



OCEAN SHORE ALTERATION PERMIT

Application Approved with Conditions:



Application Denied:



Date: February 27, 2011

Applicant: Lorlyn Arner et al

OPRD File Number: BA# 670-10

County: Tillamook

Project Location: Vacant tax lots 10600 and 10500, and residences located at 5730, 5740, 5760 and 5770 Austin Avenue, Tierra Del Mar.
Tillamook County Assessor's Map #T4S-R10W-Section 06 BC, Tax Lots 10600, 10500, 13600, 13500, 13400, 13300 and 13200.

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 proposed project seeks to convert two OPRD Emergency Permits to permanent shoreline protection structures, and also construct a rock step stairway for public beach access in Tierra Del Mar. The project involves the construction of a contiguous riprap revetment approximately 360 feet in length, on 7 separate property ownerships, including the Tillamook County pedestrian beach access at the west end of Guardenia Avenue. Single family residential homes exist on 5 of the tax lots (with the exception of unimproved tax lots 10600 and 10500), and adjacent properties to the north and south of the subject site. An Emergency Permit (BA# 662-10) was issued to Nancy Koski, Thomas Fleming, Mike O'Gorman, and Tom Hilts on February 12th, 2010 and Emergency Permit (BA 663-10) was subsequently issued to Don Arner and Bonnie Mauck on February 15th, 2010, to address the immediate threat to the upland properties.

The shoreline protection constructed under the two Emergency Permits were blended into the existing riprap to the north (BA # 259-84) and extend approximately 360 lineal feet south along the ocean shore. Riprap rock is 3 to 6 feet in diameter, using smaller pit run rock and Mirafi 700x fabric material underneath as structure backing. The slope of the structure was designed at 2H: 1V and the revetment will extend approximately 15 to 17 feet above the beach level.

In addition, the property owners will incorporate a rock step stairway within the riprap structure on the Tillamook County right-of-way at Guardenia Avenue.

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 within OPRD's jurisdiction to make a decision on your application.

Submitted plans: Attached (See Condition 5)

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

Conditions:

1. Prior to construction, the Permittees or subsequent owners shall file with the Tillamook County Clerk, a Declaration of Conditions and Restrictions. A form is attached for use in satisfying this condition. The permittees shall pay any filing and recording costs. Upon recording, certified copies shall be submitted to OPRD as proof of compliance with this permit condition. Failure to provide OPRD with said certified Declarations of Conditions and Restrictions shall nullify this permit and all authorizations contained herein.
2. Under Emergency Permits BA# 662-10 and BA# 663-10, OPRD received a cash bonds in the amount of \$28,800, to ensure that all required conditions of the permit are met. If permit conditions for BA# 670-10 are not complied with by the permit expiration date (February 27, 2012), OPRD may undertake action to complete the work without further notice to the Permittees and may deduct any and all costs and expenses of accomplishing such work. Use of the cash bond or other security for such purposes does not preclude OPRD from pursuing any other legal remedies or enforcement action at its disposal to ensure that permit conditions are achieved.
3. Use of equipment or vehicles on the beach requires a separate permit from OPRD. Use of public beach access routes, construction of any roads or other temporary access improvements, and timing of inspections shall be subject to conditions of the Equipment Access Permit. Contact Tony Stein at (541) 265-9871 prior to construction for the necessary permit.
4. The project shall be completed prior to February 27, 2012. If it appears that, due to unforeseen circumstances, the project cannot be installed by the expiration date, the Permittees, subsequent owner(s), or authorized representative(s), may request a permit extension. A time extension may be granted based on the submission of a revised construction schedule. Successful completion of the project by this date will result in refunds of the cash-in-lieu of performance bonds that were submitted with the Emergency Permit BA # 662-10 and BA # 663-10.
5. Upon completion of the project, the beach shall be cleared of all rock debris, or other debris associated with the riprap construction, and the beach shall be returned to its pre-existing condition.
6. The Permittees shall be responsible for obtaining any required permit approvals from the U.S. Army Corps of Engineers, if applicable to this project.

7. The Permittees shall be responsible for maintaining the revetment and beach access stairway located at the western end of Guardenia Avenue. This includes retrieving and replacing rocks or other materials moved or damaged because of the ocean or any other cause. Failure to maintain the revetment or stairway, where such failure causes a public safety hazard or detriment to ocean shore resources, may cause appropriate legal action to be pursued to ensure compliance with this provision. The riprap revetment shall be constructed and maintained in accordance with the submitted plans and descriptions provided in the permit application, and comply with the location and materials specified in the plans and descriptions.
8. In no event shall the issuance of the permit be construed as a sale, lease, granting of easement or any form of conveyance of the state recreational area, ocean shore or submerged lands.
9. The Permittees shall comply with the provisions of ORS 390.235 through 390.240, ORS 358.905 through 358.955 and OAR 736-051-0060 through 736-051-0090 as these statutes and rules affect the discovery, excavation, salvage, removal and disposition of archaeological resources and the permitting requirements for these activities as they affect archaeological sites on public and private land. If archeological objects are encountered during the project, all work must stop immediately, and work may not proceed until an archeological permit is issued under ORS 390.235
10. This approval does not affect any obligation the Permittees might have to other persons or agencies, local, state or federal.
11. If the Permittees fail to comply with the conditions provided herein and otherwise imposed by OPRD, OPRD shall exercise its authority under Oregon Revised Statutes 390.661 through 390.676; 390.990 through 390.995; and the provisions of OAR 736-020-0200 to cease any further activity by the Permittees on the ocean shore except as directed by OPRD. In such circumstances OPRD may assess a civil penalty according to the provisions of OAR 736-080-0005 through 736-080-0070.
12. The Permittees shall agree to save and hold harmless the State of Oregon, the Oregon Parks and Recreation Commission, and its members, and all officers, agents and employees of the Oregon Parks and Recreation Department, from any claim, suit or action whatsoever for damages to property, or injury or death to any person or persons due to negligence of permittee(s), their officers, agents or employees, and arising out of the performance of any work or project covered by the granting of a permit.
13. In issuing this permit, OPRD makes no representation regarding the quality or adequacy of the permitted revetment design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapter 390 and related regulations.

John Allen, Coastal Region Manager
Oregon Parks and Recreation Department

cc: Butch Parker, Tillamook County
Laren Woolley, DLCD
James McMillan, USACOE

Appeal Process

Any person aggrieved or adversely affected by the grant of a permit or the conditions imposed on the permit may file a written request for a hearing with the Parks and Recreation Director. The request must be received within 30 days of the date of the permit. The hearing shall be conducted as a contested case in accordance with ORS 183.415 to 183.430, 183.440 to 183.460 and 183.470.