



FINDINGS OF FACT STAFF REPORT

Date: 03/25/2014

OPRD Coastal Land Use Coordinator: Tony Stein

OPRD File Number:

BA-692-14

County:

Lincoln

Applicants: End of Spit Management
Units 6, 7 and 8

Project Location:

Properties located at 114, 110, 106 and 102 (MU-6), 38, 34, 30, 26, 22, 18, 14, 10, 6 and 2 (MU-7) Oceania Drive, and 1 and 5 (MU-8) NW Alsea Bay Drive.
T13-R12-Section 24AD, Waldport, Oregon

Brief Project Description:

The applicant seeks authorization to implement the Bayshore Dune Management Plan (BDMP) for all properties located in Management Units (MU) 6, 7, and 8. The BDMP was completed by Terra Firma Geologic Services in February, 2012, and was developed with the cooperation of the Bayshore Homeowners Association, Lincoln County Planning Department, Oregon Parks and Recreation Department, Department of Land Conservation and Development, Bayshore Road Maintenance District, Seal Rock Water District and underground utility providers. The plan was adopted as part of the Lincoln County Comprehensive Plan and is implemented through applicable sections of the Lincoln County Code.

The project is designed to remove sand deposition around existing homes, yards and driveways as well as vacant lots that are located within MU 6, 7, and 8 and place it back on the ocean shore. Significant damage can occur to inundated homes and infrastructure, as well as public utilities within MU 6, 7, and 8, and ocean views of the subject properties have been blocked.

Dune grading will be conducted using a D-8 Caterpillar or equivalent. An estimated 10,000 cubic yards of material will be removed, transferred and placed on the ocean shore during the initial phase of the project. The sand will be graded west of the Statutory Vegetation Line (SVL), and placed on the upper beach area as described in the BDMP "Management Strategy" guidelines and specific activity plans as developed by the MU 6,7, and 8 Subarea Committee. The new dunes and exposed areas will be planted with European Beach grass as required in the vegetation planting and maintenance plan found in Appendix 2 of the Bayshore Dune Management Plan "Management Strategy". Alternative sand control and planting methods may also be employed with appropriate review, planning and approval by the MU 6, 7, and 8 Subarea Committee property owners, the Lincoln County Planning Department and OPRD.

ADMINISTRATIVE RULE STANDARDS AND RELEVANT FACTS

I. GENERAL STANDARDS, OAR 736-020-0010

Project Need – There shall be adequate justification for a project to occur on and alter the ocean shore area.

Inundation by wind-blown sand at Bayshore has been a problem for many years and will continue. Aerial photographs taken in 1939 and 1952 prior to development show large active sand dunes on the Alsea Spit. The same processes that caused those dunes to develop exist today; the major difference is that sand is being deposited in the foredune rather than being transported across an open sand flat to inland dunes. Both southerly and northerly winds influence sand movement and the dunes at Bayshore but the greatest changes and impacts are associated with the strong southerly winds in the winter. During the past 3 winters, it has not been uncommon in the southern part of the planning area for sand accumulations of several feet to occur during individual storms. Sand is deposited seaward of existing homes, against and on top of homes, in yards and driveways between homes, within vacant lots, public roads, and access points that are located within MU 6, 7, and 8. Significant damage can occur to inundated homes and infrastructure, as well as public utilities within MU 6, 7, and 8. Ocean views of the subject properties have been blocked.

This application seeks to minimize inundation brought about by excessive accumulation of wind-blown sand and correspondingly maintain or enhance ocean views. The application also seeks to maintain or enhance a designated public access to the open sand beach from Oceania Drive. Shoreline protective structures are currently buried beneath the dunes on the subject properties located in MU 6, 7, 8 and maintaining and creating a wider foredune has the potential to lower the risk for waves to erode all the way to the rip rap, depending on the severity of the wave event(s). The applicants propose to implement the dune prescriptions as outlined in the BDMP for Management Units 6, 7, and 8 that will help provide the opportunity to develop a wider foredune that can lower the risk of impacts if a dune with a sufficient width can be developed.

A finding of project need follows the review of all other applicable standards and is included in the findings summary at the end of this report.

Protection of Public Rights – Public ownership of or use easement rights on the ocean shore shall be adequately protected.

Easement rights or use of the public should be relatively unaffected, and potentially improved, by the movement and re-stabilization of sand. The recreational value of the ocean shore will remain unaffected.

Public Laws – The applicant shall comply with federal, state, and local laws and regulations affecting the project.

State of Oregon laws and regulations are addressed under this permit review. The Lincoln County Department of Planning and Development is currently reviewing the project consistent with the dune management provisions of the Lincoln County code. OPRD permit conditions will require that all County land use processes and subsequent permits be completed prior to any dune alteration activities, and that the Lincoln County Department of Planning and Development will provide OPRD with a certification of consistency with the local comprehensive plan and land use ordinance.

The Bayshore Dune Management Plan and implementing provisions have been incorporated into the Lincoln County Comprehensive Plan and Lincoln County Code. The plan and implementing measures have been reviewed by the Department of Land Conservation and Development and determined to be consistent with applicable provisions of Goal 18 Beaches and Dunes, including Goal 18, Implementation Requirement 7 (grading and sand movement).

Alterations and Project Modifications – There are no reasonable alternatives to the proposed activity or project modifications that would better protect the public rights, reduce or eliminate the detrimental affects on the ocean shore, or avoid long-term cost to the public.

A “no action” alternative was not considered since sand inundation would continue with potential damage to homes, associated infrastructure, public utilities and compromised public and emergency access to the subject properties. Remedial sand removal on a piecemeal basis was also not considered as it would not address the overall objective of a coordinated approach to dune stabilization and minimizing sand inundation.

In general, problems with sand maintenance can best be addressed on a regional, or neighborhood scale. This is preferred to actions being undertaken by individual property owners, outside of the scope of an overall plan. Without a dune management plan, individual owners must remove sand on a case-by-case remedial basis when their houses or yards get inundated. This does not provide a long-term solution or address the problems to streets and infrastructure caused by the constant accumulation of sand. The goal of the proposed plan for MU 6, 7 and 8 is to provide long-term relief by reducing the supply of sand that has been constantly inundating properties and public facilities. The BDMP is a result of significant coordination between the property owners, Bayshore Road District, OPRD, DLCDC, and the Lincoln County Department of Planning and Development and represents the preferred alternative. Other alternatives considered would not better protect the public rights, reduce or eliminate the detrimental affects on the ocean shore, or avoid long-term cost to the public. Other alternatives may not be consistent with Statewide Planning Goal 18.

Public Costs – There are no reasonable special measures which might reduce or eliminate significant public costs. Prior to submission of the application, the applicant shall consider alternatives such as nonstructural solutions, provision for ultimate removal responsibility for structures when no longer needed, reclamation of excavation pits, mitigation of project damages to public interests, or a time limit on project life to allow for changes in public interest.

At this time, there are no structural components proposed for the project. Fencing in the dunes may be implemented for sand control and the applicants will bear the costs for construction and maintenance. There are no significant Oregon public costs as the applicants will pay for all costs associated with dune grading, fencing, vegetative planting and monitoring.

Compliance with LCDC Goals – The proposed project shall be evaluated against the applicable criteria included within Statewide Planning Goals administered by the Department of Land Conservation and Development.

For the purposes of this report, OPRD has reviewed the project against the following goals, pursuant to OAR 736-020-0010(6):

- a. Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources: The Ocean Shore Alteration Permit standards evaluated in this report address standards for protection of natural, scenic, and historic resources. The proposed project does not adversely affect identified open space areas, significant scenic views, historical or cultural sites, fish and wildlife habitat, aggregate sites, or other resources listed in Goal 5. The project instead will transfer sand from the foredune to the beach/dune

interface to alleviate the problems of view obstruction and sand inundation onto private yards, streets, and public infrastructure.

b. Goal 17, Coastal Shorelands: The proposed project will not impact coastal shore land resources or adjacent waterways, wetlands, or riparian vegetation. There are no wetlands within the project area.

c. Goal 18, Beaches and Dunes: The purpose of Statewide Planning Goal 18, Beaches and Dunes, is to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dunes areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas. Fore-dune grading plans are addressed in Goal 18, with emphasis on the need for planning to take place on an area-wide basis rather than a lot-by-lot approach. Guidelines include the identification of appropriate measures for stabilization, avoiding or minimizing adverse effects on adjoining properties, and identifying appropriate sites for public and emergency access to the beach. The Bayshore Dune Management Plan has addressed all applicable Goal 18 requirements. As indicated previously, the plan and implementing measures, as adopted by Lincoln County, have been reviewed by the Department of Land Conservation and Development and determined to be consistent with applicable provisions of Goal 18, Beaches and Dunes.

Stabilization measures are outlined in the proposed plan, and consist of the planting of sand stalling grasses and other vegetation. Once established, this vegetation will help reduce the continued inundation of sand onto the nearby properties. The subject properties will continue to require some maintenance grading or sand removal until the vegetative stabilization becomes effective, however, the required maintenance during this time is not expected to be significantly different than the regular maintenance and problems associated with the existing conditions. If necessary, sand fencing is an option that may be used to temporarily capture shifting sand and control inundation until vegetation becomes effective.

Within the project area, there is a public beach access site. This site provides pedestrian beach access and this use will continue following the dune grading work. This access site is normally unsuitable for emergency vehicle use.

d. Goal 19, Ocean Resources: The proposed project will involve the transport of sand and vegetation seaward from the existing dune crest. During extreme high tides and storm surges, wave action will disperse some of the material into the surf zone and within the littoral cell. There will be no introduction of material to open ocean waters, and no impacts to ocean resources.

II. SCENIC STANDARDS, OAR 736-020-0015

Projects on the ocean shore shall be designed to minimize damage to the scenic attraction of the ocean shore area.

Natural Features – The project shall retain the scenic attraction of key natural features, for example, beaches, headlands cliffs, sea stacks, streams, tide pools, bedrock formations, fossil beds and ancient forest remains.

The project will result in the reconfiguration of the foredune, but will not remove or reduce the scenic attraction of key natural features.

Shoreline Vegetation – The project shall retain or restore existing vegetation on the ocean shore when vital to scenic values.

The project site vegetation is dominated by European beach grass, a non-native species introduced in the 1930's. Introduction of European beach grass is responsible for successional changes in Oregon's coastal dune ecosystem which have modified landscape and scenic values. European beach grass has aggressively replaced the Native American beach grass along virtually all dune-backed beaches on the Oregon coast.

The plan calls for graded areas to be planted immediately following foredune grading and sand transfer. Planting of sand-stilling vegetation (beach grass) will extend from the subject properties westward. The planting of beach grass species isn't necessarily vital to scenic views, and stabilization of the dunes with vegetation is an important part of the dune management program.

View Obstruction – The project shall avoid or minimize obstruction of existing views of the ocean and beaches from adjacent properties.

The project will serve to protect or in some cases enhance ocean views for the residents in the subject area.

Compatibility with Surroundings – The project shall blend in with the existing shoreline scenery (type of construction, color, etc.).

When the project is completed, the dunes will be reconfigured, but will soon attain an appearance similar to surrounding dune areas, as vegetation is re-established, and the signs of dune modification are smoothed out by wind, rain and wave action. Sand fencing will be visible on the upper beach area but will be located well above the high tide line.

III. RECREATION USE STANDARDS, OAR 736-020-0020

Recreation Use – The project shall not be a detriment to public recreation use opportunities within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.

The project will not result in a detriment to public recreation use opportunities nor preclude any current existing use by the public. There are no known sensitive biological resources such as state or federally listed species in MU 6, 7, and 8.

Recreation Access – The project shall avoid blocking off or obstructing public access routes within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.

The project will not block or obstruct any important public access routes within the ocean shore area. The project includes maintenance of the existing 16 foot wide beach access route between Tax Lot 8100 and Tax Lot 1500. Access may be restricted during periods where equipment is grading sand, or when vegetative stabilization is being established, however these activities will be temporary.

IV. SAFETY STANDARDS, OAR 736-020-0030

Structural Safety – The project shall not be a safety hazard to the public due to inadequate structural foundations, lack of bank stability, or the use of weak materials subject to rapid ocean damage.

Sand fences may also be placed on the ocean shore to collect drifting sand. The Bayshore Fore-dune Management Plan “Management Strategy” recognizes the use of sand fencing installed near or seaward of the fore-dune toe to help stabilize the movement of sand. The geologic report states that it should be done on a trial basis in one management sub-area so that issues related to fencing can be evaluated. No safety issues have been identified with sand fences that could become a hazard to the general public using the area.

Obstructional Hazards – the project shall minimize obstructions to pedestrians or vehicles going onto or along the ocean shore area.

The grading and redistribution of sand will not create obstructions to pedestrians or vehicles. Sand moved out onto the beach will be quickly re-distributed by wind and extreme high tides. The proposed project minimizes obstruction to pedestrians to the extent possible.

Neighboring Properties – The project shall be designed to avoid or minimize ocean erosion or safety problems for neighboring properties.

Grading specifications require dune crest elevations necessary to provide flood protection and erosion protection (FEMA base flood elevation plus 4 feet). The Bayshore Dune Management Plan identifies and encourages the development of a more robust dune system over time, with the transfer of excess sand to the upper beach areas to enhance the sand budget, flood resistance, and erosion resistance of the adjoining beach areas. The applicant proposes to initiate a BDMP Subarea Committee to develop plans that are designed to blend into one another to improve both function and appearance. The Subarea Committee will also consider the risk of offsite inundation impacts which could result from grading large areas for view improvement.

Property Protection – Beachfront property protection projects shall be designed to accomplish a reasonable degree of increased safety for the on-shore property to be protected.

One of the primary purposes of the plan is to protect the upland property owners and the public from the hazards of cyclic dune erosion events, on-going sand inundation, blockage of views, and impacts on public streets and infrastructure. The proposed project will help to accomplish these goals.

V. NATURAL AND CULTURAL RESOURCE STANDARDS, OAR 736-020-0030

Projects on the ocean shore shall avoid or minimize damage to the following natural resources, habitat, or ocean shore conditions, and where applicable, shall not violate state standards:

Fish and wildlife resources including rare, threatened or endangered species and fish and wildlife habitats.

There are no protected species, fish, or wildlife habitat identified within MU 6, 7 and 8 of the dune-backed shoreline.

Estuarine values and navigation interests.

A portion of MU 8 extends outside of the Ocean Shore State Recreation Area boundary and OPRD's jurisdiction. All sand alteration activities will occur above mean higher high water on the Alsea Bay side of the Alsea Spit and above mean high tide on the ocean side. The project will not affect any estuary or navigable waterway. Estuarine values and navigation interests are sufficiently protected and may benefit from the proposed project.

Historic, cultural and archeological sites.

Notice of the application was provided to the State Historic Preservation Office (SHPO), and to the Confederated Tribes of Siletz and the Confederated Tribes of Grand Ronde. There were no reports of historic, cultural, or archeological sites at this location.

Natural areas (vegetation or aquatic features).

Aquatic features will not be adversely impacted, as all work will occur above mean higher high water on the Alsea Bay side of the spit and above mean high tide on the ocean side. No adverse impact on native vegetation will occur. The project site vegetation is dominated by European beach grass, a non-native species introduced in the 1930's, and is responsible for successional changes in Oregon's coastal dune ecosystem and has modified the natural flora and fauna.

Air and water quality of the ocean shore area.

No adverse effect on air and water quality of the ocean shore will result from the proposed project.

Areas of geologic interest, fossil beds, ancient forest remnants.

No areas of geologic interest, fossil beds, or ancient forest remnants are known to occur at the project site.

When necessary to protect native plant communities or fish and wildlife habitat on the subject or adjacent properties, only native, non-invasive, plant species shall be used for revegetation.

The proposed project will result in a localized removal, transfer and placement of non-native vegetation. No plans have been included for reintroduction of native plants.

VI. PUBLIC COMMENT

Notice of the proposed project was posted at the site for 30 days in accordance with ORS 390.650. Individual notification and a copy of the application were mailed to government agencies and individuals on OPRD's ocean shore mailing list. OPRD received no written comments. No requests for a public hearing on the application were received.

VII. Findings Summary

1. The proposed project has been extensively coordinated with state, county and local government representatives and participating property owners from the Bayshore Homeowners Association.
2. Adequate need exists to allow dune grading to alleviate sand inundation to homes and infrastructure. Restoration of views to properties may be possible in some cases.

The following checklist summarizes whether the application satisfies the general, scenic, recreation, safety and natural and cultural resource standards as defined in OAR 736-020-0010 through 736-020-0030:

Standard	Yes	No	Standard	Yes	No
Project Need	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Structural Safety	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Protection of Public Rights	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Obstructional Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public Laws	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Neighboring Properties	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alteration and Project Modifications	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Property Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public Costs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fish and Wildlife Resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Compliance with LCDC Goals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Estuarine Values and Navigation Interests	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Natural Features	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Historic, Cultural and Archeological Sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Shoreline Vegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Natural Areas	<input checked="" type="checkbox"/>	<input type="checkbox"/>
View Obstruction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Air and Water Quality of the ocean shore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Compatibility with Surroundings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Areas of Geologic Interest	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recreation Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Use of Native Plant Species when Necessary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recreation Access	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>

VIII. STAFF RECOMMENDATION:

Based on an analysis of the facts and in consideration of the standards evaluated under OAR-736-020-0005 through OAR 736-020-0030, I recommend the following action:

- Approval
- Approval with conditions
- Denial

Tony Stein
 Ocean Shores Coordinator