



## FINDINGS OF FACT STAFF REPORT

Date: June 15, 2004

OPRD Coastal Land Use Coordinator:

Steve Williams

OPRD File Number:

BA-586-04

County:

Lincoln

Applicants: Joe Stoddard and Sally Hanay

Project Location:

3215 and 3225 NW Inlet, Lincoln City  
Lincoln County Assessor's Map #7S-11W-3DC, tax lots 5600 and 5700

Brief Project Description:

The proposed project is the construction of a beach access stairway to serve the two adjacent properties. The concrete stairway with galvanized steel handrails will be attached to the ocean side of the existing 12-foot-high concrete seawall. The upper landing will straddle the property line that separates the two residential lots. The stairway will run parallel with the existing seawall, with a total width of 4 feet, 8 inches, and a length of approximately 28 feet.

### 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.**

As described in the permit application, the stairway is needed to provide access from the two residences to the beach. The nearest public beach access is over 1000 feet to the north.

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 Lincoln City Planning Department has indicated that the project has been reviewed and 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 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 4 feet, 8 inches beyond the base of the existing seawall, with no significant detrimental affects on the ocean shore. Alternatives for beach access are limited, due to the presence of the existing concrete seawall. Whereas wooden stairways may be vulnerable to damage from storms, the proposed stairway will be constructed of concrete, to provide long-term durability. Other beach access stairways of similar design are located in the near vicinity.

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.**

The City of Lincoln City has certified that the project is in compliance with the Lincoln City Comprehensive Plan and Land Use Code, 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 subject site is within a densely developed urban setting.

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

There is no existing vegetation that will be affected by the stairway construction.

**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 site is located within an urban beach environment, with existing seawalls, motel development, vacation rentals, and single-family dwellings lining the shoreline. The stairs will be constructed along the existing concrete seawall, and will be similar in color and material. As mentioned previously, other beach access stairways of similar construction are located nearby.

### **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 only 4 feet, 8 inches beyond the existing seawall. The beach is wide and flat at this location.

**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 concrete construction will ensure that the stairway can withstand winter storms and wave attack. The steel railings may be susceptible to damage from logs or other debris thrown by storm waves, but can be replaced if necessary. If, for any reason, the beach access stairway becomes damaged and constitutes a safety hazard, the permittees or future owners will be required to repair the stairway or 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 will not create an obstruction to pedestrians. The stairway will encroach only 4 feet, 8 inches onto the ocean shore, similar to other stairways in the immediate vicinity.

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

The properties north and south of the subject site are armored with concrete seawall structures, and are not susceptible to erosion hazards. The proposed stairway will have no effect on these structures.

***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.***

The project is 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. The State Historic Preservation Office reported a known Indian cemetery site in the near vicinity however, the Confederated Tribes of Siletz Indians have confirmed that the stairway project is not located at the identified site.

A standard 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.

***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.

***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 project does not affect vegetated areas, and therefore, no vegetative plantings are proposed.

**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 comments in opposition to the request

**VII. Findings Summary**

**Project Need** – The permit applicants have expressed a need to establish a shared access stairway to the beach from their private residences. The closest public beach access is located over 1,000 feet away. There are many private access stairways along this stretch of beach, and the proposed stairway will not create a new precedent of establishing a private beach access. An added advantage of this project is that it will serve two adjoining properties.

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

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

Steve Williams,  
Coastal Land Use Coordinator