



FINDINGS OF FACT STAFF REPORT

Date: August 10, 2006 OPRD Coastal Land Use Coordinator: Tony Stein

OPRD File Number: BA-608-06 County: Lincoln Applicant: Rudy and Opal Powell

Project Location: 5735 Highway 101 North
Lincoln County Assessor's Map # T14, R12, Section 11, CD, tax lot 1500

Brief Project Description: The project involves the construction of a wood and concrete beach access stairway with a small concrete landing, to provide private access over a 15-foot-high bluff.

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 explained that the need for the project is to provide safe access to the beach. 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 base of the stairway will occupy approximately 21 square feet of upper beach area, which consists of an exposed marine terrace 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.

Lincoln County has certified that the project is in compliance with the local comprehensive plan and land use 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 stairway is 19'10" in length x 3'3" in width and takes up only a small area of the upper and middle section of a marine terrace bluff. Public beach access is located about ¼ mile south of the subject property, and is only accessible using Highway 101. The proposed stairway constitutes a reasonable solution for providing access, while causing minor 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.

The feasibility of alternatives is addressed above. 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. The proposed stairway structure will be ineligible for shoreline protection should damage occur to the structure.

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.

Lincoln County has certified that the project is in compliance with the local comprehensive plan and land use ordinances, which are acknowledged by LCDC as meeting the Statewide Planning Goal requirements. Under Goal 18, the property does not qualify for riprap or other shoreline protection structures.

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.

A portion of the stairway will be constructed within an existing cut bank trail on the bluff, allowing it to be inset into the vegetation and bluff embankments on either side. 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 project will remove only a two foot section of vegetation adjacent to an existing cut bank trail. A portion of the stairway will lay within an area that is currently un-vegetated, due to foot traffic over the embankment.

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

A portion of the handrail will be visible from the subject property residence; however there will be no obstruction of existing views from other properties.

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

The modest stairway will be constructed of pressure-treated material with natural unfinished wood color and will blend in with the surrounding bluffs. The concrete landing will be poured within a marine terrace bluff area onto a natural bench located 4 feet off the sandy beach, and will blend in with the surrounding brown colored bluff. In general, the shoreline along this part of Yachats is a moderately developed area with residential homes and several existing stairways nearby. The proposed stairway will not be a 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 will project twenty-four feet into the marine terrace bluff area of the upper beach, and will not be a detriment to public recreation. The project does not occupy the 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 will not extend out onto the dry sand part of the ocean shore to cause an obstruction to public access along the shoreline.

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 stairway is to be constructed of lumber, with a concrete base. Given the location of the stairway, it is possible, that with high surf action, large rocks or logs could be hurled into the structure and potentially cause damage, or erode the sandstone embankment back from the stairway location, rendering it unusable. If the stairway is damaged, or rendered unusable, the applicant and subsequent property owners will be required to repair, remove or relocate the structure, including the concrete base (landing). 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 beach is relatively narrow but flat in this specific area, due to the bluffs extending further west than adjacent areas north and south of the property. The proposed stairway will project only onto the upper beach area of the bluff and will not create an obstruction to pedestrians or vehicles.

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

The proposed stairway does not result in the creation of a new seawall or other type of a surface that could reflect wave energy on neighboring properties. The stairway itself will also eliminate the need for foot traffic directly over

the face of the bluff, which will help prevent continued erosion from foot traffic.

Based on these considerations, the project will not 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.

This is not a beachfront property protection project. The property does not meet the requirements of Goal 18 to be eligible for shoreline protection.

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.

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).

A small two foot section of vegetation will be removed on the top of the bluff. There are no aquatic features that will be impacted by the proposed stairway.

Air and water quality of the ocean shore area.

The stairway will be constructed by hand, and will not cause siltation or other water quality problems. There will be no air emissions associated with the project, as all work will be done by hand.

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 rural residential area, and there are no protected native plant communities 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. OPRD received one comment in opposition to the request, which objected to the concrete landing, stating that the stairway would convert wave action and damage the surrounding shoreline. In answer to these comments, OPRD's findings have adequately addressed the issues of scenic compatibility and erosion impacts.

VII. FINDINGS SUMMARY

Project Need – The proposed stairway is of modest design, intended to provide beach access for the applicant and another resident behind the property. The stairway will enable safe beach access from the property without the need to scale down the bluff, or the need for the property owners and their guests to travel north or south along Highway 101 to public beach access sites. The property is located within an rural residential area, with several beach structures in the near vicinity, including 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

Tony Stein
Coastal Land Use Coordinator