



## FINDINGS OF FACT STAFF REPORT

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Date: May 11 ,2009

OPRD Coastal Land Use Coordinator: Calum Stevenson

OPRD File Number: BA-655-09

County: Curry

Applicants: June M. Jones

Project Location: 15800 Oceanview Drive, Brookings OR 97415  
T41S R13W Sec 09CB TL 5405

Brief Project Description: The proposed project includes the construction of a beach access stairway to serve a 19 lot housing development in the Harbor area south of Brookings, Oregon. The project will provide beach access down an approximately 65-foot high bluff. The base of the stairway is to be constructed of cast-in-place concrete secured to a rock outcrop. Above the wave impact zone the stairway will be constructed of wood, anchored into the bluff slope.

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### ADMINISTRATIVE RULE STANDARDS AND RELEVANT FACTS

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#### 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.**

As described in the permit application, the project will provide a beach access for a 19 lot subdivision and has been proposed by the applicant as a safe high ground for the public during high tide events or sneaker waves.

An existing public beach access is limited to one location approximately 1 mile from the proposed beach access construction. 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.***

The proposed beach access steps will not affect public ownership or use easement rights on the ocean shore, but will facilitate pedestrian beach access from the adjacent private properties.

**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. The Curry County Planning Department has indicated that a conditional use approval is required. The applicant has recently obtained this approval with the condition that an OPRD Ocean Shore permit is to be obtained. Federal regulations could potentially involve a U.S. Army Corps of Engineers permit; however a Corps permit is usually not required for this type of project. A condition of the permit will require that the applicants obtain any required permits from the Corps, if applicable.

**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 proposed public beach access steps are being built at the expense of a private property owner for the purpose of providing access from the upland property to the beach. The proposed stairway base will project approximately four to six feet beyond the base of the bluff, with no significant detrimental affects on the ocean shore. The structure is located adjacent to a rock outcrop and does not extend beyond the end of the rocks. Constructing the base of the stairway with wood will not be likely to provide the necessary durability to survive through a winter season.

Considering these factors, the proposed design constitutes the most reasonable option for a beach access structure at this site.

**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 beach access steps have been discussed above. There are no foreseen public costs associated with this project. The permit applicants will be responsible for maintenance of the beach access improvements, and if the steps are not maintained, and become a safety hazard or detriment to ocean shore resources, the permit applicants (permittees) or future owners of the stairway will be responsible for removing the facility to alleviate the safety hazard or detriment to the ocean shore.

**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.**

Curry County has certified that the project is in compliance with the Curry County Comprehensive Plan and Land Use Code by the providing a Conditional Use Approval to place a structure for recreational purposes within the beaches and dunes conservation zone 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 natural features of the beach and the bluff will remain intact, and no significant landforms such as headlands, sea stacks, or streams will be affected. The stairway color blends in with the adjacent rock outcrop and is directly attached to the outcrop reducing the visual impact to the beach. The end of the stairway does not extend beyond the end of the rock outcrop.

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

Vegetation has been retained and will be enhanced with native plants to eliminate erosion of the bluffs.

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

The beach access stairway will not affect existing views from adjacent properties.

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

The part of the project that is located on the beach and within the Ocean Shore jurisdiction is constructed of cast-in-place concrete and is a material that is required to withstand the dynamics of the beach environment. The way the stairs on the beach have been positioned blends in with the surrounding rock outcrop as much as possible and abuts close to the rocks to prevent an overly obvious manmade structure. Vegetation has been retained and the upper structure is mostly constructed with wood to better blend in with the natural vegetation.

### **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 proposed beach access steps will not affect recreation use opportunities on the beach, as the structure will encroach just four to six feet beyond the existing bluff toe and will be built immediately adjacent to a rock outcropping that extends beyond the end of the stairway.

***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.***

With only slight encroachment onto the beach, the project will not extend out to cause an obstruction to public access along the shoreline.

### **IV. SAFETY STANDARDS, OAR 736-020-0030**

The project shall be designed to avoid or minimize safety hazards to the public and shoreline properties. The following safety standards shall be applied, where applicable, to each application for an ocean shore permit.

***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 stairway is designed to provide a high degree of durability and has been designed and stamped by a professional engineer. If the beach access stairway becomes damaged and constitutes a safety hazard, the permittee or future owners will be required to remove the structure from the ocean shore.

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

The proposed stairway base will not create an obstruction to pedestrians. The structure abuts a rock outcrop and does not extend beyond the end of the rock. During high tide or storm events the stairway can be used by the public to escape danger.

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

The design of the stairway base is intended to blend in with the contours of the bluff slope and create minimal refraction of wave energy onto adjoining properties. It is the stated opinion of the design engineer that in this location the minimal size of the stair will not produce the effects of beach armoring and there "simply is no calculable impact on waves or erosion of adjacent 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.***

Although the proposed stairway base will offer some degree of erosion control, this is primarily a beach access facility, not a beachfront property protection project.

#### **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.***

The project is not adjacent to an estuary, and does not affect navigable water on the ocean.

***Historic, cultural and archeological sites.***

According to the State Historic Preservation Office, the project area lies within an area generally perceived to have a high probability for possessing archaeological sites and/or buried human remains. Extreme caution has been recommended for any ground disturbing activities. A condition of approval will require that all work cease immediately if any cultural material is discovered during construction activities, until an archeological permit is obtained.

***Natural areas (vegetation or aquatic features).***

There is no existing significant vegetation or aquatic features that will be impacted by the proposed project. Plans for the project indicate that native vegetation will be planted on bluff areas adjoining the stairway, to achieve a more natural appearance and to help stabilize the slope.

***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 will not adversely affect water quality on the ocean shore. Air quality will not be affected, even during construction, as all work will be done using hand-operated equipment.

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

These features are not known to be present at the 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 plans for the project indicate that native species will be used to help stabilize the bluff slope in the vicinity of the proposed stairway.

**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. No requests for a public hearing were received. One comment was received from a private individual expressing concern that the structure was built before permits were obtained and that a penalty should be assessed.

**VII. Findings Summary**

**Project Need** – The permit applicants have expressed a need to establish a shared access stairway to the beach from the private residences. The structure is also proposed to serve as a means of escape for the public from beach hazards such as sneaker waves and tides. Although there is a public access to the beach approximately 1 mile from the proposed project it is along a road that presents many dangers to pedestrians including a lack of an adequate shoulder for safe walking. The design of the stairway incorporates a more solid stairway base engineered into the abutting rock outcrop and bedrock below. The project has been designed by a registered professional engineer and the surrounding rock, bluff, and beach area have been analyzed by a registered professional geotechnical engineer

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

Calum Stevenson,  
Coastal Land Use Coordinator