



FINDINGS OF FACT STAFF REPORT

Date: June 15, 2016 OPRD Ocean Shores Coordinator: Jay Sennewald

OPRD File Number: 1669-16 County: Lincoln Applicant: James and Kelly Young

Project Location: 105 SW 68th Drive, Newport, OR
Lincoln County Assessor's Map # T11, R11, Section 30AD, Tax Lot 201

Brief Project Description: The project involves an after-the-fact request for the replacement of a private wooden beach access stairway destroyed by large surf and high tides during the winter of 2015-2016, with a concrete and wood stairway in the same location. The proposed stairway has a width of 3 ½ feet and a 4-foot wide concrete landing on the ocean shore, with a total length of approximately 8 feet. A removable stainless steel handrail is also proposed for the safety of stair users.

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.

A public beach access exists at South Beach State Park, approximately 1 mile to the north of the subject property. Another public beach access is located at Lost Creek, approximately 3 miles south. These existing public access points consist of foot trails from developed public parks, and would require the property owner to drive these distances, walk along a busy highway, or climb down the ocean shore bank to gain beach access from this oceanfront property. Staff finds that these ways to access the ocean shore from the applicant's property are not reasonable, considering that a private stairway has historically existed at this location. As indicated in the project description, the applicant is proposing to replace a previous stairway that was severely damaged by high waves associated with the 2015-2016 El Nino event weather event, and the proposed stairway simply replaces one that existed prior to the applicant's request. The proposed stairway would make beach access from the site safe, available, and easily negotiable for the property owner and guests.

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 stairway will occupy an estimated 30 square feet of the ocean shore, with minimal encroachment onto the beach only as necessary to provide safe access. The project will not affect public rights of use on the ocean shore, which is very wide at this location and provides ample opportunity for ocean shore recreation.

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

The Lincoln County Planning Department has signed the City/County Planning Department Affidavit form and has determined that the project has been reviewed and is consistent with the local comprehensive plan and zoning ordinances. State laws and regulations are being addressed through this permit review.

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 wooden stairway is approximately 3.5 feet in width and 8 feet in overall length, and takes up only a small area (approximately 30 square feet) west of the vegetation line. The nearest public beach access is located approximately one mile to the north, at South Beach State Park. Another public access is located approximately 3 miles to the south at Lost Creek.

The subject stairway is designed to provide safe and direct access to the beach at this site, and its placement over the existing bank is necessary to do so. The subject stairway constitutes a reasonable solution for providing direct and safe pedestrian access, while resulting in minimal impacts to the ocean shore. In addition, the proposed stairway includes concrete materials, which are durable and more likely to withstand the natural forces of high waves that resulted in destruction of the former wooden stairway in the same location.

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.

There are no significant public costs anticipated for this project. The upland property owner will be responsible for continued maintenance of the stairway, or its removal, should it become a safety hazard.

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 this permit, the Lincoln County Planning Department has certified that the proposed project is compatible with the acknowledged local comprehensive plan and land use regulations. This certification meets the Department's obligation to ensure compatibility with the Statewide Planning Goals.

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 proposed beach access will result in a permanent stairway structure from the top of bank to the sand beach, approximately 7 feet below, but will not significantly affect the scenic attraction of the ocean shore. Other existing stairways are located to the south of the subject site, although most the existing stairways are much larger than that proposed. In addition, existing homes and other development already impact the scenic qualities of the shoreline in this area. No key natural features identified in the standard will be affected.

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

The proposed beach access requires no disturbance of vegetation at the top of bank to place a footing and landing for the stairway, because a pathway and former stairway landing exist at the site. A footing/landing is proposed at the bottom of the stairway where no vegetation exists.

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

The adjacent properties are located over 120 feet from the project site. The stairway and handrail will not affect or obstruct ocean or beach viewing opportunities from adjacent properties, because its location is isolated from, and lower in elevation than adjacent property development.

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

In general, the shoreline along this part of Lincoln County is a developed area with single-family residential homes on individual lots, and densely developed townhomes in the South Shore development. There are several existing stairways to the south of the subject site, which are much larger than the proposed stairway. In addition, sections of the ocean shore nearby have been ripped. The proposed concrete and wood stairway, when weathered, will mimic the colors of natural driftwood and rock material on the ocean shore. In addition, a stairway has existed at this same location until it was recently destroyed, so the proposal is to replace previous development. Staff finds that the new stairway will not represent a significant departure from the existing and most recent visual setting and therefore will be compatible with its surroundings.

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 stairway occupies only approximately 30 square feet of ocean shore, but will not be detrimental to public recreation because the beach is very wide at this location during normal conditions, it will not affect typical recreation uses such as sunbathing, walking, kite flying, sandcastle building, or beachcombing.

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 stairway design holds the western extent of the stair components to no further than necessary to provide safe access to the ocean shore from the subject property (8 feet), and it will not interfere with public pedestrian access up and down the beach.

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 bank at the site is approximately 7 feet high, and the proposed concrete stair access is designed to “sit” against the bank as closely as possible while still providing stair tread and riser dimensions necessary for safety. The proposed concrete stairway is durable unlike the stairway it will replace, which was constructed entirely of wood. This design is similar to that of stairways in the vicinity that have not presented a safety hazard to the public in the past.

The proposed stairway is located in an area with moderate surf action, with the potential for large logs and other debris impacting the structure during storm events at high tide. If the stairway is damaged or rendered unusable, the applicant and subsequent property owners will be required to repair, remove or relocate the structure. This issue will be addressed through permit conditions.

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

The width of the beach in this area can fluctuate, and generally narrows during the winter months. During large winter storms and high tides, waves can wash up to the base of the bluff and the subject stairway. The stairway will protrude beyond the toe of the existing bank only a distance of approximately 8 feet, and therefore it will not interfere with pedestrian or vehicle travel on the ocean shore under normal conditions.

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

The subject stairway is small in length and width, similar to other beach access stairs on the ocean shore. Neighboring properties are located approximately 120 feet north and 180 feet south of the site. At these distances, the size and location of the project are unlikely to have adverse erosion or safety impacts on adjoining properties. Based on these considerations, the project will not significantly affect erosion rates or water currents and will likely have no adverse impacts on adjoining 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.

The proposed structure is not intended for beachfront property protection, but is designed to provide a safe access route onto the beach from the subject property.

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 identified 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.

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

Natural areas (vegetation or aquatic features).

The existing 7-foot bank has a nearly vertical slope, with an established pathway at the top of the bank that served the previous stairway. In the area landward of OPRD's jurisdiction east of the line of vegetation to the top of the bluff, there is salal and other native vegetation, but none will be disturbed. There are no aquatic features that will be impacted by the proposed stairway.

Air and water quality of the ocean shore area.

The proposed stairway, once constructed, will be static in nature and no adverse effects on air or water quality along the ocean shore are anticipated.

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

None of these features have been identified 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 site is located within a densely developed residential area of South Beach. There are no protected native plant communities and/or fish and wildlife habitat on, or adjacent to the subject property.

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.

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 requires 10 or more requests to schedule and hold a public hearing prior to acting on the project application. Only one comment was received, which was in opposition to the proposed stairway during the posting period.

VII. FINDINGS SUMMARY

Project Need –

Existing public beach access trails are located a considerable distance from subject property, which requires the property owner to walk or drive on Highway 101 for beach access, or otherwise climb over the bank from the property. The proposed stairway with handrails is modest in design, the minimum size necessary to provide access for the owner and guests, and intended to meet standard building codes. The stairway, which replaces a previous wooden stairway, will enable pedestrian beach access from the property without the distance-related limitations of the nearest public beach access points, or the need to scale down over the existing embankment. The property is located within an suburban residential area with other beach structures in the near vicinity, including other private stairways and riprap revetments.

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"/>			

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

Jay Sennewald
 Ocean Shores Coordinator