



## FINDINGS OF FACT STAFF REPORT

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Date: March 1, 2013      OPRD Ocean Shores Coordinator: Tony Stein

OPRD File Number: BA-683-12      County: Lincoln      Applicant: Brent Peterson

Project Location: 1325 NW Curtis Street, Seal Rock, OR  
Lincoln County Assessor's Map # T12, R12, Section 24DD, Tax Lot 600

Brief Project Description: The applicant has submitted an after-the-fact access way proposal requesting the permanent placement of a private beach stairway in the community of Seal Rock. The subject 2.5' wide X 32' long concrete stairway leads from the Peterson residence down the face of the bluff and onto the ocean shore. The proposed stairway would make the private beach access safe, available and negotiable for the owner and visitors. .

### 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 applicant has stated that a previous wood stairway provided access to the beach in the same location, and was structurally damaged by a lack of maintenance and wave attack at the base of the 20 foot high bluff. The applicant has explained that the need for the project is to provide a safe and direct beach access from the property.

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 lower section of the stairway will occupy an estimated 30 square feet of the beach area west of the line of vegetation and onto the ocean shore. The upper section of the stairway will occupy an estimated 50 square feet of the upper bluff area from the line of vegetation to the top of the vegetated bluff. The project will not affect public rights of use on the ocean shore.

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

The Lincoln County Department of Planning and Development 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. A building permit will be required by the Lincoln County Department of Planning and Development.

***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 concrete stairway is 2.5' in width X 32' feet in length, and takes up only a small area west of the vegetation line and within the near vertical bluff. The nearest public beach access is located approximately 400 feet to the north at NW Curtis Street. The closest public beach access to the south is located approximately one mile away at the Seal Rock State Recreation Site.

The subject stairway appears to be well built and is constructed within the vertical bank down to beach level. In order to gain direct access to the beach at this site, some sort of stairway down the bank is necessary. The subject stairway constitutes a reasonable solution for providing direct access, while causing minimal impacts to the ocean shore.

***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 Department of Planning and Development 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 within the bluff face, but will not significantly affect the scenic attraction of the ocean shore. Several stairways are located to the south of the subject site, and existing homes already impact the scenic qualities of the coastal bluffs in this area. No key natural features 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 utilizes a previously established trail and structure footprint from an earlier stairway. There has been minimal disturbance of the lower and upper vegetated bluff. Native vegetation as well as European Beach Grass are well established along the bluff and will be retained.

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

The stairway will not affect or obstruct ocean or beach viewing opportunities from adjacent properties.

***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 Seal Rock and to the south is a developed area with residential homes. There are several existing stairways to the south of the subject site. The proposed stairway will not be a significant departure from the existing visual setting.

### **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 stairway is located within the bluff face on the ocean shore, and will not be a detriment to public recreation. The final step of the stairway occupies a very small section of dry beach area and 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 protrudes west an estimated two feet beyond the existing bluff toe of the slope, and will not interfere with public 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 proposed concrete stairway appears to be well constructed of poured concrete anchored into the lower bluff face. The stairway is located in an area with moderate surf action, with the potential for large rocks or logs being hurled into the structure. 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 will wash up to the base of the bluff and the foot of the subject stairway. The stairway protrudes out only a couple of feet beyond the toe of the bluff, and therefore 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 when compared to other beach access structures, and any adjacent bank erosion would be minimal and would occur within the boundaries of the property. The structure will not cause wave energy to reflect on neighboring properties. Based on these considerations, the project will not significantly affect erosion rates or water currents and will 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 purpose of the stairway is to provide a safe access route down the bluff and onto the beach. The proposed design minimizes bluff erosion and provides a safe and easy access.

## **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 future repairs or 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. There were no reports of historic, cultural, or archeological sites at this location.

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

The lower bluff is nearly vertical with no established vegetation. East of the line of vegetation to the top of the bluff, there is beach grass and well established native plants adjacent to the stairway. There are no aquatic features that will be impacted by the proposed stairway.

***Air and water quality of the ocean shore area.***

The subject stairway does not adversely affect water quality on the ocean shore.

***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 developed residential area of Seal Rock. 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 received 2 requests for a public hearing during the posting period. OPRD requires 10 or more requests to schedule and hold a public hearing prior to acting on the project application. No comments were received in support or opposition to the proposed structure within the posting period.

**VII. FINDINGS SUMMARY**

**Project Need –**

The proposed stairway is intended to provide beach access for the single family residence located on the property. The stairway will enable safe beach access from the property without the need to scale down the embankment and over the near vertical lower bluff. The property is located within a developed residential area, with other stairway structures in the near vicinity.

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:

| <b>Standard</b>                      | <b>Yes</b>                          | <b>No</b>                | <b>Standard</b>                            | <b>Yes</b>                          | <b>No</b>                |
|--------------------------------------|-------------------------------------|--------------------------|--|-------------------------------------|--------------------------|
| 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

Tony Stein  
Ocean Shores Coordinator