



OCEAN SHORE ALTERATION PERMIT

Application Approved with Conditions:



Application Denied:



Date: January 27, 2011

Applicant: Lot Owners in Sea Woods Park

OPRD File Number: BA-669-10

County: Lincoln

Project Location: Tax Lot 600 (owner, Jean Weakland), Sea Woods Park, Lincoln County. A perpetual easement that is over and across a portion of Tax Lot 600 (Lot 14), described as a strip of land 10 feet in width running from the southwesterly corner of Lot 14 as it joins the street known as Sea Woods Terrace, as depicted on the Plat of Sea Woods Park, along the Southwesterly line of lot 14 which extends along the Northwesterly extension of the Southwesterly line of said Lot 14 beyond the westerly border of the Plat from the westerly end of the Private Walk Way depicted on the Plat to the northerly boundary of the Weakland Property. A detailed description which includes references to a triangular piece of land (Tax Lot 4100) can be found at the Lincoln County Clerk's Office, referenced Deed Description: MF 380, Page 0627.
Lincoln County Assessor's Map # T13S, R12W, Section 25AB, Tax Lot 600.

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:

During the mid 1950s, a private wooden stairway and landing supported on a large concrete bulkhead with stairs was built on the ocean shore fronting Tax Lot 600. Ocean waves and storm surges in the fall of 1991 damaged the stairway and terminated beach access. In early December of 1991, OPRD issued an Emergency Permit to place riprap across Tax Lot 600, 601, and other properties to the north to protect the properties from ocean and river erosion. Sand backfill was placed at the base of the bluff, and the beach area was permanently altered by the placement of the riprap revetment and filling of the upper sandstone bluff.

On September 6, 1995, OPRD received an Ocean Shore Improvement Permit application to replace the original stairway with a new design of concrete stairs that was proposed to be built within the existing riprap structure. OPRD issued Lin Craft a conditionally approved Ocean Shore Improvement Permit (BA# 367-95) on December 20, 1995 for construction of a stairway through the easement over Tax Lot 600. The OPRD Permit decision was contested by the underlying and the adjacent property owners in 1996, and a series of legal actions and litigations ensued until 2009. On June 24, 2009, the Lincoln County Circuit Court issued an "Appellate Judgment and Supplemental Judgment", affirming that the Lot Owners in Sea Woods Park had legal right to the easement, and a right to construct and maintain improvements including, but not limited to, a stairway down to the beach to access the ocean shore. As the original permit (BA # 367-95) period had

expired, OPRD requested that a new application be submitted to identify each individual lot owner in Sea Woods Park who benefited from the perpetual easement, and to update project information.

The application represents lot owners in Sea Woods Park who have the right to the easement to access the ocean shore. The landowners have submitted an updated application requesting the replacement of the private beach stairway with a new stairway design ending on the top of the existing riprap. The applicant is not the underlying property owner of Tax Lot 600. The subject wood stairway leads from a 10' easement over and across TL 600 and down the bluff ending at the riprap revetment. The proposed stairway would make the private beach access safe, available and negotiable for the owners, guests and visitors.

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
For a beach stairway. Denies your application

Conditions:

1. Prior to construction, the Permittee or subsequent owner (collectively, "Permittee") shall file with the Lincoln County Clerk, a Declaration of Conditions and Restrictions. A form is attached for your use in satisfying this condition. The permittee shall pay any filing and recording costs. Upon recordation, the Permittee shall submit a certified copy 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. The project shall be completed prior to January 27, 2012, or within one-year following the date of an appellate judgment on judicial review of this order. If it appears that, due to unforeseen circumstances, the project cannot be installed by the expiration date, the Permittee, 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.
3. The Permittee shall be responsible for completing a new survey to confirm the preliminary survey performed by Loomis Surveying in 2009, and stake out the project area on the top of the bluff and the western extent (TL 4100) of the stairway prior to construction.
4. The project shall be constructed in accordance with the submitted plans and descriptions provided in the Permit Application. The stairway shall be maintained in accordance with the submitted plans and descriptions provided in the Permit Application.
5. The Permittee shall submit an approved building permit for the stairway from the Lincoln County Building Department.

6. The Permittee shall be responsible for maintenance or repairs to the stairway. Maintenance or repairs to the riprap structure is the responsibility of the owner of Tax Lot 600. The permittees of the riprap and stairway structure shall inform and coordinate any repair and/or maintenance activity of either structure and submit a "Request for Repair" application to OPRD prior to any construction.
7. Use of equipment or vehicles on the beach for construction or delivery of materials requires a separate permit from OPRD. Contact Tony Stein at (541) 265-9871 prior to construction for the necessary permit.
8. The Permittee shall be responsible for maintaining the stairway, or removing it, if in the opinion of OPRD, the structure becomes in disrepair, constitutes a safety hazard, or is in any other way deleterious to ocean shore resources. Failure to maintain the stairway, or remove it if necessary due to public safety or other reasons, may cause appropriate legal action to be pursued to ensure compliance with this provision.
9. 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.
10. The Permittee 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.
11. If the Permittee fails 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 736-020-0100 to cease any further activity by the Permittee 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. 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: Valerie Soilihi, Lincoln County Planning Department
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.