



FINDINGS OF FACT STAFF REPORT

Date: March 28, 2005 OPRD Coastal Land Use Coordinator: John Allen

OPRD File Number: BA-596-05 County: Clatsop Applicant: Breakers Point Homeowners Association, Mike Morgan

Project Location: Building 40 & 50 on North Breakers Point Court and Bldg. 506 & 508 at 524 No. Ash Street, Cannon Beach, Clatsop County. County Assessor's Map T 5 R10 Sec 19, 19AC tax lots 2400,2500,2600, 2700. 19DA tax lots 90000, 90001.

Brief Project Description: Breakers Point and Shirley Gittlesohn propose to conduct foredune grading of approx. 9500 cu. yds. of sand on both the north and south sides of Fifth Street in Cannon Beach. The sand would be pushed westward to form new dunes and immediately revegetated with European and American beach grasses.

BACKGROUND The City's dune management plan, entitled Cannon Beach, An Integrated Approach to Sand Management, (Rosenfeld, 1997) was adopted into the City's Comprehensive Plan in 1998, and provides for sand management actions limited to a short area of beach fronting the Breakers Point Condominiums at the south end of Chapman Beach. The objectives as described in the plan are as follows:

- This project is designed to preclude the continued encroachment of active dune crests, which have increasingly affected the structures within the project site for over 15 years. While the dunes within the project area will remain active, a short term reduction in the rate of dune encroachment (5-10 years) is envisioned.
- In an effort to reduce the landward encroachment of the active dunes, vegetation controls have been used. While effective, this has created over-steepened slopes and higher dune crests, which effectively blocked former beach access points and established dune crests as high as second story roof lines. Reducing these crests and re-opening controlled access points is desirable.
- Continued dune growth has made landscaping and building maintenance both difficult and costly, creating the need for nearly constant remedial actions. This project will re-establish effective landscaping areas, reduce sand encroachment on structures, and partially re-establish views from residential units nearly buried by dune growth.
- The project involves the third phase of dune grading at Breakers Point Condominiums. The first phase was completed in the spring of 2000, and second phase completed in the spring of 2002. (Both these phases were approved under OPRD Permit BA-406-98.) These previous grading activities concentrated on the southern 500 feet between Ecola Creek and Building J8. The foredune crest was graded to the specified level of four feet above the 100 year flood zone elevation (27+4=31'MSL) and sand transferred towards the western dune edge. Beach grass was transplanted to the disturbed areas to provide stabilization.

This phase will take place on a 300 foot width of dune area north of the first two phases, primarily in front of building 40 & 50, and 506 & 508. Cross sections have been provided in the permit application showing the estimated cut and fill volumes. Because the grade level of the Breakers Condominium buildings rises to the north, the dune crest will be maintained at the elevation of between 31.5 and 39.5 feet MSL, which is up to 8.5 feet higher than the adjoining areas to the south that were graded under the previous phases.

A D 8 Cat or equivalent, front end loader, and dump truck will move approximately 9500 cu. yds. of sand due west to the lower dune areas near the dune/beach interface. The seaward edge of the sand fill area will be sloped at 2 to 1V, with the fill slope extending approximately 30 feet seaward of the existing dune hummocks. Disturbed sand areas will be immediately planted with beach grass salvaged from the site as was done in the previous phases.

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.

According to the sand management plan, the project is needed to control the problems of sand accretion, which has resulted in advancing dune crests that have severely restricted views from the residential structures during the past ten years. The dunes also encroach on the lawn and threaten structures. The sand will be moved to the west and replanted to restore views. Remedial grading (removal of sand from within 35 feet of structures) has been conducted in the past. As reported in the plan, this remedial grading creates over-steepened slopes on the upland side of the dune, which quickly leads to more inundation and poses a safety concern to residents.

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.

Rights of the public will be unaffected by the movement and re-stabilization of sand. All of the ocean shore recreation area affected by the project will remain accessible to the public except during times of heavy equipment use and vegetative planting.

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

State of Oregon regulations are being addressed under the review of this permit. Because the project does not involve work below the high water line, it is unlikely that a permit will be required from the U.S. Army Corps of Engineers; however, a condition of the permit will require that the applicants obtain any required permits from the Corps, if applicable.

The City of Cannon Beach has certified that the proposal is consistent with the local comprehensive plan and zoning ordinance.

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.

The ongoing sand management activities at Breakers Point are part of a comprehensive management plan that covers that overall Cannon Beach littoral cell. Prior to adoption of the sand management plan, methods such as remedial sand transport and dune fencing have been used, but these methods have only had limited success, and have not resulted in effective solutions to the problem of sand inundation and blockage of views. Taking no action would allow the sand inundation problems to increase. The proposed grading activities will have little, if any impact on the ocean shore, or costs to the public. OPRD finds that the continued program of sand grading and stabilization, as outlined in the City's Comprehensive Plan, is the most appropriate alternative in sand dune management.

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.

Alternatives to the proposed dune management activities have been discussed above. The project will not result in loss of recreational areas to the public. Access may be restricted during periods when equipment is grading sand, or when vegetative stabilization is being established, however these activities will be temporary.

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.

The City of Cannon Beach has certified that the project is in compliance with the local comprehensive plan and land use ordinances, which are acknowledged by LCDC as meeting the Statewide Planning Goal requirements.

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 some reconfiguration of the foredunes. A natural appearance will be achieved as vegetation is restored and the sand is reshaped by wind, thereby maintaining the natural features of the beach and dunes.

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

At this site, the existing beach grass helps to enhance scenic values, but is also necessary to stabilize sand and prevent sand inundation onto the developed upland property. Existing beach grass will be removed and stockpiled prior to grading, and then planted on the disturbed areas at 18" spacing.

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 enhance ocean views, by lowering the area of high dunes in front of the Breakers Point development. In addition, deposition of sand along the seaward edge of the dunes will be limited so as not to obstruct views of Chapman Point from hotels and residences on the south side of Ecola Creek.

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 a natural appearance, as vegetation is re-established, and the signs of alterations are smoothed by wind and rain.

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.

Project impacts on public recreation use opportunities will be temporary, as grading is conducted and vegetation is being established. Once the project is completed, the dunes will again be accessible and open to public recreation use.

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 completed project will not block or obstruct any important public access routes with the ocean shore area. The access to the beach in this area will only be restricted during construction when it may be unsafe with equipment operating in that particular area.

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.

The project has been designed by a geological consultant who will oversee the work. The dune management activities will not increase safety hazards to the public, but will result in changes to the dune profile, and stabilization of the sand to reduce inundation problems at the Breakers Point Condominiums.

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

The deposition of graded sand will extend approximately 30 feet out from the existing dune/beach interface, however, the wide beach at this location will allow for continued recreational use and emergency vehicle access with out obstructions. The public will continue to have access to the vegetated dune areas between the open sand beach and the Breakers Point Condominiums.

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

The project will affect the dune profile on property owned by the Breakers Point Homeowners Association and Shirley Gittlesjohn. The proposed activities should not result in ocean erosion or safety problems for neighboring properties.

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 from the hazards of sand inundation, blockage of views, and restrictions to access. This phase of the plan will help to accomplish those goals. The proposal calls for two “sand baffle” ridges, about 10 feet wide and about 200 ft long, these will trap wind-blown sand and prevent excessive migration onto properties north and east of the excavated area.

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 reported fish and wildlife resources that will be impacted by the proposed project.

Estuarine values and navigation interests.

This phase of dune grading is not adjacent to an estuary, and does not affect navigable water on the ocean.

Historic, cultural and archeological sites.

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

Natural areas (vegetation or aquatic features).

Vegetative features at this site consist of primarily introduced European beach grass (*Ammophila arenaria*) along with some introduced American beach grass (*Ammophila brevigulapa*) and a smaller amount of American dune grass (*Elymus mollis*). Dune areas that are destabilized will be replanted with grass that is salvaged from the site prior to grading. This method was successfully used in the two previous grading phases.

Air and water quality of the ocean shore area.

The project will take place above the ordinary high tide line, and will not cause foreign materials or pollutants to enter the water. The proposed project does not adversely affect water quality on the ocean shore. Air quality will not be affected, except for a negligible amount of exhaust from the use of heavy equipment during the work period.

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

The project area consists entirely of accreted sand dunes, and does not contain any of these features.

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 site is within an urban residential area, and there are no protected native plant communities or fish and wildlife habitat on or adjacent to the project area.

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.

We had 5 letters of comments; only 3 requested a public hearing.

First comment: Person thought only native beach grass should be used, also asked questions about sand contaminated with knotweed. And thought there should be inspections done to make sure applicant is in compliance.

Second comment: Project should not be approved if it is only for clearing for view.

Third comment: Objected to planting west of the zone line, because it will interfere with future sand movement. And wants to know what kind of beach grass will be replanted.

Fourth comment: Disagreed with the city for allowing beach grading.

Fifth comment: If the local plan amendment process is not completed by the time of permit issuance, then a condition should be included that requires final adoption of the City of Cannon Beach plan amendment prior to any work commencing.

VII. FINDINGS SUMMARY

1. Project Need: The proposed grading project continues the sand dune management activities as described in the sand management plan (Cannon Beach, An Integrated Approach to Sand Management) adopted by the City of Cannon Beach. This plan emphasizes the need to manage sand on an area-wide basis in order to help maintain views, and reduce or eliminate the problems of sand inundation on buildings and infrastructure. Past management actions conducted under this plan and subsequent OPRD permits have proven very successful. The proposed dune grading will extend the management efforts and help to further reduce the problems associated with excessive sand dune accretion. The grading work will not adversely impact ocean shore resources or recreational values.

Based on the above considerations, OPRD finds that there is adequate justification for the project to occur on and alter the ocean shore area.

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

John Allen,
Area 1 Manager