florence UGB in the Comprehensive Plan. In addition, the Comprehensive Plan designates two sites in the UGB “Water Dependent,” which are zoned Marine (Code Chapter 18) and Waterfront Marine (Code Chapter 24).**

- C. These overlay districts implement policies in the Florence Comprehensive Plan and corresponding “management units.” In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 17, Coastal Shorelands: Ocean, Estuary, and Lake Shorelands. Where there are conflicts between the two, the stricter requirements shall apply.**

The requirements of the adjacent Estuary District shall supersede the requirements for Coastal Shorelands; and the provisions of the adjacent Estuary District shall be reviewed for any additional uses or requirements that may apply to the respective Coastal Shoreland District. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

- D. Consultant's Reports: Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein, the applicant may be required to submit a supplementary report containing findings prepared by an engineer, hydrologist, environmental scientist, geologist, biologist, or other qualified consultant.**

- E. Uses Subject to State and Federal Permits**
 - 1. When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the City for the determination that applicable criteria are satisfied.**
 - 2. Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to the city in order to avoid unnecessary delays caused**

by the unavailability of State or Federal processing information which may be deemed necessary .

3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.
 4. Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the State Parks and Recreation Department.
- F. The requirements imposed by the overlay districts shall be in addition to those imposed by the base zoning district, or, if the overlay district conflicts with the requirements of the base zoning district, the more restrictive requirements apply.

10-19-10: Natural Resource Conservation Overlay District (/NRC)

- A. **Purpose:** The Natural Resource Conservation Overlay District (/NRC) is applied to those coastal shorelands identified in inventory information and designated generally in the Lane County Coastal Resources Management Plan as possessing a combination of unique physical social or biological characteristics requiring protection from intensive human disturbance. Those areas serve multiple purposes, among which are education, preservation of habitat diversity, water quality maintenance and provision of intangible aesthetic benefits. The /NRC District is applied to prominent aesthetic features such as coastal headlands and open sand expanses in proximity to coastal waters, sensitive municipal watersheds and significant freshwater marsh areas. 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.

Intent. The requirements imposed by the /NRC District shall be in addition to those imposed by the base zoning district. Where the requirements of the /NRC District conflict with the requirements of the base zoning district the more restrictive requirements shall apply. The requirements of the adjacent Estuary District shall supersede the requirements of this Section of the Code.

- C. **Special Uses Approved by Type II Review:** In addition to the Special Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of

this Title upon satisfaction of the applicable criteria set forth in 10-19-10 F, G, & H, except as expressly exempted below and except as expressly prohibited by 10-19-10-E, and provided they are consistent with the requirements of the adjacent Estuary District.

[...]

- 3. All buildings and uses allowed as permitted uses in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following additional criteria:**
 - a. The use will not adversely affect the aesthetic and biological characteristics of the site, as identified in the Comprehensive Plan.**
 - b. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.**

The proposal includes a use permitted with the Old Town District Area C. The site plan parcel resulting from the proposed partition will not include the Estuary District. Therefore, only the Shoreland Management Unit applied. Chapter 17 of the Florence Comprehensive Plan discusses the Natural Estuary Resources Shoreland Management Unit. Specifically, Policy 14e discusses a retention of a 50' horizontal buffer from the estuary. This is measured differently than the 50' buffer discussed in 10-G below. The proposal does not propose to remove native vegetation from the slope in either buffer zone. This supports the biological function of the tidelands below. Surface waters are proposed to be infiltrated after biological treatment in a rain garden and oil silt separators within catch basins. Criterion met.

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

[...]

- 2. No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, and fire safety requirements.**
- 3. To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.**
- 4. Construction activities occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for the facilities indicated in 10-19-10-F, where**

vegetation removal beyond that allowed above cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal waters. The vegetation shall be of native species in order to maintain the natural character of the area.

5. The requirements for parking and vision clearance shall be as provided by the respective base zoning district.
6. No topographic modification is permitted within the 50 foot buffer zone specified by 10-19-10-G.
7. 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 allowable:
 - 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.
8. All mature trees must be retained within the setback area specified by 10-19-G, except where removal is subject to requirements of the Oregon Forest Practices Act.
9. Structures shall be sited and/or screened with native vegetation so as not to impair the aesthetic quality of the site.

The proposal is located on the southern part of a former middle school site in an area with limited to no vegetation. Other than one tree at the SE corner of the site no native vegetation is proposed to be cleared. Parking and vision clearance are addressed elsewhere. Existing native vegetation including trees along the eastern and southern area of the site should serve to retain aesthetic quality of the site. As explained elsewhere, the vegetation will lend a continuity of scale between the site and its neighbors. At four stories in height, the hotel will rise above the tree line along the eastern and southern slopes, yet such height is allowable in the Old Town Area C District. The 50' buffer zone is proposed to be retained with existing native plants and trees. Criterion met.

- 10. The exterior building materials shall blend in color, hue and texture to the maximum amount feasible with the surrounding vegetation and landscape.**

Exterior building colors, other than yellow proposed and what appears to be proposed within alcove areas, contain neutral colors of gray, brown, blue, white and tan which should be compatible with the sky and surrounding vegetation. Aside from proposed fluorescent yellow, criterion met.

- G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.**

- 1. In addition to the yard setbacks required in the base zoning district, a 50 foot buffer zone shall be required. The buffer zone is measured from the mean high tide for the ocean and estuary and from the average high water for coastal lakes. Use of this 50 foot buffer zone shall be as specified in 10-19-10-F.**

The mean high tide has been provided. The 50' buffer is proposed to be maintained with existing native vegetation and trees. Criterion met.