



OCEAN SHORE ALTERATION PERMIT

Application Approved with Conditions:

Application Denied:

Date: March 21, 2022

Applicant: Jon Reimann et.al.

OPRD File Number: 2998-22

County: Tillamook County

Project Location: The subject property is located on the Ocean Shore fronting nine (9) oceanfront properties in the City of Manzanita, between Spindrift Lane (north) and Horizon Lane (south). These properties are identified on Tillamook County Assessor's Map # 3N-10W-32BD as tax lots # 5700, 5802, 5801, 6603, 6601, 6600, 6602, 70001 & 70002.

OPRD's review included a staff inspection of the site and evaluation of the project against the Ocean Shore Permit Standards, OAR-736-020-0005 through 736-020-0030.

Project Description:

The applicant submitted an Ocean Shore Permit Application for sand alteration involving grading and relocation of approximately 9,761 cubic yards of sand along approximately 550 linear feet of the ocean shore, to conduct foredune management activities in accordance with the Manzanita Foredune Management Plan.

ORS.390.605 (2) defines the "ocean shore" to mean the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS 390.770 or the line of established upland shore vegetation, whichever is farther inland. In the location of the proposed project the statutory vegetation line is located farther inland.

The project is proposed to be located Seaward of the statutory vegetation line
 Seaward of the line of established upland shore vegetation

and therefore it is within OPRD's jurisdiction to make a decision on your application.

Submitted plans: Attached

Not Applicable

Based on the evaluation of the above standards, staff inspections of the site, and consideration of public and agency comments, the Oregon Parks and Recreation Department:

Approves your application

Denies your application

for the requested sand alteration permit.

Lisa Sumption, Director
Oregon Parks and Recreation Department

#2998; Jon Reimann et.al

Copy: Meg Reed, DLCD
Leila Aman, City of Manzanita
Kinsey Friesen, USCOE

736-020-0120

Administrative Relief, Appeals, Judicial Review

(1) Where an application for an improvement permit required under ORS 390.640, or a permit for a pipeline, cable or conduit crossing of the ocean shore required under ORS 390.715, or a permit for removal of products from the ocean shore required under ORS 390.725, is denied, the applicant may request a hearing from the Director. Where a permit is issued under ORS 390.650, any person aggrieved by the issuance of the permit or conditions imposed on the permit, may request a hearing from the Director. The application denial or permit approval shall be considered the Director's original order.

(2) Requests for hearing described in section (1) of this rule shall be in writing and shall:

(a) Include a clear statement of the reason(s) for the request;

(b) If the request is being made by a person other than the applicant, include a clear statement of the person's legally protected interest and how that interest is adversely affected by the issuance of the permit; and

(c) Be received by the Director within 30 days of service of the order denying or granting the permit. The date of service shall be the date of delivery of the order in person, or the date of mailing.



FINDINGS OF FACT STAFF REPORT

Date: March 21, 2022

OPRD Ocean Shores Coordinator: Eric Crum

OPRD File Number: #2998-22 County: Tillamook Applicant: Jon Reimann et.al.

Project Location: The subject property is located on the Ocean Shore fronting nine (9) oceanfront properties in the City of Manzanita, between Spindrift Lane (north) and Horizon Lane (south). These properties are identified on Tillamook County Assessor's Map # 3N-10W-32BD; Tax lots # 5700, 5802, 5801, 6603, 6601, 6600, 6602, 70001 & 70002.

Brief Project Description: The applicant submitted an Ocean Shore Permit Application for sand alteration, involving grading and relocation of approximately 9,761 cubic yards of sand along approximately 550 linear feet of the ocean shore, to conduct foredune grading and management activities in accordance with the Manzanita Foredune Management Plan. Sand from approximately 2.9 acres of the foredune would be removed, then spread evenly seaward of the existing foredune slope along 1.5 acres of open beach at a depth of 2-3 feet. Placement of the removed sand would be in a location between elevation 4'-10' in the upper beach area, to allow natural disbursement of the sand into the overall beach environment and littoral cell by means of tidal and wave action, wind transport, and other environmental effects. All disturbed areas of the foredune would be replanted with European beach grass to stabilize the graded foredune area. The request includes future dune maintenance activities for a period of up to 15 years after the project has been completed.

Details of the proposal are included in the submitted application materials and are included in this report by reference. The application and supporting documents/materials have been made available for public review and comment at this web link:

<https://www.oregon.gov/oprd/PRP/Pages/PER-ocean-shore.aspx>

Background:

Foredune management activities on Oregon's coast are regulated by multiple agencies at the local, state, and federal levels. Oregon's Statewide Planning Goal 18, entitled Beaches and Dunes, provides a framework for dune management activities by establishing standards and implementation strategies for dune management plans and activities. A local government may authorize dune management activities within its jurisdiction only if a dune management plan has been approved and adopted as part of its comprehensive plan. In addition, the Oregon Department of Land Conservation and Development must acknowledge the plan as consistent with the provisions of Oregon's Goal 18 including the following:

H. FOREDUNE GRADING PLANS:

Plans which allow foredune grading should be based on clear consideration of the fragility and ever-changing nature of the foredune and its importance for protection from flooding and erosion. Foredune grading needs to be planned for on an area-wide basis because the geologic processes of flooding, erosion, sand movement, wind patterns, and littoral drift affect entire stretches of shoreline. Dune grading cannot be carried out effectively on a lot-by-lot basis because of these areawide processes and the off-site effects of changes to the dunes. Plans should also address in detail the findings specified in Implementation Requirement (1) of this Goal with special emphasis placed on the following:

- *Identification of appropriate measures for stabilization of graded areas and areas of deposition, including use of fire-resistant vegetation;*
- *Avoiding or minimizing grading or deposition which could adversely affect surrounding properties by changing wind, ocean erosion, or flooding patterns;*
- *Identifying appropriate sites for public and emergency access to the beach.*

The Manzanita Foredune Management Plan was adopted by the City of Manzanita in 1996, and a subsequent sub-area plan for the subject site was adopted in 1997. At that time, the Oregon Department of Land Conservation and Development acknowledged the plan as compliant with Goal 18.

However, the subject site has not been graded since 2013. A new Ocean Shore Alteration Permit is required for sand alteration, also referred to as foredune grading, to occur at the subject site or any other location within the overall management plan area in Manzanita.

Since 2014, the city of Manzanita has not supported foredune grading activities for view restoration or enhancement for various reasons expressed in the record, but mainly due to the age of the plan, changes in the dune environment, including dune growth since 1996, the uncertainty of climate change effects, potential off-site impacts to fish and wildlife habitats and other reasons. The subject of foredune grading/management activities has been discussed among community officials and community members since 2014, but the city's existing plan has not been updated or revised. Based on its acknowledged Foredune Management Plan, the city issued a written approval for the project on October 28, 2021. The approval included a condition that the applicant obtain necessary permits from other agencies including OPRD and the US Army Corps of Engineers.

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.

The applicants' justification for the project is based on the Manzanita Foredune Management Plan, which allows periodic maintenance of dunes. Nine (9) years have passed since dune grading and maintenance activities have been conducted at the site, and since that time the dune elevations have increased and are beginning to affect ocean views. The applicants, whose properties are situated behind, or on top of the dune crest, have collectively determined that implementation of the plan, within the framework of OPRD's permitting program, is presently needed for view maintenance and enhancement.

During its review of the requested permit, OPRD staff visited the site to evaluate project need and potential project impacts, and observed that ocean views from the applicants' homes, although likely diminished somewhat since 2013, have not been completely blocked by dune growth, and that some degree of ocean views still exist from the applicants' properties.

The application states that continued dune growth has also resulted in a safety issue at times, with pedestrians potentially becoming trapped between high tides and waves, and a steep escarpment that can form along the toe of the foredune during and after periods of winter dune erosion. The application materials advocate that foredune grading of the site, including the dunes fronting the Spindrift Lane, Spyglass Lane and Horizon Lane public street ends, would help improve public access to the beach at those public access points by creating a new dune profile with lesser grades that are more conducive to pedestrian access than under existing conditions. A finding on project need is provided in the conclusion of this report, based on the other criteria and factors considered in OPRD's evaluation.

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

OAR 736-20-0002(13) defines: "Ocean Shore" to mean "the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS 390.770 or the line of established upland shore vegetation, whichever is farther inland."

The proposed project affects approximately 4.4 acres of dune area. The submitted application materials do not establish or claim any property rights over the proposed project area. After a review of available documents, OPRD has made a preliminary determination that the area subject to the request appears to be dedicated to public right-of-way, as shown in the Map of Necarney City filed for record on March 9th, 1909, with Tillamook County. This matter of land ownership is relevant as provided further below in this report.

The application includes a referral to the adopted Manzanita Foredune Management Plan and recent City approval for the project as justification for the OPRD permit request. The matter of the City's permit and project acknowledgement is relevant as provided below in this report.

The project would not result in the loss of any publicly owned land, although the project would result in a significant alteration of land presumably under public ownership, to be undertaken by a limited number of private property owners for their benefit. Rights of the public to access the ocean shore would not be affected after dune grading activities, because of the project location seaward of the Statutory Line of Vegetation described in ORS 390.770 and its presumed status as public land.

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

Oregon Administrative Rules 736-20-0005 to 736-20-0030, which pertain to beach construction and alterations, are addressed under this permit review.

Applications for an Ocean Shore Alteration Permit requires the local government to sign an affidavit which states the project complies with the provisions of Goal 18. The affidavit was completed by the City of Manzanita as necessary for OPRD to accept and process the application.

In a letter to the applicant dated February 16, 2022, the U.S. Army Corps of Engineers (COE) stated that a federal permit is required from that agency because the proposal calls for sand to be deposited within the intertidal zone below the 12-foot elevation line, which is within COE's regulatory jurisdiction. The issuance of an Ocean Shore Alteration Permit for the project would be contingent on the condition that Army Corps of Engineers permit also be obtained prior to project implementation as provided in OAR 736-020-0032(1). This standard can be met through appropriate conditions of an OPRD permit.

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.

Dune management activities at Manzanita are allowed under the acknowledged Fore-dune Management Plan that covers the project area, therefore a “no action” alternative was not offered as a consideration by the applicant.

The City of Manzanita has previously engaged with the Manzanita/Neahkahnie Dune Management Association in discussions regarding the need to update the dune management plan due to its age, the fact that the dunes have changed significantly since the plan was adopted, concerns about potential off-site impacts, and other factors. The City has stated for the record its understanding that the Dune Management Association was going to begin preparing a new plan to be submitted to the City for public review and approval. The City has also stated for the record that although it recognizes the issuance of a permit for the project in 2021, it noted for OPRD consideration that the existing plan does not reflect the latest science or best practices in fore-dune management.

Reasonable Alternatives:

One alternative in regard to public access and public safety involves designing a project that addresses public access, using OPRD rules that have the potential to exempt applications from sand alteration permit requirements at public access points. The applicants may contact the OPRD Ocean Shores Coordinator and city public works officials to determine if the site-specific public access safety concerns can be addressed without the need for an Ocean Shore Alteration Permit.

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 financial costs to implement the project, as the applicants would pay all costs associated with the proposal. No structural components are proposed in the project.

The applicants have requested that approval of an Ocean Shore Alteration Permit remain valid over a period of 10-15 years, with maintenance activities every 2-3 years. Past OPRD sand alteration permits have been consistently approved with a 5-year time limit, consistent with this standard. As indicated above, previous sand alteration permits within Manzanita have expired, resulting in the current permit request where OPRD must evaluate the request against the applicable review criteria. This review process includes an element of public participation, which has influenced OPRD's decision on the requested permit.

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 project would essentially transfer sand from the foredune crest to below the foredune toe on the beach. The City of Manzanita has not notified OPRD of any significant Goal 5 resources in its comprehensive plan inventory which requires Goal 5 level of protection.
- b. Goal 17, Coastal Shorelands:** The proposed project could potentially impact coastal shoreland resources including razor clam and western snowy plover habitat, although OPRD staff is not qualified to make such assessments. There are no identified 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. Foredune 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.
- d. Goal 19, Ocean Resources:** The proposed project would involve the transport of sand seaward from the existing dune crest, to the intertidal zone between elevation of 4' to 10'. During high tides and storm surges, wave action would disperse the excess sand into the surf zone and within the littoral cell. There is a potential for impacts to ocean resources resulting from sand placement within the intertidal zone, although OPRD staff cannot make a determinative conclusion regarding the project impacts on ocean resources.

Past OPRD sand alteration permits have relied on local dune management plans to address these goals more thoroughly than offered above.

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 would result in the reconfiguration of the foredune and the beach, followed by plantings, typically with European beach grass, to stabilize the disturbed areas of the dune. These actions will not likely cause permanent damage to the beach and dunes, because over the course of several years the natural processes of sand accretion and erosion will eventually cause the site to return to a more stable state resembling the current dune configuration adjacent to the project area. There are no identified key natural features such as

headlands, cliffs, sea stacks, bedrock formations, or ancient forest remains that would be impacted as a result of the proposed sand alteration project.

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

The project site's vegetation is dominated by European beach grass, a non-native and invasive species introduced in the 1950's. European beach grass has aggressively replaced native American beach grass as the dominant vegetation type along virtually all dune-backed beaches on the Oregon coast.

Previous foredune grading projects in Manzanita have included the establishment of European beach grass for the required stabilization component. The applicant has proposed a dune stabilization component in the proposal using European beach grass, to be provided by a professional landscape contractor who has experience with dune grass and dune stabilization projects. If the project is completed as submitted in the application, the dune stabilization strategy would be consistent with previous stabilization efforts, and also comply with conditions set by other permits which may include limits on plant species, and therefore result in a better overall appearance than from other potential methods of post-grading dune stabilization.

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

The project is intended to benefit and enhance the applicants' ocean views, and it would likely improve views from the adjacent properties in close proximity to the project ends.

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

The proposal would result in the only significant foredune alteration on the Manzanita shoreline since 2014, affecting approximately 550 linear feet of dune. The completed project will have a significantly different appearance in contrast to the naturally-sculpted dunes on its flanks, and continuing along the shoreline beyond the project area.

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.

Currently, the project area is available for the free and interrupted use by the public for recreational purposes. Dune alteration activities require the use of heavy equipment, and for safety purposes, the project area would be unavailable for recreational use during the short time that these activities are underway. However, the graded dunes would be available for recreational use opportunities once again, when these activities have concluded.

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.

After project completion, no permanent physical obstructions to public access are likely to result from the sand grading or sand placement. The effects of wind, rain, tidal movement and periods of high surf will eventually remove and redistribute newly placed sand, and the beach will eventually return to a state of equilibrium

allowing unobstructed public access. Lessening the slope would also serve to enhance public access at the Spindrift, Spyglass and Horizon Lane public street ends.

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 proposal does not include any structural components; therefore, this standard is not applicable.

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 include the placement of removed material on the upper beach, and that sand will eventually be dispersed by wave and wind action until most of the material is naturally distributed into the surrounding beach environment. During this process, the sand could present an inconvenience or impediment to pedestrians and vehicles at higher tides or during high surf events, but no long-term obstructions to pedestrian or vehicles on the shore is anticipated.

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

Dune grading plans require dune crest elevations sufficient to provide flood and erosion protection (FEMA Base Flood Elevation plus 4 feet). The Manzanita Foredune Management Plan requires a minimum dune crest elevation of 33 feet within the management unit subarea at this site. Materials submitted in the application reflect that the graded dunes will meet or exceed the minimum dune profiles intended to provide protection from the hazard of flooding and erosion.

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 does not include a shoreline protection structure such as a seawall, bulkhead, or riprap. Therefore, this standard is not applicable.

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.

The Oregon Department of Fish and Wildlife (ODFW) was notified of the permit application, but the agency did not provide any written comments or objections to the request. Application materials indicate the applicants contacted ODFW prior to formal application submittal to OPRD, and ODFW had offered suggestions on sand placement location to avoid direct impacts to nearby rason clam beds.

The Western snowy plover is a threatened shorebird species that can be observed at the proposed project site from time to time. However, the presence of the bird along the shore at the site does not preclude issuance of an ocean shore permit for sand alteration. South of the subject site, and within Nehalem Bay State Park on the Nehalem Bay sand spit near the Nehalem Bay jetty, a lengthy section of shoreline has been designated as protected nesting habitat for the snowy plover. Special regulations in place at that location are intended to

provide habitat for the birds as part of a Habitat Conservation Plan, implemented by multiple agencies including the US Fish and Wildlife Service and OPRD. Because the project site is used widely by the public for recreation access, and because a more suitable habitat with protections for the plovers is located well away from the site, foredune management activities are not in direct conflict with strategies and measures intended to provide protection for the species.

Conversely, encouraging plover nesting outside of managed areas, as would be the case with this project since graded areas are more attractive to the species, reduces the potential effectiveness of efforts in the managed areas.

No other protected species, fish, or wildlife habitats have been identified at the site of the proposed project.

Estuarine values and navigation interests.

The proposed project will not affect any estuary or navigable waterway.

Historic, cultural and archeological sites.

Notice of the application was provided to the State Historic Preservation Office (SHPO), 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. Under state law (ORS 358.905 and ORS 97.74) archaeological sites, objects and human remains are protected on both state public and private lands on Oregon. If archaeological sites or objects are discovered during ocean shore project activity, all activities must cease immediately until a professional archaeologist can evaluate the discovery.

Natural areas (vegetation or aquatic features).

The project site's vegetation is dominated by European beach grass, a non-native species introduced in the 1950's. European beach grass is responsible for successional changes in Oregon's coastal dune ecosystems and has modified the natural flora and fauna. The desire by local communities to conduct sand alteration activities is driven in part by the growth in dune height resulting from the proliferation of European beach grass. The project would include the stabilization of the altered foredune with beach grass plantings to re-establish vegetation in disturbed dune areas.

The project area is not subject to any special designation as a protected natural area under the Statewide Planning Goals or by the City of Manzanita.

Air and water quality of the ocean shore area.

The proposed sand alteration would result in a reconfiguration of the dune within the project area. No sand or other foreign material would be imported as part of the project. Removed sand will be placed below the high tide line and within the intertidal zone, but OPRD staff has not identified potential negative impacts to water quality resulting from this strategy.

For this project, a federal permit will also be required from the U.S. Army Corps of Engineers (COE), which evaluates potential impacts to water quality through a separate review process. OPRD typically defers to COE to make a proper evaluation of water quality impacts, and the requirement for a COE permit, as required, is a boilerplate condition of approval for all ocean shore permits as provided in OAR 736-020-0032(1).

Aside from exhaust fumes from heavy equipment for a short period during sand alteration activities, air quality on the ocean shore would be unaffected.

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 affects an area dominated by European beach grass, a non-native species of vegetation. Because there are no identified native plant communities or fish and wildlife habitat requiring protection, allowing the dune stabilization process using European beach grass or species specified in related permits is appropriate.

VI. FACTORS EVALUATED; OAR 736-20-0005

(1) Each site on the ocean shore presents different conditions and applicants have varying project needs. Evaluations point up the relative significance of the general, scenic, recreational, safety, and other interests of the public. In acting on any application for an ocean shore permit under ORS 390.640, 390.715 or 390.725, the Department shall consider:

(a) Provisions necessary to protect the affected area from any use, activity or practice that is not in keeping with the conservation of natural resources or public recreation;

(b) The public need for healthful, safe, esthetic surroundings and conditions; the natural, scenic, recreational, economic and other resources of the area and the present and prospective need for conservation and development of those resources;

(c) The physical characteristics or the changes in the physical characteristics of the area, and the suitability of the area for particular uses and improvements (This may include bank alignments, topography, shoreline materials and stability, width of the beach, past erosion, storm water levels, sand movement, water currents, adjoining structures, beach access, land uses, etc.);

(d) The land uses, including public recreational use; the improvements in the area; the trends in land uses and improvements; the density of development; and the need for access to particular sites in the area.

(e) The need for recreation and other facilities and enterprises in the future development of the area and the need for access to particular sites in the area.

(2) Public opinion in response to public notice or hearings on an application shall be considered in evaluating each proposed ocean shore project.

(3) Considered together, and in accordance with the intent of the Legislature, the factors listed in sections (1) and (2) of this rule assist in the overall decision for granting an ocean shore permit, or denying, or modifying the ocean shore permit application when the level of impact is determined to be unacceptable.

VII. PUBLIC COMMENTS

Notice of the proposed project was posted at the site for thirty (30) days in accordance with ORS 390.650. Individual notification and a copy of the application were mailed to government agencies, tribes, and individuals on OPRD's Ocean Shore mailing list. In addition, notice of the application including a complete copy of the

application materials was placed on OPRD's website. During the comment period, 10 requests for a public hearing were received among a total of 18 written comments, and those comments were unanimously in opposition to the sand alteration permit request.

Based on public comments and public hearing requests, notice of the public hearing was posted for an additional thirty (30) days and an on-line, virtual public hearing was held on February 3, 2022. At the public hearing, a total of twenty (20) persons provided oral testimony including Jon Reimann, the applicant and agent of the co-applicants who summarized the request. Of the nineteen (19) other individuals who testified, seventeen (17) were in opposition to the request and two (2) others were neutral or ambiguous about their positions on the request. After the close of the hearing, the record was held open for an additional seven (7) days to allow the submittal of final written testimony and rebuttal to testimony given at the hearing. An additional twenty (20) comments were submitted while the record was held open, and those comments were unanimous in their opposition to the sand alteration project.

All public testimony, whether written or oral, is included in the case file record and is available for review upon request.

VIII. Findings Summary

The City of Manzanita adopted a foredune management plan as a component of the Manzanita Comprehensive Plan in 1996. The city issued a permit for the project on October 28, 2021. Through written testimony, the City has indicated that it has not supported foredune grading activities since 2014. The City submitted a statement for the record, confirming it issued a permit for the project while also explaining the plan does not appropriately balance the City's current priorities or address public concerns about offsite impacts.

The applicants are proposing to undertake a significant alteration of the dune, and the area of disturbance would affect approximately 4.4 acres of land presumably dedicated to public right-of-way to improve ocean views for seven (7) single-family dwellings on nine (9) lots.

After OPRD's review of the request, including extensive public participation at a public hearing, it is evident that the public is overwhelmingly opposed to the project. The only identified proponents of the project are the applicant and co-applicants who would benefit from improved ocean views as a result of the project.

Justification for this project to occur on land assumed to be dedicated to public right-of-way, against overwhelming public opposition, is difficult to establish.

In addition, OPRD staff has identified a separate potential project alternative which could improve pedestrian access and public safety at the three (3) street end access points, without the need for an Ocean Shore Alteration Permit.

OAR 736-20-0005 required OPRD to consider several factors in evaluation of the request, including public opinion and public interest. Additionally, OPRD must consider "*The physical characteristics or the changes in the physical characteristics of the area, and the suitability of the area for particular uses and improvements*" as a factor in its evaluation. Much of the testimony in opposition to the request was directed toward concern over changes in the area since the plan was adopted in 1996 and the plan's relevance, and adequacy to protect the public interest in the current environment.

Because the land proposed for alteration is likely dedicated public right-of-way, the strong public opinion in opposition to the project displayed during the review process carries significant weight in OPRD's permit decision.

VIX. CONCLUSION

Based on the above considerations, all application materials, testimony from the public and other agencies, and review of the relevant criteria and factors to be considered, OPRD finds that justification for the project has not been demonstrated by the applicant, particularly considering the interests of the benefitting private property owners weighed against the overwhelming public opposition to the project.

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, further considering the factors identified in OAR 736-0005:

Standard	Yes	No	Standard	Yes	No
Project Need and Justification	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Structural Safety (N/A)	<input type="checkbox"/>	<input type="checkbox"/>
Protection of Public Rights	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	Property Protection (N/A)	<input 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 type="checkbox"/>	<input checked="" 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"/>			

IX. 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

Eric Crum
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