



FINDINGS OF FACT STAFF REPORT

Date: May 10, 2004

OPRD Coastal Land Use Coordinator:

Steve Williams

OPRD File Number:

BA-584-04

County:

Coos

Applicants: Greg Rueger and Dann
Hewitt

Project Location:

89979 Cape Arago Highway, Coos Bay
Coos County Assessor's Map #26S-14W-4DC, tax lots 1800 and 1900

Brief Project Description:

The proposed project includes the construction of a beach access stairway to serve the two adjacent properties, providing beach access down the 40-foot high bluff, and straddling the property line separating the two residential lots. The base of the stairway is to be constructed of architectural concrete blocks to create an 11-foot high foundation designed to withstand storm and wave action. Above the wave impact zone the stairway will be constructed of wood, anchored into the bluff slope.

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.

As described in the permit application, existing public beach access to Lighthouse Beach is limited to two steep, unimproved dirt paths approximately one-third mile north and south of the subject property. The applicants desire to establish a shared facility that will 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 proposed beach access steps will not affect public ownership or use easement rights on the ocean shore, but will facilitate pedestrian beach access from the adjacent private properties.

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

State of Oregon regulations are being addressed under the review of this permit. The Coos County Planning Department has indicated that a local approval for floodplain fill is required. The applicant has recently obtained this permit. Federal regulations could potentially involve a U.S. Army Corps of Engineers permit, however a Corps permit is usually not required for this type of project. A condition of the permit will require that the applicants obtain any required permits from the Corps, if applicable.

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 public beach access steps are being built at the expense of a private property owner for the purpose of providing access from the upland property to the beach. The proposed stairway base will project approximately four to six feet beyond the base of the bluff, with no significant detrimental affects on the ocean shore. Constructing the base of the stairway with wood likely will not provide the necessary durability to survive through a winter season. Numerous wooden stairways along the north end of Lighthouse Beach have been destroyed or severely damaged during recent winter storms.

Considering these factors, the proposed design constitutes the most reasonable option for a beach access structure at this site.

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 permit applicants will be responsible for maintenance of the beach access improvements, and if the steps are not maintained, and become a safety hazard or detriment to ocean shore resources, the permit applicants (permittees) or future owners of the stairway 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.

Coos County has certified that the project is in compliance with the Coos County Comprehensive Plan and Land Use Code, which are acknowledged by LCDC as meeting the Statewide Planning Goal requirements.

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 natural features of the beach and the bluff will remain intact, and no significant landforms such as headlands, sea stacks, or streams will be affected. The application indicates that the block material used for the stairway base will be colored to blend in with the colors of the surrounding bluff and rock outcroppings.

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

Vegetation, including willow and twinberry will be planted on the bluff slope to help stabilize the soil and improve the natural appearance of the bluff, according to the application.

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

The beach access stairway will not affect existing views from adjacent properties.

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

As mentioned previously, the stairway base will be constructed of concrete blocks that will be colored to blend in with the surrounding rock formations. Within the length of beach between Gregory Point and Yoakum Point, there are numerous stairways and stormwater outfall pipes extending down from private residences. Some of the stairway structures are in severe states of disrepair. In several cases, the lower portions of the stairway have been destroyed, leaving the hanging stairway remnants. With the substantial concrete block base, the proposed stairway will have a better chance of remaining intact, and not becoming a visual blight. In addition to the block coloring, natural features will help keep the stairway screened from view. The stairway is located in the center of a small cove or pocket beach along the bluff line, with points of land to the north and south that block the view of the site from much of the beach areas north and south of the cove.

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 proposed beach access steps will not affect recreation use opportunities on the beach, as the structure will encroach just four to six feet beyond the existing bluff toe, with a width of approximately 13.5 feet along beach grade level.

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.

With only slight encroachment onto the beach, the project will not extend out 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 stairway is designed to provide a higher degree of durability than the typical wooden stairways that have been attempted in the area. If the beach access stairway becomes damaged and constitutes a safety hazard, the permittee or future owners will be required to remove the structure from the ocean shore.

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

The proposed stairway base will not create an obstruction to pedestrians. The existing points of land immediately to the north and south already create an obstruction during high tides, particularly in the winter months. If someone were to get trapped in this pocket beach during a high water event, the proposed stairway could allow a safe emergency exit from the beach.

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

The design of the stairway base is intended to blend in with the contours of the bluff slope and create minimal refraction of wave energy onto adjoining properties. The location of the stairway base is in front of the less stable section of bluff slope, with harder rock formations to the north and south. The structural support offered by the concrete block base may help to prevent the progression of bluff erosion onto adjoining properties by protecting the most vulnerable bluff area.

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.

Although the proposed stairway base will offer some degree of erosion control, this is primarily a beach access facility, not a beachfront property protection project.

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 ground disturbing activities. A condition of approval will require that all work cease immediately if any cultural material is discovered during construction activities, until an archeological permit is obtained.

Natural areas (vegetation or aquatic features).

There is no existing significant vegetation or aquatic features that will be impacted by the proposed project. Plans for the project indicate that native vegetation will be planted on bluff areas adjoining the stairway, to achieve a more natural appearance and to help stabilize the slope.

Air and water quality of the ocean shore area.

The project will take place above the ordinary high tide line, and will not cause foreign materials or pollutants to enter the water. The proposed project will not adversely affect water quality on the ocean shore. Air quality will not be affected, even during construction, as all work will be done using hand-operated equipment.

Areas of geologic interest, fossil beds, ancient forest remnants.

These features are not known to be present 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 plans for the project indicate that native species will be used to help stabilize the bluff slope in the vicinity of the proposed stairway.

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. Four requests for a public hearing were received, six short of the ten requests needed to require a hearing. Two other comments were received from private individuals. One of these comments expressed a concern about the proliferation of individual stairways, and questioned the need for the width of the stairway base. Another comment recommended that the above grade portion of the stairway be minimized so as to avoid obstruction of views from neighboring properties. A comment from the Oregon Department of Fish and Wildlife recommended that the permit require maintenance of the stairway and vegetative plantings.

In regards to maintenance responsibilities, OPRD will require maintenance of the stairway as a condition of approval, and removal of the structure from the ocean shore if it becomes damaged and constitutes a safety hazard, or if it becomes a detriment to ocean shore resources. Much of the vegetative work is likely to be above the ocean shore boundary on the bluff slope, and therefore out of OPRD's jurisdiction. Other issues such as the stairway design and the compatibility with surrounding areas have been previously discussed in this report.

VII. Findings Summary

Project Need – The permit applicants have expressed a need to establish a shared access stairway to the beach from their private residences. Although there are two access routes to Lighthouse Beach that are used by the public, these routes are unimproved, are difficult to traverse, and both routes are located at least a third of a mile from the subject property. There are many private access stairways along this stretch of beach, and the proposed stairway will not create a new precedent of establishing a private beach access. An added advantage of this project is that it will serve two adjoining properties. The design of the stairway incorporates

a more solid stairway base using concrete block construction. If successful, this design could be utilized for future public beach access projects in this area.

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

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"/>		<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

Steve Williams,
Coastal Land Use Coordinator