



FINDINGS OF FACT STAFF REPORT

Date: August 26, 2008

OPRD Coastal Land Use Coordinator: Tony Stein

OPRD File Number: BA-647-08

County: Lincoln

Applicant: Olivia Beach LLC

Project Location: 2673 SW Anchor Way, Lincoln City
Lincoln County Assessor's Map # 7-11-22 CA, Tax Lots 1399, 2300 and 2400

Brief Project Description: The applicant is proposing to replace an existing gabion shoreline protection structure and incorporate a 5' X 6' concrete stairway within the gabion footprint. The applicant is also proposing to construct a public access stairway that will serve the Nelscott neighborhood and new residential properties within the Olivia Beach Development. The 5 foot wide stairway will be constructed of pressure treated lumber, concrete and steel, and will extend from the top of the bank down to the gabion revetment which was permitted under OPRD Permit BA # 185-78.

ADMINISTRATIVE RULE STANDARDS AND RELEVANT FACTS

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 existing 9' X 102' rock gabion has been in place for 30 years, and has reached its useful life span for this type of shoreline protection structure. The vinyl coated wire gabion is missing the top layer in the center section of the original structure, and is currently unraveling, with rusted and broken wire mesh and fill rock material being distributed onto the beach. To provide safe public beach access through the gabion structure, the applicant is proposing to build concrete stairs within the existing gabion footprint.

The upland component of the stairway will be built into the gabion, and is being proposed to provide public beach access for the northeast section of the Nelscott District of Lincoln City. This is an urban and developed area of Lincoln City with two local beach accesses located to the south at SW 33rd Street and SW 35th Street. Both beach accesses have very limited parking, with a total of 6 public and 2 ADA parking spaces available. Canyon Park, located just over one mile to the north, is the next closest beach access. Most of the land between these beach access points is private and inaccessible for recreational access.

To the south of the proposed stairway, adjacent to Anchor Avenue (Tax Lot 2500), the public is creating an unsafe trail, causing increased bank erosion and sloughing from the top of the bluff (there is no natural trail leading to the beach). Stairways existed immediately north and south of the subject stairway up until the mid to late 1960's and 1970's, which provided public and private beach access for the northeast Nelscott community. The Nelscott community has seen increased development in recent years and the applicant has noted a demand for beach access in the area.

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

The proposed stairway will be incorporated into the existing gabion structure and will not extend out from the western toe of the structure. Public rights of recreational use on the beach will be unaffected.

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

The City of Lincoln City Planning and Community Development Department has certified that the project is in compliance with the Lincoln City Comprehensive Plan and Land Use Code. State laws and regulations are being addressed through this permit review. The project will not require a permit from the U.S. Army Corps of Engineers.

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.

Alternative public beach access routes could be utilized by the northeast Nelscott community; however, these access routes are located over a third of a mile away with very limited parking available. No other access routes to the beach are available for neighborhood use in the near vicinity. A public stairway, built by Nelson and Scott, developers of the early Nelscott neighborhood provided public beach access in this location for many years for local residents until the late 1960's. On the adjacent property to the north, a private stairway existed into the late 1970's.

An earlier design for a pedestrian tunnel or underpass below Anchor Street, approximately 190 feet to the south, was rejected by the Lincoln City Council due to concerns over the underground design and right of way improvements to Anchor Street.

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 proposed public beach access stairway will be a benefit to the public. The permit applicant will be solely responsible for construction, repair and maintenance of the gabion and beach access improvements. However, if the gabion and stairway are not maintained and become a safety hazard or detriment to ocean shore resources, the permit applicant (permittee) or the Olivia Beach Homeowner's Association 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.

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 stairway will traverse over a 75-foot width of bluff slope, through the existing vegetation. No significant alterations of the bluff or beach will be necessary.

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

Vegetation disturbance will be minimized during construction, and any necessary vegetation removal will be restored upon completion of the project.

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

The stairway will project approximately 11 feet away from the bluff face, but due to the steep bluffs and home setbacks on adjacent properties, view obstruction will be minimal.

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

There are many private access stairways along this stretch of beach, and the property is located within an urban residential area, with many beach structures in the near vicinity, including stairways, riprap revetments, and seawalls. The proposed stairway will not create a new precedent of establishing a beach access along this stretch of shoreline. The proposed stairway will be consistent with existing beach access stairways on nearby properties and will not create a new type of visual detractor to the area.

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 enhance public recreation use opportunities by improving access to the beach 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.

The concrete stairway built into the existing gabion revetment will occupy only 24 square feet of the ocean shore, and will not protrude westward of the gabion structure or otherwise impede public access. The construction of the wood stairway will occur east of the existing gabion and up the bluff slope, and will not extend out to cause an obstruction to public access along the shoreline.

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 purpose of the project is to repair the existing gabion and to construct a stairway that is safe and structurally sound. A geologic report by H. G. Schlicker and Associates was submitted to the City of Lincoln City Planning and Development Department and included design and engineering recommendations. The stairway appears to be well-designed and will be built to current building code standards to assure its safety and structural integrity.

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

No obstructional hazard will be created by the repair of the gabion or the stairway improvement along the ocean shoreline.

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

The applicant intends to minimize the removal of vegetation and the proposed beach access steps and will not affect adjoining privately owned property. The gabion and stairway improvements will encourage pedestrians to use the more defined beach access route, rather than using a steep and unsafe trail located south of the subject site.

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.

This is not a beachfront property protection project.

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.

In the Division of State Lands Permit (BA # 185-78) application, an Evaluation Report stated that the subject area of beach received moderate use during the summer season. Since that time, beach use in this area has

increased, and recreational activities continue to be moderate, at times high during the months of June through September. Seabirds utilize several rock outcroppings for feeding and roosting approximately 700 feet north of the proposed stairway. These rocks provide limited landing and feeding areas for seabirds during low to moderate sea conditions, and are overtopped during significant ocean wind and swell activity. No information exists on human disturbance surrounding these rocks, and they become isolated and inaccessible during high tides. OPRD received no comments from State or Federal Fish and Wildlife agencies on this proposed project. No significant fish and wildlife resources will be impacted by the proposed beach access stairway.

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.

Notice of the application was provided to the State Historic Preservation Office, and to the Confederated Tribes of Siletz Indians. There are no reports of historic, cultural, or archeological sites at this location.

Natural areas (vegetation or aquatic features).

Some established vegetation will be excavated or trimmed to accommodate the construction of the stairway. Vegetation removal will be limited to the area east of the gabion revetment and above the upland ocean shore boundary. The applicant is proposing to replace any disturbed vegetation on the bluff.

Air and water quality of the ocean shore area.

No decrease in air or water quality is expected from the construction of the gabion revetment or the stairway.

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 within an urban residential area, and is not adjacent to any protected native plant communities or significant fish and wildlife habitat.

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 support or opposition to the project. One letter was received after the 30 day comment period with concerns regarding public access need, seabird activity on nearby rocks and a request for a public hearing. The concerns are addressed in the Findings of Fact.

STAFF FINDINGS:

GENERAL STANDARDS

OPRD finds that there is adequate justification for the project to occur on and alter the ocean shore area. The proposed stairway is in an area of previous stairways, and an unsafe trail just south of the proposed stairway is causing bluff erosion and sloughing. The project is located within an urban residential and developed area, with several beach structures in the near vicinity, including stairways, seawalls, and riprap revetments.

The proposed stairway will serve as a beach access for residents and visitors in the northeast section of the Nelscott neighborhood. Alternative beach access routes are located nearby, but have limited parking facilities. The project will not encroach westward onto the ocean shore and will be built within the existing gabion structure, and will not affect public rights of use on the beach.

SAFETY HAZARD STANDARDS EVALUATED

The stairway has been designed to be structurally sound for its intended purpose. The potential of erosion occurring on the adjacent property due to pedestrian traffic should be eliminated, as people will be more likely to stay within the improved access in the public right-of-way, rather than diverging south onto the privately-owned bluff slope.

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:

The proposed project is needed to provide a beach access facility in a community where this need has been identified. The stairway will enable safe beach access down from Anchor Avenue without the need to scale down the bluff, or the need for residents or visitors to travel north or south to alternate beach access sites. By providing additional lateral access within the community, the intensity of use at each access points would be lessened.

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

- Approval
- Approval with conditions
- Denial

Tony Stein, Coastal Land Use Coordinator