

SECOND SUPPLEMENTAL RECORD

April 21, 2022

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#851-21-000086-PLNG & #851-21-000086-PLNG-01

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CRAG LAW CENTER

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June 24, 2021

Tillamook County Planning Commission
c/o Planning Director Sarah Absher
Community Development
510-B Third Street
Tillamook, OR, 97141

Via Email to: sabsher@co.tillamook.or.us, ahindere@co.tillamook.or.us,
mjenck@co.tillamook.or.us

**Re: Tillamook County File No(s) 851-21-000086-PLNG-01/851-21-000086-PLNG
Land Use Applications for Goal Exception, Flood Plain Development Permit
Request to Exclude New Evidence, or in the Alternative, Reopen the Record**

Dear Chair Heckerth and members of the Tillamook County Planning Commission:

This office represents the Oregon Shores Conservation Coalition and its members living in Tillamook County (collectively “Oregon Shores”). Oregon Shores timely filed comments for inclusion within the evidentiary record for the public hearing, first open record period, and second open record period for Tillamook County File Nos. 851-21-000086-PLNG-01 (Goal Exception) and 851-21-000086-PLNG (Flood Plain Development Permit) (hereinafter “Applications”). On behalf of Oregon Shores, I submit this request to exclude new evidence submitted by the Applicants during the second open record period and final argument deadlines for these Applications, or in the alternative, reopen the public record to allow for submission of additional information and rebuttal of information to address these new materials for least seven days.

Oregon’s land use statutes allow local governments discretion on the scope of testimony or documentary evidence offered during a continued hearing under ORS 197.763(4)(b) and ORS 197.763(6). *See Reed v. Clatsop Cnty.*, 22 Or LUBA 548, 555 (1992). Tillamook County’s Land Use Ordinance (TCLUO) requires consistency with the Oregon Revised Statutes (ORS) while processing of applications and permits authorized under this Ordinance. TCLUO Section 10.010(3). TCLUO Section 10.080(4) sets forth the relevant procedures for presenting and receiving evidence while processing Type III applications, such as the Applications at issue. TCLUO Section 10.080(4) states, in relevant part:

(a) The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or

evidence.

(b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this Section.

TCLUO Section 10.080(4)(a)-(b). Consistent with the aforementioned criteria, the Tillamook County Planning Commission stated the following at the May 27, 2021 public hearing for these Applications:

- Consideration of Applications at the public hearing would not be by the Planning Commission, but rather recommendations to the Board of County Commissioners. Planning Commission at 6:59, *Public Hearing for Tillamook County File No(s) 851-21-000086-PLNG-01/851-21-000086-PLNG*, (May 27th, 2021) (timestamp provided in link), available at <https://youtu.be/V2BBsopm67A?t=419>.
- The Planning Commission intended to stop oral testimony on the evening of May 27, 2021, but would leave the written record open as follows:
 - Seven days open for new testimony until June 3;
 - An additional 7 days for rebuttals only, based on evidence presented; and
 - A third 7 days for the applicant to submit final written comments and present their final case.

Planning Commission at 7:21, <https://www.youtube.com/watch?v=V2BBsopm67A&t=441s>. Consistent with the Planning Commission's direction in the public hearing, the Planning Director provided the following guidance to interested members of the public regarding submission of written testimony:

Options to provide written comments: Written comments can be emailed to myself and Allison: ahindere@co.tillamook.or.us. Any person can provide comments and new evidence until 4:00pm on June 3rd. *Any person can provide written comments but no new evidence (only comments on existing evidence) until 4:00pm on June 10th.* We will make sure the Planning Commission has these comments prior to the June 24th hearing that will take place at 7:30pm. A copy of all written comments will also be provided to the County Commissioners for their hearings on this proposal.

See Email from Planning Director Sarah Absher, (May 28, 2021, 6:04 PM) (enclosed, and on file with author), emphasis added. See also June 17, 2021 Staff Memo, 1, (stating that "Rebuttals (no new testimony) by any party was received by 4:00pm on June 10, 2021"), https://www.co.tillamook.or.us/sites/default/files/fileattachments/community_development/project/25430/zone_change_and_goal_exception.pdf.

Per Oregon Shores review, the Applicant appears to have submitted new evidence (as that term is defined in ORS 197.763(9)(b)) alongside written testimony, contrary to the Planning Commission direction and Planning Staff's instruction limiting public written comment to *rebuttals only* (i.e., no new evidence) by the second open record period deadline at 4 PM on June

10, 2021. These include the following attached documents and excerpts of attached documents enclosed in several of the Applicants' emails for the second open record period:

- **Email from Sarah Mitchell (of attorneys for Applicants) to Planning Staff, *Subj: EXTERNAL: 851-21-000086-PLNG Applicants' Second Open Record Submittal, Thursday, June 10, 2021 at 3:39 PM:***
 - 851-21-000086-PLNG-01; Applicant's Second Open Record Submittal, at 4 (Northing image), 8 (color image): These portions contain images that do not appear to be submitted previously as part of the public hearing or first open record period deadlines for this matter.
 - Exhibit A- National Wetlands Inventory Map
 - Exhibit B- DLCD Lincoln County BPS Comment Letter
 - Exhibit C - Survey of Beach Accesses
 - Exhibit D - 2021 Coastal Flooding Images
 - Exhibit E- West Consultants' Second Supplemental Memorandum, dated June 10, 2021, at 5 (Northing image). These portions contain images that do not appear to be submitted previously as part of the public hearing or first open record period deadlines for this matter.
 - Exhibit F - BPS Modeling Images
 - Exhibit G- Photos of Subject Properties
 - Attachments: Applicant's Second Open Record Submittal.pdf; Exh A - NWI Map Subject Properties.pdf; Exh B - DLCD_LincCo_commentletter_01-02-03-LUPC-21.pdf; Exh C - Survey of Beach Accesses.pdf; Exh D - Photos of January 2021 Flooding.pdf
- **Email from Wendie Kellington (of attorneys for Applicants) to Planning Staff, *Subj: EXTERNAL: Pine Beach Back yards and path images - 851-21-000086-PLNG Applicants' Second Open Record Submittal, Thursday, June 10, 2021 at 3:44 PM.***
 - This email contains what appear to be additional images which do not appear to have been previously in the record of the path and backyards of the Pine Beach Properties.
 - Attachments: 13 Pine Beach path.jpg; 14 Pine Beach Path.jpg; 1 Southernmost Pine Beach Lot backyard.jpg; 2 next lot south to north back yard.jpg; 3 next lot south to north back yard.jpg; 4 next lot south to north back yard.jpg; 5 next lot south to north back yard.jpg; 6 next lot south to north back yard.jpg; 7 next lot south to north back yard.jpg; 8 next lot south to north back yard.jpg; 9 next lot south to north back yard.jpg; 10 Pine beach path.jpg; 11 Pine Beach path.jpg; 12 Pine beach path.jpg
- **Email from Sarah Mitchell (of attorneys for Applicants) to Planning Staff, *Subj: EXTERNAL: RE: 851-21-000086-PLNG Applicants' Second Open Record Submittal, Thursday, June 10, 2021 3:46 PM.***
 - The body of this email states “Part 2. Please replace previously sent Exhibits A-D with the attached.” As noted above, the evidence contained in these exhibits do not appear to be entered into the record prior to the second open record period.
 - Attachments: Exh A - NWI Map Subject Properties.pdf; Exh B - DLCD_LincCo_commentletter_01-02-03-LUPC-21.pdf; Exh C - Survey of Beach Accesses.pdf; Exh D - Photos of January 2021 Flooding.pdf
- **Email from Sarah Mitchell (of attorneys for Applicants) to Planning Staff, *Subj:***

EXTERNAL: RE: 851-21-000086-PLNG Applicants' Second Open Record Submittal, Thursday, June 10, 2021 3:49 PM.

- Email containing the aforementioned Exhibits E through G. As noted above, the evidence contained in these exhibits do not appear to be entered into the record prior to the second open record period.
- Exh E-FINAL_PineBeach_Memo_Supplement_06102021.pdf;
- Exh F - 2021-06-10 Pine Beach Shoreline Protection.pdf;
- Exh G - Photos of Subject Properties North to South.pdf
- ***Email from Wendie Kellington (of attorneys for Applicants) to Planning Staff, Subj: EXTERNAL: Pine Beach Back yards and path images - 851-21-000086-PLNG Applicants' Second Open Record Submittal, Thursday, June 10, 2021 3:56 PM***
 - This email discloses that it contains “are additional images of the path and backyards of the George Shand Lots,” which do not appear to be previously entered into the record prior to the second open record period in this matter.
 - Attachment - 9. Geo Shand Lots S to North.Jpg
- ***Email from Wendie Kellington (of attorneys for Applicants) to Planning Staff, Subj: EXTERNAL: Geo Shand Lots S to North.Jpg, Thursday, June 10, 2021 3:57 PM***
 - Email states “Next photo for the record. Backyard George Shand Lots.” The attached photo does not appear to be entered into the record prior to the second open record period in this matter.
 - Attachment: 10. Geo Shand Lots S to North.Jpg
- ***Email from Wendie Kellington (of attorneys for Applicants) to Planning Staff, Subj: EXTERNAL: Geo Shand Tracts backyard photos 851-21-000086-PLNG Applicants' Second Open Record Submittal, Thursday, June 10, 2021 3:59 PM***
 - Email states “Attached for the record of the above matter are additional images of the path and backyards of the Pine Beach lot.” The attached photos do not appear to be entered into the record prior to the second open record period in this matter.
 - Attachment: 20210608_180826J.pg
- ***Email from Sarah Mitchell (of attorneys for Applicants) to Planning Staff, Subj: EXTERNAL: 851-21-000086-PLNG Applicants' Second Open Record Submittal, Thursday, June 10, 2021 at 4:01 PM.***
 - This email and its attachments were submitted after the close of the second open record period deadline at 4:01 PM. Absent evidence to the contrary, these materials should be categorically excluded for lack of timely filing.
 - The email states “Part 4. Additional images of the backyards of the George Shand Tracts.” The attached photos do not appear to be entered into the record prior to the second open record period in this matter.
 - Attachments: Backyards George Shand Tracts.pdf

See TCDCD, *Public Testimony-Received by June 10, 2021 at 4:00pm*, available at https://www.co.tillamook.or.us/sites/default/files/fileattachments/board_of_county_commissioners/project/25430/public_comments_received_by_june_10_4pm.pdf. The aforementioned materials, excerpts of materials, and their duplicate copies included in the publicly available copy of “public testimony received by 4 PM on June 10, 2021” are new evidence, as defined by ORS 197.763(9) and in that they are not written comment responding to materials previously

submitted during the public hearing and first open record period of this matter. With respect to the attachments enclosed within the final email, these were untimely filed at 4:01 PM.

Oregon's land use statutes also give an applicant the right to final rebuttal for at least seven days after the record is closed to all other parties. ORS 197.763(6)(e). However, the statute limits the applicant's final rebuttal to argument only, defined as "assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision." ORS 197.763(9)(a). In other words, the applicant's final submittal shall not include any new evidence. ORS 197.763(6)(e). For the purposes of the statute, evidence is defined as "facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision." ORS 197.763(9)(b). If the applicant happens to submit "new evidence" as part of its final rebuttal, the correct procedural response to an objection should be to either reopen the record to allow review and rebuttal, or to categorically exclude consideration of the new evidence. *Tucker v. City of Adair Village*, 31 Or LUBA 382, 389 (1996).¹

The Applicant submitted final testimony on June 17, 2021. *See Final Testimony-Received by applicant on June 17, 2021 by 4pm, available at https://www.co.tillamook.or.us/sites/default/files/fileattachments/community_development/project/25430/851-21-000086-plng-01_applicants_final_written_argument.pdf*. Per Oregon Shores review, the following portions of the Applicant's final argument contain new evidence not included in the record prior to the close of the second open record period:

- Image on page 2, which appears to include an image from the Applicant's second open record period submission, Exhibit D (Photos of January 2021 Flooding).
- Image on page 7, which appears to contain the Northing image from Applicant's second open record period submission, Exhibit E (West Memo at 5, June 10, 2021).

The public did not have an opportunity to respond to the aforementioned new evidence, and the issue could not have been raised or submitted during the prescribed open record periods for this matter, which closed at 4 PM on June 10, 2021. Rebuttal of new evidence is a substantial right under ORS 197.835(9)(a)(B). As a matter of due process and the principles of fairness inherent to Goal 1, and consistent with ORS 197.763 and TCLUO Section 10, Oregon Shores respectfully requests that the Planning Commission categorically exclude the aforementioned materials submitted by the Applicant during the second open record period and final argument during its considerations for this matter. Oregon Shores further requests that the Planning Commission explicitly set forth which materials were categorically excluded when making its recommendation to the Board of Commissioners in this matter. In the alternative, Oregon Shores respectfully requests that the Planning Commission reopen the written record to allow the public to rebut the new evidence submitted contrary to the Commission's exercise of its authority under TCLUO Section 10.080(4)(a)-(b) and contrary to ORS 197.763(6)(e).

¹ Oregon's land use statutes specifically contemplate that a local government may reopen the public record. ORS 197.763(7).

Thank you for your consideration of this important matter.

Sincerely,



Anuradha Sawkar
On Behalf of Oregon Shores Conservation Coalition

Encl.
cc. Wendie Kellington

From: Sarah Absher
Sent: Friday, May 28, 2021 6:04 PM
To: Rich and Kathy Snyder
Subject: Goal 18 Exception Notice
Importance: High

Good Afternoon,

I am so sorry you did not receive notice. The first of four hearings was last night. The Planning Commission is holding two hearings and the Board of County Commissioners are also holding two hearings. The Planning Commission must make a recommendation to the Board of County Commissioners and the County Commissioners are the decision maker. The decision will not be made before August 16th at a public hearing- which is the last hearing scheduled. The attached public notice provides all of the hearing dates/times.

What's happened & What's next: Oral testimony was taken last night and the written record remains open. Below are the ways to provide written testimony. Oral testimony will be taken again but this time by the County Commissioners on their first hearing that will take place on July 28th at 10:30am. Please make sure Allison and I know who wants to testify. They can email us to be sure we do not miss them at the July 28th hearing. The hearing will be virtual.

Options to provide written comments: Written comments can be emailed to myself and Allison: ahindere@co.tillamook.or.us. Any person can provide comments and new evidence until 4:00pm on June 3rd. Any person can provide written comments but no new evidence (only comments on existing evidence) until 4:00pm on June 10th. We will make sure the Planning Commission has these comments prior to the June 24th hearing that will take place at 7:30pm. A copy of all written comments will also be provided to the County Commissioners for their hearings on this proposal.

Here are some important links to share with everyone. All of the information is provided on the DCD website. The virtual meeting format is the same format we used for the townhall meeting and the virtual teams meeting link to join the meeting is on the DCD homepage: <https://www.co.tillamook.or.us/commdev> (Must have Microsoft Teams App downloaded on device first.)

Here is the Link as shown on the DCD Homepage



Application Information Link: <https://www.co.tillamook.or.us/commdev/project/851-21-000086-plng-01>
Hearing Testimony Tips & Virtual Meeting Attendance Guide: <https://www.co.tillamook.or.us/bc-pc>

Sincerely,

Sarah Absher, CFM, Director
Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141
503-842-3408x3317



OREGON SHORES CONSERVATION COALITION

June 3, 2021

Tillamook County Planning Commission
c/o Planning Director Sarah Absher
Community Development
510-B Third Street
Tillamook, OR, 97141

Via Email to: sabsher@co.tillamook.or.us, ahindere@co.tillamook.or.us,
mjenck@co.tillamook.or.us

**Re: Tillamook County File No(s) 851-21-000086-PLNG-01/851-21-000086-PLNG
Land Use Applications for Goal Exception, Flood Plain Development Permit
Additional Comments of the Oregon Shores Conservation Coalition**

Dear Chair Heckerroth and members of the Tillamook County Planning Commission:

Please accept these additional comments from the Oregon Shores Conservation Coalition and its members (collectively “Oregon Shores”) to be included in the file for Tillamook County File Nos. 851-21-000086-PLNG-01 (Goal Exception) and 851-21-000086-PLNG (Flood Plain Development Permit) [Applications]. These comments are provided as part of the written testimony open record period following the public hearing on Thursday, May 27, 2021, as stated by the Planning Commission. Oregon Shores previously submitted comments for inclusion within the evidentiary record for the public hearing in this matter, timely filed with the Tillamook County Department of Community Development (TCDCD) prior to the stated deadline of 4:00 PM on Thursday, May 27, 2021.¹ Oregon Shores hereby adopts in full and incorporates by reference our previous comments in the record for File Nos. 851-21-000086-PLNG-01 (Goal Exception) and 851-21-000086-PLNG (Flood Plain Development Permit).

¹ Oregon Shores filed its comment via email on Thursday, May 27, 2021 at 3:45 PM, and does not concede that the comment was submitted subsequent to 4 PM or after the public hearing on that date. Further, Oregon Shores respectfully requests that the TCDCD correct the planning file in this matter to reflect this timely submission of Oregon Shores’ first public hearing comment prior to the close of the record in this matter.

Please continue to notify us of any further decisions, reports, or notices issued or hearings held in relation to these Applications. Oregon Shores will provide further comments as appropriate and allowed within future open record periods.

As noted previously, Oregon Shores has offered testimony on numerous proposals involving shoreline protection structures (“SPS”)² in order to express serious concerns about the known harmful impacts these structures have on shorelines, coastal ecosystems, the public’s access to the beach, public safety, and public interest. Oregon Shores provides these additional written comments in order to underscore the apparent deficiencies in the combined Applications narrative, and to emphasize the importance of a robust review prior to approval of a goal exception and development of harmful SPS in a highly dynamic coastal environment. Upon the current record, the Applicants have not demonstrated compliance with the applicable approval criteria set forth in the Statewide Planning Goals (“Goals”), the Oregon Revised Statutes (“ORS”), applicable Oregon Administrative Rules (OARs), the Tillamook County Comprehensive Plan (TCCP), and the Tillamook County Land Use Ordinance (TCLUO).³ Our comments support the view that the Applications fail to provide the minimum information necessary to be evaluated for compliance with applicable standards and criteria. For the reasons discussed below, Oregon Shores strongly argues that the Planning Commission should recommend denial in this matter.

1. The subject properties are ineligible for SPS under the limitation set forth in Goal 18, Implementation Requirement 5 (Goal 18, IR 5), and the proposal is inconsistent with Goal 18 and TCCP Goal 18 (Beaches and Dunes element).

The Applications are requesting an exception—pursuant to the process set forth in Goal 2, Parts II(b) and II(c)—to Goal 18 for the installation of a riprap revetment upon and along roughly 880 feet of the public’s beach. The proposed project area is within an active eroding foredune east of the line of established vegetation in the Coastal High Hazard (VE) zone as well as within an Area of Special Flood Hazard within the Flood Hazard Overlay Zone (TCLUO Section 3.510). The subject fifteen tax lots are Lots 11-20 of the Pine Beach Replat Unit #1, designated as Tax Lots 114 through 123,⁴ of Section 7DD, between 17300 to 17480 Pine Beach Loop in Rockaway Beach [Pine Beach Properties]. Additionally, the subject properties also include Tax Lots 3000, 3100, 3104, 3203, and 3204⁵ (north to south) of Section 7DA [Ocean Boulevard Properties]. All properties are in Township 1 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.

The objective of Goal 18 is to

² Hardened shoreline protection structures (synonymous with “beachfront protective structures”) include riprap revetments, concrete seawalls, bulkheads, and the like. These structures are somewhat different, but the publicly available evidence indicates that the harmful impacts of each are substantially the same and should be considered as such by OPRD for the purposes of review.

³ Staff Report, 2. Oregon Shores does not concede that the proposals are consistent with any of these listed criteria.

⁴ Per Oregon Shores’ review, Tax Lots 117 and 119 appear to be currently undeveloped with any upland structures.

⁵ Tax Lots 3203-3204 are presently undeveloped with upland structures. The developed tax lots span between 17488 to 17560 Ocean Blvd in Rockaway Beach.

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas;

To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.⁶

As discussed previously, riprap is antithetical to beach conservation, and increases erosion to adjacent properties as well as creating a public safety hazard (through narrowing of the beach). For these reasons, the legislative declaration in ORS 390 and policy underlying Goal 18 effectively placed a cap on the amount of ocean shore in Oregon that may be armored to limit the cumulative impacts of such hardening. Specifically, Goal 18 prohibits permits for SPS where development exists after a date-certain:

Permits for beachfront protective structures shall be issued only where development existed on January 1, 1977. Local comprehensive plans shall identify areas where development existed on January 1, 1977. For the purposes of this requirement and Implementation Requirement 7 'development' means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where an exception to (2) above has been approved.⁷

As affirmed by precedent interpreting the above provision, Goal 18, IR #5 is an acknowledgment that SPS are man-made structures that cause problems for adjacent property owners, non-adjacent owners (e.g., public), and for the state, which owns and manages the ocean shore and all lands westward of the ocean shore in trust for the public. Because the Land Conservation Development Commission (LCDC) knew that SPS cause problems and also recognized that some development had already occurred in reliance on the ability to build such structures prior to January 1, 1977, it adopted Goal 18, IR #5. In other words, new development after January 1, 1977 would only occur with the knowledge that SPS will not be allowed, putting all potential developers on constructive notice. New development will not be allowed to cause problems for others.

As noted by the Staff Report and DLCD in this matter, development was not in existence on any of the subject properties on or prior to January 1, 1977. Specifically:

- County survey and tax records; information provided by Twin Rocks Sanitary District, Watseco Water District, and Tillamook People's Utility District (PUD); and 1977 aerial imagery from the Army Corps of Engineers establish that on January 1, 1977, there was no eligible development on any of these tax lots. The Applications fail to establish otherwise.
- The Pine Beach subdivision at issue for this was first platted 1994 (i.e., after 1977) and no development occurred there prior to 1977. Thus, on or prior to January 1, 1977, there

⁶ Goal 18.

⁷ Goal 18, IR 5.

was no eligible development on the oceanfront parcels at this site and it was not part of a statutory subdivision per ORS 92.010. The Applications fail to establish otherwise.

- The Ocean Boulevard Properties were part of the “George Shand Tracts,” surveyed in 1950. However, as DLCD notes, tracts are not considered a statutory subdivision as defined in ORS 92.010. Hence, these parcels of land do not meet the definition of development as defined in Goal 18. The Applications fail to establish otherwise.
- As noted by DLCD, the fifteen lots subject to the request do not meet the definition of development because they were developed after 1977. Further, as noted by the Staff Report and indicated by DLCD, creation of the properties alone does not meet the definition of development under Goal 18.⁸

In addition to the fact that the subject properties were undeveloped on or prior to January 1, 1977, the area at issue is not part of an exception area to Goal 18. Tillamook County has identified and adopted specific exception areas for Goal 18, Implementation Requirement #2 in the County's Comprehensive Plan (Part 6 of the Beaches and Dunes Element). As noted in the Staff Report:

Section 6 of the Goal 18 element of the [TCCP] inventories those built and committed areas where a Goal 18 exception has been taken. These are areas within unincorporated Tillamook County identified as built and committed areas located on foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding. These built and committed areas are Cape Meares, Tierra Del Mar, Pacific City and Neskowin.

The areas specified in the Applications are not within these three adopted Goal 18, IR 2 exception areas, as set forth in the TCCP (TCCP Goal 18, §§6.1a-d). Despite this fact, the Applicants appear to argue, absent any meaningful evidence, that the tax lots at issue are already subject to this existing Goal 18, IR 2 exception, “because their residential development on a dune now subject to ocean undercutting and wave overtopping is authorized by an exception.” Oregon Shores agrees with DLCD in its assertion that “[t]he notion of an implied exception, as the applicants suggest, is not supported by law.” As DLCD states, a goal exception is an affirmative act that is incorporated into a comprehensive plan. Oregon Shores also agrees with the Staff Report’s finding that the Applications must meet the burden of proof to satisfy the applicable exception criteria without the sole basis of argument that other exceptions have already been taken for areas that do not include the subject properties, or because there was a lack of need for an exception to be taken (e.g., to Goal 18, IR 2) at the time of development of the properties subsequent to January 1, 1977.

⁸ As noted in the Staff Report, the Oregon Coastal Atlas Map Goal 18 Eligibility Inventory, included in "Exhibit A" of the staff report, depicts properties determined to have eligibility for SPS based upon evidence of development as defined above that existed on January 1, 1977. Properties where it has been determined development did not exist as per the development definition above on January 1, 1977 are highlighted in red. Each of the subject properties are highlighted in red. While the Coastal Atlas inventory is by no means the end of the inquiry for permitting SPS (which should be limited by, at the very minimum, the footprint of a structure that would have required protecting prior to 1977), Oregon Shores generally agrees with the determination reflected on the Oregon Coastal Atlas map.

For the above reasons, Applications need a goal exception to the 1977 development date limitation of Goal 18: Beaches and Dunes. However, as discussed below, the Applications fail to establish that either a “committed exception” or a specific reasons exception under OAR 660-004-0022(11) are applicable to this proposal. Further, based on the information presented, Oregon Shores strongly argues that the Applications fall well short of the high bar required by the general reason set forth at OAR 660-004-0022(1). As such, the Planning Commission should recommend denial of the Applications.

2. The Applicants cannot establish a basis for a goal exception under the “committed exception” provision or the specific reasons exception to the foredune use prohibition.

As the Oregon Court of Appeals explained: “an exception must be just that – exceptional.”⁹ In other words, for the County to approve any goal exception request, it faces a high bar. There must be sufficient information provided in the record and reasoning to support each of the applicable exceptions criteria. The Applications advance alternative bases for a goal exception based on the provision set forth in ORS 197.732(2)(b) and OAR 660-004-0028 as well as the ORS 197.732(2)(c), OAR 660-004-0020, and OAR 660-004-0022(11). For the below reasons, Oregon Shores strongly argues that neither of the aforementioned pathways are available to support approval of the Applications. Further, per Oregon Shores’ review, it does not appear that the Applications advance an exception under OAR 660-004-0022(1). Additionally, as discussed previously, the information presented is insufficient to meet the standards of OAR 660-004-0022(1), as interpreted by LUBA 2020-002 and LUBA 2020-012.

A. The Applications fail to establish that a "committed" exception is applicable to this case.

Per ORS 197.732(2)(b), A local government may adopt an exception to a goal if:

The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.

OAR 660-004-0028 is the rule adopted by LCDC to implement this statutory provision. The rule is focused on adjacent uses and lands.¹⁰ However, the Applicants do not establish that adjacent uses are the basis for this exception request, nor provide evidence sufficient to establish consistency with the above criteria. The Applications’ construction of whether “uses allowed by [Goal 18]” are impracticable is inconsistent with statute and rule. Contrary to the Applications’ suggestion, and as DLCD noted, the question at hand is not whether these properties should be “entitled to now benefit from the Goal 18 policy of reducing the hazard to human life and property,” but rather, whether Goal 18 allows the development of the Applicants’ preferred erosion mitigation structure (i.e., hardened SPS). The properties do benefit from Goal 18’s object

⁹ *1000 Friends of Oregon v. LCDC*, 69 Or App 717, 731 (1984).

¹⁰ OAR 660-004-0028(2)

to reduce hazards, and as stated above, cannot be allowed to increase hazards and intrude on the public's ownership of the beach inconsistent with Goal 18, absent a robust demonstration that their proposal is consistent with the above criteria. For the above reasons and for those argued previously, Oregon Shores agrees with DLCD that the Applicants' committed exception arguments cannot be the basis for an exception decision in this case.

B. The Applications fail to establish that a specific exception to the foredune use prohibition is applicable or justified.

Under OAR 660-004-0022(11) Goal 18 — Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", Implementation Requirement. Reasons that justify why this state policy embodied in Goal 18 should not apply shall demonstrate that:

- (a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or the use is of minimal value;
- (b) The use is designed to minimize adverse environmental effects; and
- (c) The exceptions requirements of OAR 660-004-0020 are met.

Applicants refer to the West Consultants Technical Memorandum and accompanying construction plans stating that the SPS has been designed in a way to protect it from geologic hazards, wind erosion, undercutting ocean flooding and storm waves. As noted below the WEST memo is outdated, and thus insufficient to establish consistency with this criterion. The Applicants' focus on the particular design of the SPS at issue here is irrelevant. Rather, it is the broader issue – whether a protective structure is allowed at all. The siting and design of the protective structure is another matter subject to a development permit. Oregon Shores agrees with DLCD that the design should be evaluated through a separate process, subject to approval of an exception (although the latter is unjustified in this case).

The Applicants state, absent any meaningful evidence, that the proposal minimizes adverse environmental effects from the proposed use. The Applications state, absent meaningful support, that wave energy and erosion potential will be less because the proposed SPS will be located further inland and will be at a higher elevation than the nearby Shorewood RV Resort SPS. The Applications fail to indicate how the SPS being located further inland or at a higher elevation are relevant, and in fact, publicly available evidence suggests the contrary to be true. Applicants conclude, absent meaningful evidence, that ultimately, the proposed SPS will be a net benefit to the shoreline environment, minimizing and abating future landward shoreline erosion. This is contrary to accepted science, and Oregon Shores strongly disagrees. As discussed previously, the contrary is likely to be true. Hardened structures at this location will adversely impact the beach, adjacent properties, and the public's interest in the ocean shore.

The impacts of additional shoreline armoring on the beach, beach access, and surrounding properties are not adequately addressed in the Applications. Further, as DLCD noted, the County has an adopted inventory of beach and dune landforms subject to the

provisions of Goal 18 and it is not an ever-changing inventory. Finally, as discussed previously, the Applications fail to meaningfully address the criteria of OAR 660-004-0020. For the above reasons, a general reasons exception process is the applicant's only path forward. However, as discussed previously, an approval is foreclosed on that basis as well.

3. The Applicant fails to meet the criteria required for an amendment of the TCCP in order to take a "reasons" exception to Goal 18, IR #5

OAR 660-004-0020 details the criteria applicant must meet before Coos County can adopt an amendment to the TCCP in order to take a reasons exception to Goal 18. ORS 197.732 contains Oregon's statutory guidelines for the Goal 2 exception process and its criteria parallel the criteria set forth in OAR 660-004-0020. The four requirements for a goal exception are:

- (a) Reasons justify why the state policy embodied in the applicable goals should not apply.
- (b) Areas that do not require a new exception cannot reasonably accommodate the use.
- (c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designated to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.
- (d) The proposed uses are compatible with other adjacent uses or will be so rendered through measure designed to reduce adverse impacts.

As discussed through this comment and previously, because the proposed exception fails to demonstrate compliance with applicable provisions of OAR 660-004-0020, it cannot demonstrate compliance with OAR 197.732.

A. First Goal Exception Requirement: Reasons Justify Why the State Policy Embodied in the Goals Should not Apply.

OAR 660-004-0020. Goal 2, Part II(c), Exception Requirements

- (2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:
 - (a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

OAR 660-004-0020(2)(a) requires the Applicant identify “reasons” as to why Goal 18, #IR 5 criteria should not apply to the proposed sites. Erosion is part of the natural cycle of a beach, and coastal erosion is common throughout Oregon. If “eroding shorelands” is sufficient reason to justify an exception, then Goal 2 and Goal 18 are superfluous. OAR 660-004-0022 identifies the types of “reasons” that may be used to justify the exception. As noted above, the specific reason at OAR 660-004-0022(11) does not apply in this case and the Applications fail to advance an argument under OAR 660-004-0022(1). As such, the Applicants fail to demonstrate consistency with this criterion. As discussed below, the Applications fail to meet the criteria set forth in OAR 660-004-0020(2)(b)-(d).

B. Second Goal Exception Requirement: Areas that do Not Require a New Exception Cannot Reasonably Accommodate the Use.

OAR 660-002-0020(2)(b) requires a showing that areas that do not require an exception cannot reasonably accommodate the use. As discussed in detail above, the Applicant has not demonstrated a need for the proposal. Further, because the Applications fail to establish a unique and immediate need for the proposed armoring in this location and do not meaningfully discuss alternatives to an SPS to mitigate shoreline erosion (such as relocating the oceanfront homes). Because the Applicants has not sufficiently presented alternatives that would not require a goal exception, it fails to meet this criterion.

C. Third Goal Exception Requirement: The Long-Term Environmental, Economic, Social and Energy Consequences Resulting from the Use at the Proposed Site are Not Significantly More Adverse than Would typically Result from the Same Proposal Located in Other Areas that Would Require a Goal Exception.

OAR 660-002-0020(2)(c) requires the applicant to demonstrate “the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts.” Further,

“The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base.

The Applications fail to provide a sufficient ESEE analysis consistent with this criterion. For the environmental considerations, the Applicants allege, absent supporting evidence, that the proposed structure was “designed to reduce adverse impacts” but subsequently fail to explain the expected impacts. Oregon Shores also argues that the Applications’ economic analysis is

likewise deficient. It fails to acknowledge the economic impacts to adjacent properties, and the immeasurable impact of the public's loss of its beach. As noted, the Applications focus almost exclusively on the value of the existing homes and the possibility of damage to water and sewer facilities. For these reasons, this criterion is not met.

For the reasons stated above, the Applicant has not demonstrated that a Goal 18 exception is justified for the proposal.

IV. The Applicant fails to demonstrate consistency with the Goals.

As noted by DLCD, an exception to one goal or goal requirement does not ensure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Oregon Shores asserts that the Applications fail to provide sufficient information to evaluate whether the exception as proposed would comply with the rest of the goals. In particular, the impacts of additional shoreline armoring to the beach, beach access, and surrounding properties are not adequately addressed in the applications, inconsistent with Goal 18 and Goal 17. Further, Oregon Shores strongly argues that the Applications fail to demonstrate consistency with Goals 5, 6, 7, 8, 9, 10, 11, 12, 13, and 17. Therefore, the requests must be denied. Oregon Shores will provide further comment on these matters as appropriate and allowed.

V. The Applications are inconsistent with the criteria for additional review for approval of an SPS, as set forth in the TCLUO.

As discussed above, the proposed project is ineligible for SPS, and requires an exception to Goal 18. Further, the Applications fail to justify an exception request on any of the avenues advanced, whether under ORS 197.732(2)(b) or ORS 197.732(2)(b) and their implementing regulations. For these reasons, the Planning Commission should recommend denial of these Applications. However, should the County choose to approve the Goal 18, IR 5 Exception request, the development standards and criteria of the Beach and Dune Overlay Zone (TCLUO Section 3.530, et. seq.) and the Flood Hazard Overlay Zone (TCLUO Section 3.510, et. seq.) must also be met. Oregon Shores strongly argues that the Applications fail to meet these criteria, and will provide comment on the development permits deemed necessary for the proposed project once the plan map and text amendments as well as zoning changes have been resolved.

General comments are provided here for the purposes of clarity and preservation.

- Oregon Shores agrees with DLCD that much of the information cited in the WEST Memo and the rest of the Applications is dated. The Applications fail to explain how this dated information is relevant to establishing consistency with the applicable criteria. There are more up-to-date and publicly available publications and resources for the applicable area that should be consulted and included for public review prior to any final decision in this matter.
- The Applications fail to adequately discuss hazards.
- In the proposed goal exception location, there are four vacant oceanfront lots. Future uses of these lots would have to comply with the provisions of Goal 18, including to reduce

hazards to human life and property. The Applications fail to adequately address this matter

- The applicants claim that the lands requesting the exception are not resource lands. As DLCD notes, this is not true. The lands in the application are subject to both Goals 17 (Coastal Shorelands) and 18 (Beaches and Dunes), which are resource lands. Applicants should address impacts to these lands in their analysis, and have failed to do so.

VI. Climate Change and Cumulative Impacts

Per Oregon Shores' review, the Applications fail to provide any meaningful discussion of how the proposed project may affect, exacerbate, and perform under known and present climate change impacts. The most detrimental effect of SPSs is passive erosion. When a hard structure is built along a shoreline that is already undergoing long-term net erosion, as is natural for beaches, the shoreline will eventually and naturally migrate landward, behind the structure. The end result is that the beach in front of the SPS is gradually lost as the water deepens, and the natural shoreline migrates landward. As sea levels continue to rise, this beach loss will accelerate, and the public's beach will drown. Similarly, the Applications offer little assessment of cumulative impacts of adding substantial amounts of armoring to the littoral cell, inconsistent with OAR 660-004-0020(2)(d).

Oregon's new Climate Change Adaptation Framework ("CCAF") and Climate Equity Blueprint ("CEB") makes it clear that local governments are responsible to address the climate crisis in a way that prioritizes climate resilience (i.e., adaptation and mitigation).¹¹ This means the County must avoid piecemeal decision-making that exacerbates climate impacts on the public's use and enjoyment of our ocean shores and interferes with climate adaptive planning (which would, at the minimum, require an assessment of whether impacted upland structures could be moved east to protect the public's interest in the shore). Instead of allowing the proliferation of SPS to protect short-term private interests, the County needs to get in front of the climate crisis and make decisions on the basis of present and increasing climate risks, rather than accepting maladaptive land use proposals such as the one at issue. The presumption should be against proposals for hardened SPS, which encourage maladaptive development in high-risk coastal areas and destroy the public's long-term interest in the beach. Instead, the County must begin prioritizing climate adaptive solutions, such as relocating threatened structures, and protecting the public's beach consistent with the policy contained within ORS 390.610 and Goal 18.

VII. Conclusion

On the basis of the present record, the Planning Commission should recommend that the County deny these applications.

¹¹ DLCD, 2021 Or. CCAF and CEB, (Jan. 19, 2021), *available at* https://www.oregon.gov/lcd/CL/Pages/Adaptation-Framework.aspx?utm_medium=email&utm_source=govdelivery. PDF available at: https://www.oregon.gov/lcd/CL/Documents/2021_CLIMATE_CHANGE_ADAPTATION_FRAMEWORKandBlueprint.pdf.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Johnson", followed by a long horizontal line extending to the right.

Phillip Johnson
Executive Director
Oregon Shores Conservation Coalition
P.O. Box 33
Seal Rock, OR 97376
(503) 754-9303
phillip@oregonshores.org



Anuradha Sawkar <anu@crag.org>

Oregon Shores Comment, Tillamook County Files 851-21-000086-PLNG-01, -PLNG

Anuradha Sawkar <anu@crag.org>

Thu, May 27, 2021 at 3:45 PM

To: Sarah Absher <sabsher@co.tillamook.or.us>

Cc: "Phillip Johnson, Oregon Shores/CoastWatch" <orshores@teleport.com>, Oregon Shores Conservation Coalition <phillip@oregonshores.org>

Dear Sarah,

Please find attached Oregon Shores' comment on the above Applications. Please confirm receipt of this email and the attached document.

I appreciate your time.

Sincerely, Anu

--

Anuradha Sawkar
Associate Attorney
[Crag Law Center](#)
3141 E Burnside Street
Portland, Oregon, 97214
503-233-8044
anu@crag.org
She/Her/Hers

Protecting and Sustaining the Pacific Northwest's Natural Legacy.

 **2021.05.27 FINAL Or. Shores Pub. Hrg. Cmt Tillamook Files 851-21-000086-PLNG-01_851-21-000086-PLNG [Pine Beach].pdf**
328K

[oregon.gov](https://www.oregon.gov)

Department of Land Conservation and Development : Goal 18: Beaches and Dunes : Oregon Planning : State of Oregon

4-5 minutes



Beaches and dunes are the physical environments at the very edge of the sea. These are highly dynamic places; sand and gravel are moved by wind, waves, and currents. They serve as buffers between the energy of the ocean and the land. Beaches and dunes also provide the public with recreational opportunities and draw scores of visitors to Oregon each year.

Statewide Planning Goal 18 focuses on conserving and protecting Oregon's beach and dune resources, and on recognizing and reducing exposure to hazards in this dynamic, sometime quickly changing environment. Goal 18 is central to the work of coastal communities in addressing the impacts of coastal hazards and climate change in areas along the ocean shore.

Local governments are required to inventory beaches and dunes and describe the stability, movement, groundwater resources, hazards and values of the beach, dune, and interdune areas. Local governments must then apply appropriate beach and dune policies for use in these areas.

Goal 18 includes some requirements are of particular importance:

Prohibition Areas

The goal prohibits development on the most sensitive and hazardous landforms in the beach and dune

environment, including beaches, active foredunes and other dune areas subject to severe erosion or flooding. This requirement has been instrumental in preventing inappropriate development on these critical landforms.

Shoreline Armoring

The goal limits the placement of beachfront protective structures (i.e. shoreline armoring such as riprap and seawalls) to those areas where development existed prior to 1977. This policy effectively places a cap on the amount of ocean shore that may be hardened, and thus limits the cumulative impacts of such hardening.

Shoreline armoring can cause scouring and lowering of the beach profile, which can result over time in the loss of access to Oregon's public beaches. New development must account for shoreline erosion through non-structural approaches (e.g. increased setbacks). In the face of increased ocean erosion occurring in conjunction with climate change and sea level rise, limiting hard structures and allowing natural shoreline migration is a critical policy tool for conserving and maintaining Oregon's ocean beaches.

Dune Grading

The goal specifies detailed requirements for foredune grading (lowering of the dunes for views). Such grading is permitted in limited circumstances in association with existing development. It must be based on a specific dune system management plan that prescribes standards for maintaining flood protection, maintaining overall system sand supply, and post-grading sand stabilization (e.g. planting of beach grass). There are currently six official dune management plans in place in Oregon.

Ocean Shore Regulation

Oregon's ocean beaches are managed by the [Oregon Parks and Recreation Department \(OPRD\)](#) which has an extensive permitting program for shoreline protection under [ORS 390.605 – 390.770](#), also known as the "Beach Bill." OPRD regulates activities affecting the ocean shorelands west of the statutory vegetation line or the line of established vegetation, whichever is most landward. This includes beachfront protective structures, stairways, walkways, or other structures than encroach on the public beach. OPRD has incorporated the [Oregon Department of State Lands](#) authority to regulate removal and fill activities along the ocean shore under its permit program. Permitted activities must be consistent with the Statewide Planning Goals (especially Goal 18), local comprehensive plans, and with the [OPRD Ocean Shores Management Plan](#).

Original Adoption: 12/18/76; Effective: 6/7/77

Amended: 10/11/84; Effective: 10/19/84

Amended: 2/17/88; Effective: 3/31/88

 [Read the full text version of Goal 18](#)

Administrative Rules that implement Goal 18:

[OAR 660-034](#) – State and Local Parks Planning

[OAR 660-035](#) – Federal Consistency

Related:

[Coastal Goals](#)

[Oregon Parks and Recreation Department](#)

[Oregon Department of State Lands](#)

[Ocean Shores Management Plan](#)

[Goal 18: Pre-1977 Development Focus Group](#)

1-18-5 29-1

181528

BOOK 208 PAGE 56

DECLARATION OF EASEMENT

June 30, 1967

RAY B. LOSLI, a single man, and owner of a parcel of real property described as that part of Section 7, Township 1 North, Range 10 West of the Willamette Meridian beginning at a point that is 489.6 feet west of the initial point of the Plat of Watseco; thence West a distance of 401 feet; thence North 10° 25' West a distance of 60.34 feet; thence East a distance of 420.75 feet to the West line of Ocean Boulevard; thence South 8° 28' 26" West along the West line of said Ocean Boulevard to the point of beginning, in Tillamook County, Oregon, hereby sets aside the south five (5) feet of the parcel of real property hereinabove described for the use of and access across to the property owners of lots in Blocks 1, 3 and 5, Watseco, in Tillamook County, Oregon, such use of and access to be limited to said property owners and the members of their families, the easement being hereby granted, bargained and conveyed in equal rights to all present and future owners of lots in Blocks 1, 3 and 5, Watseco, Tillamook County, Oregon, said rights to run with the title to each and all of said lots forever, said access, however, to be limited to pedestrian traffic only and to include use for ingress or egress to and from the beach.

The grantor of this easement or successors in ownership of the property upon which such easement is located shall have no obligation whatsoever to maintain such easement or to keep it clear from debris or brush.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30th day of June, 1967.

Ray B. Losli
Ray B. Losli

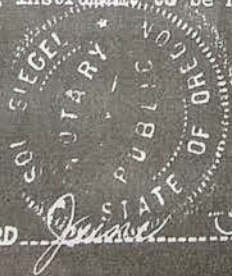
STATE OF OREGON)
County of Multnomah)^{SS}

June 30, 1967

Personally appeared the above named Ray B. Losli and acknowledged the foregoing instrument, to be his voluntary act and deed.

Before me:

Loe Siegel
Notary Public for Oregon
My Commission Expires: 2-27-71



FILED FOR RECORD

1967 AT 9:32 AM
JUNE WAGNER, COUNTY CLERK

sandiego.surfrider.org

The True Cost of Armoring the Beach

8-10 minutes

When you walk along San Diego beaches, you can often see coastal armoring (seawalls and riprap) along the cliffs and in front of beachfront properties. Even though armoring is commonplace, these structures are often built to protect private homes while whittling away at the public beaches we know and love.



A stroll along Solana Beach's armored cliffs *credit: The Los Angeles Times*

Seawalls and rip rap narrow the public beach

Seawalls are concrete structures that hold coastal cliffs back from natural erosion – an important source of beach sand – and riprap is made of loose rocks meant to lessen the impact of waves on coastal cliffs.



23 of 89

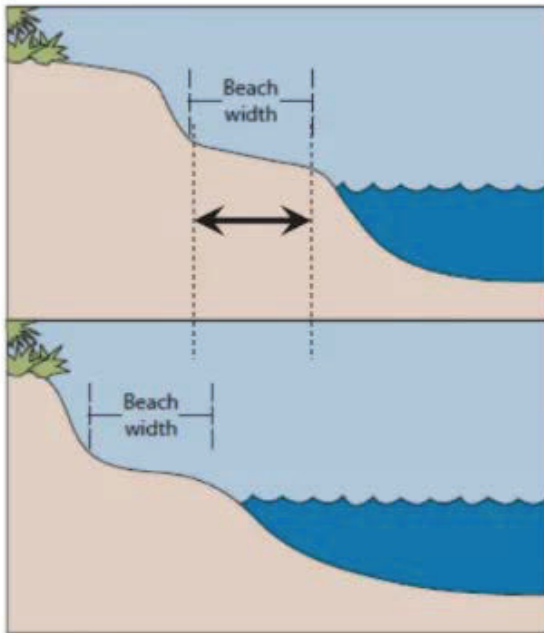


Riprap at Torrey Pines State Beach

Unfortunately, the benefits of seawalls and riprap are privatized, and the more our coast becomes armored, the faster we lose our walkable beaches (see Figure 1 below). Here's a run down of how seawalls and rip rap take away the beach:

- Seawalls and riprap **occupy beach space that would otherwise be enjoyed by the public**. Their very presence reduces the width of our walkable beaches. For example, riprap can take up as much as 30 to 40 feet of beach width.¹
- Seawalls and riprap **lock potential beach sand in place on the cliffs, removing an important source of natural sand replenishment for beaches**. A natural coastline, where waves bounce off unarmored cliffs, would instead slowly contribute sand to the public beaches. With many of California's rivers already dammed amidst the approaching threat of sea level rise, we cannot afford to cut off other sand supplies.
- **The most detrimental effect of seawalls is passive erosion**. When a hard structure is built along a shoreline that is already undergoing long-term net erosion, the shoreline will eventually and naturally migrate landward, behind the structure (Figures 1 and 2 below). **The end result is the beach in front of the seawall or hard structure is gradually lost as the water deepens, and the natural shoreline migrates landward**. As sea levels continue to rise, beach loss will accelerate, and beaches and reefs will drown.

Normal Beach Retreat



Blocked Beach Retreat

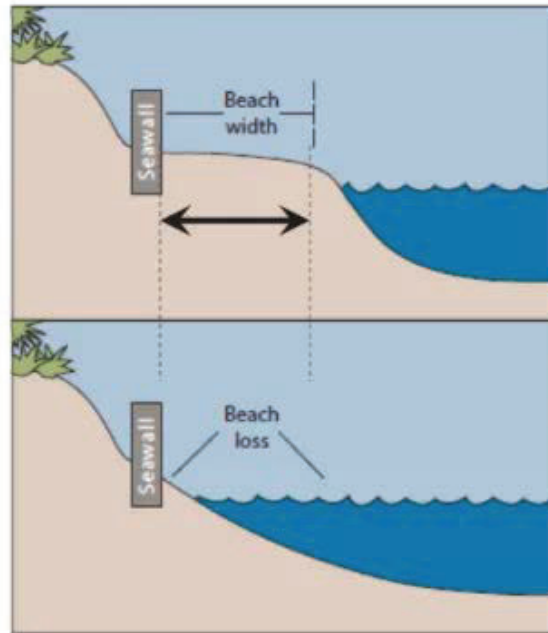


Figure 1. Landward migration of the beach with and without armoring. With armoring, the sand has nowhere to migrate to, and the beach eventually disappears due to passive erosion.²

Sand replenishment is an expensive, short-term bandaid

Some coastal armoring advocates look to sand replenishment as a cure-all to armoring’s woes. However, pumping sand from the ocean or from other places onto the shore is difficult (the sand grain and size has to match each beach’s sand) and prohibitively expensive (replenishment costs millions, and has to be repeated over time).

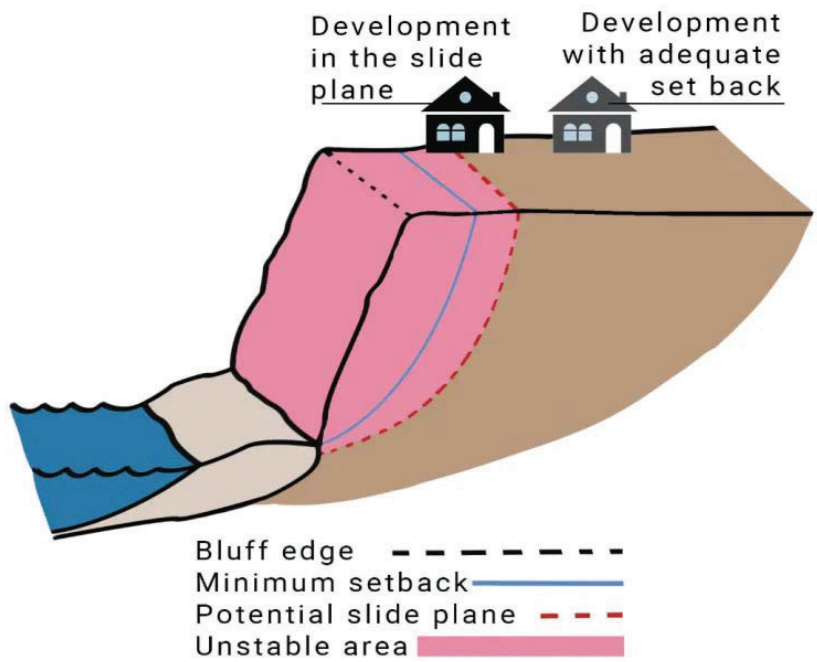
With so many beaches suffering from erosion, there isn’t enough sand for all the cities that want to artificially replenish their beaches. Placing sand on beaches can offset sand impeded by dams, groins and jetties. However, placing an excess of sand on beaches – especially those with reefs and seagrass – will destroy vital coastal resources, including surf breaks.

Seawalls do NOT make beaches safer

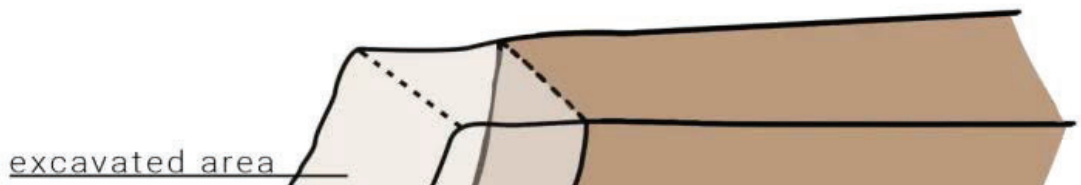
Some proponents of coastal armoring argue that seawalls add to public safety. However, the opposite is true: seawalls cause beaches to disappear over time. The narrower a beach becomes, the less safe space there is for the public to walk, run, or otherwise enjoy the beach.⁴

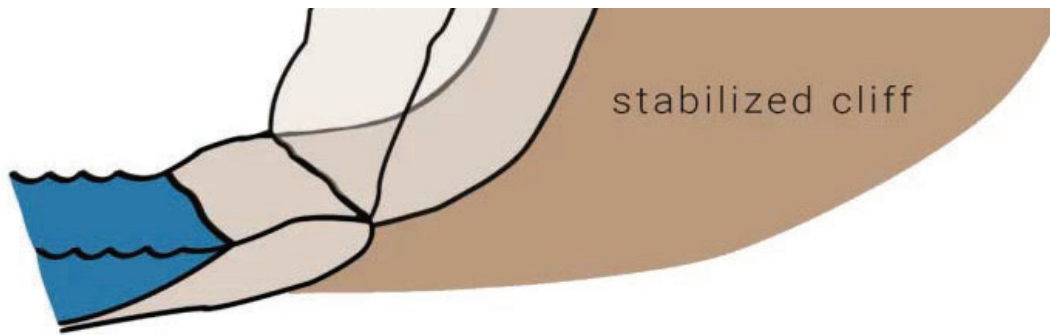
While seawalls may temporarily prevent lower bluff collapses at sea level, they won’t necessarily prevent upper bluff collapses. For example, the upper bluffs in North County San Diego consists of largely unconsolidated sediment and is known to be particularly unstable.

If public safety is a genuine concern for unstable bluffs, one solution is to follow what ski resorts do when snow is unstable: avalanche control. Upper bluffs can be stabilized by triggering a collapse until the material is at a stable angle. This approach presents a choice between moving 1 row of houses back to accommodate stability, or destroying the beach below for visitors from 10,000 rows of houses in the name of preserving beachfront property.



Development must be sited behind an adequate setback to ensure homes are safe from landslides.





The unstable area can be excavated to ensure the remaining cliff is stabilized. This would often require homes to move slightly farther back from the minimum setback, but would ensure bluffs are stable and preserve the public beach.

Armoring protects beachfront structures at the cost of the public beach

The known costs of seawalls and riprap, combined with the downfalls of short-term fixes like sand replenishment, pose the question: “Who are these seawalls for?”

Seawalls and riprap protect properties built at the edge of coastal cliffs or on the shoreline, but they don’t protect or preserve the public beaches. In fact, coastal armoring occupies public beach space and typically only benefits private property owners. **As sea levels continue to rise, the public beach will be further destroyed through passive erosion losses.**

Armoring usually privatizes the benefits for coastal homeowners, while passing on the costs to the public.



A surfer in front of a seawall in Carlsbad. photo credit: The San Diego Union Tribune

There are better ways to protect and preserve public beaches

Living shorelines can replace hard armoring with natural plants to reduce beach erosion in some areas, but they may be difficult to implement on bluff or cliff-backed beaches.

Preserving and restoring wetlands and dunes can help preserve the existence of these fragile but important ecosystems, while also helping to reduce storm impact on coastal communities.

If needed, unstable bluffs should have buffer zones in front. If the stability is of grave concern, avalanche control can occur to make the slope stable.

Thoughtful coastal development is an important aspect of preserving the public beach for decades to come. Hard armoring would not be necessary if homes and buildings were not built so close to the cliffs and ocean, and **future planning decisions will be critical in determining the fate of the beach. For example, when any development or redevelopment occurs next to the beaches, the buildings should be adequately set back far enough from the cliff edge to prevent a false need for a seawall.**⁶

Beach erosion is an issue facing all Californians, as over 80% of the California coastline is eroding⁷. The narrower the beaches get, the less space we have to walk, run, surf, or enjoy this vital public resource. Beach-dwelling animals and wildlife are also impacted as their habitat disappears due to sea level rise and accelerated erosion⁸.

California's beloved public beaches are protected by law, but they continue to face threats to their very existence. The next time you surf or walk the beach, try looking at coastal armoring in a new light. Is armoring worth the cost of our public beach?



The Cardiff Dunes Restoration Project is an example of a living shorelines project in Encinitas

Citations

¹ Garry Griggs, *California's Retreating Coastline: Where Do We Go From Here?* (2005).

² Cal. Coastal Comm'n, Handouts for Senate Budget Subcommittee 2, Coastal Climate Adaptation, 12 (Mar. 20, 2014), available at https://www.coastal.ca.gov/climate/Handouts_SenateSubcommittee2_Mar20.2014.pdf.

³ Hapke, Cheryl & Adams, Peter & Allan, J. & Ashton, Andrew & Griggs, Gary & Hampton, M. & Kelly, J. & Young, Adam. (2014). Chapter 9 The rock coast of the USA. Geological Society, London, Memoirs. 40. 137-154. 10.1144/M40.9.

⁴ [STAFF RECOMMENDATION ON CITY OF SOLANA BEACH MAJOR AMENDMENT LCP-6-SOL-16-0020-1 for Commission Meeting of May 11, 2017](#)

⁵ Johnsson, Mark. (2003). [Establishing development setbacks from coastal bluffs – Briefing for the California Coastal Commission](#)

⁶ CA Pub Res Code § 30253 (2016)

⁷ *Living with the California Coast*, (Gary B. Griggs & Lauret Savoy eds., Duke University Press, 1985); Gary B. Griggs, *California's Coastline: El Niño, Erosion and Protection*, in *California's Coastal Natural Hazards*: Santa

Barbara, California, University of Southern California Sea Grant Program 36, 36-55 (L. Ewing & D. Sherman eds., 1998).

⁸ Hubbard, David. "Beach Inhabitants." Explore Beaches, University of California, Santa Barbara, explorebeaches.msi.ucsb.edu/climate-change/beach-inhabitants.

Shoreline Structures

From Beachapedia

Why We Should Care

Seawalls, groins, jetties and other shoreline stabilization structures have had tremendous impacts on our nation's beaches. Shoreline structures are built to alter the effects of ocean waves, currents and sand movement. They are usually built to "protect" buildings that were built on a beach that is losing sand.

Sometimes they are built to redirect

ivers and streams. Other times they are

constructed to shelter boats in calm water. In many cases, seawalls, jetties, breakwaters and groins have caused down-coast erosion problems with associated costs that have greatly exceeded the construction cost of the structure.



Dana Point, CA before the Army Corps blocked its great waves, polluted its waters, and destroyed a rivermouth wetlands area.

(/File:Dana_point_photo.jpg)

Every surfrider knows that there are groins and jetties that have incidentally improved wave riding.

However, in many other areas shoreline construction has ruined wildlife habitat

(<http://www.baltimoresun.com/features/green/blog/bs-md-hardened-shoreline-20150916-story.html>),

destroyed surfing waves and caused beaches to erode. As beach lovers and environmentalists, we need

to understand the consequences of shoreline structures so that we may be able to effectively influence

decisions on the impacts, placement or necessity of these structures. As an environmental group

committed to maintaining the natural shoreline and beach equilibrium, we are usually opposed to

construction that will disrupt the balance of forces that shape our coastline.

The Basics

Erosion: Where Has All The Sand Gone?

Every winter, the newspapers show pictures of oceanfront buildings falling into giant surf.

Beaches are not static piles of sand. Ocean

currents cause beaches to move constantly.

Beach sand is primarily a product of the weathering of the land (such as natural erosion of coastal

bluffs). Sand can also come from ocean organisms such as coral. However, most of the sand along the

world's beaches comes from rivers and streams. When natural processes are interfered with, the natural

supply of sand is interrupted and the beach changes shape or can disappear completely. Sand

production stops when coral reefs die from pollution, when coastal bluffs are "armored" by sea walls and



(/File:Lifeguard_bldg_photo.jpg)

when rivers are dammed or channelized (lined with concrete) upstream for flood control and reservoir construction. The sand that collects behind upstream dams and reservoirs is often "mined" and sold for concrete production. It then never makes it to the beach. A public resource essential for our beaches is instead sold for private profit.

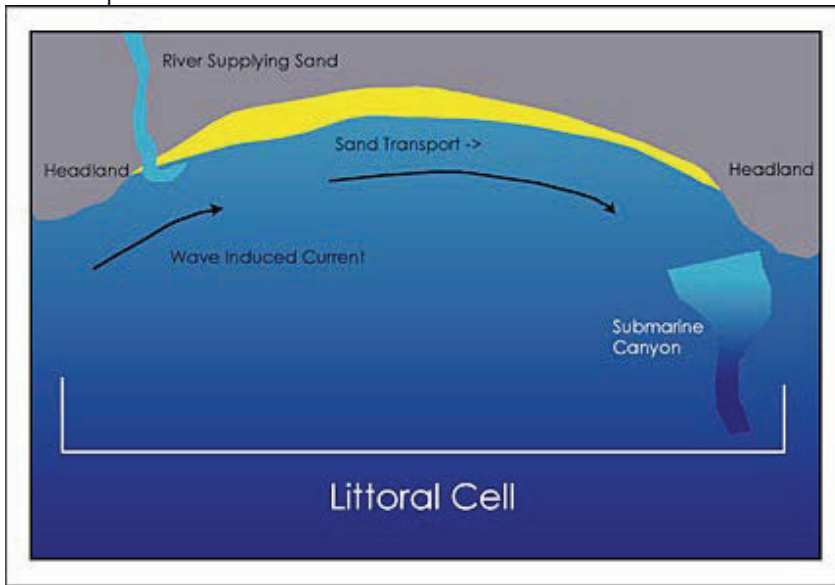
In the face of eroding beaches, owners of beachfront property will often try to use their political influence to demand that "something be done." The intelligent action would be to move the building away from the ocean. Unfortunately, what has often been done in the past has been to armor the coastline with rocks, concrete and steel. This does not protect or maintain the beach - it only protects the buildings, temporarily.

Millions of taxpayer dollars have been wasted subsidizing beachfront building. Federal flood insurance and expensive Army Corps of Engineer projects have done very little to make oceanfront buildings safe and have hastened beach erosion. In many cases, it would be more cost-effective for taxpayers to have the government buy the coastal property, condemn the buildings and allow the area to act as a buffer between the ocean and the remaining buildings. In urbanized areas with expensive real estate, a more cost effective and environmentally sound alternative to shoreline structures may be to periodically "nourish" the beach with sand.

The Littoral Cell

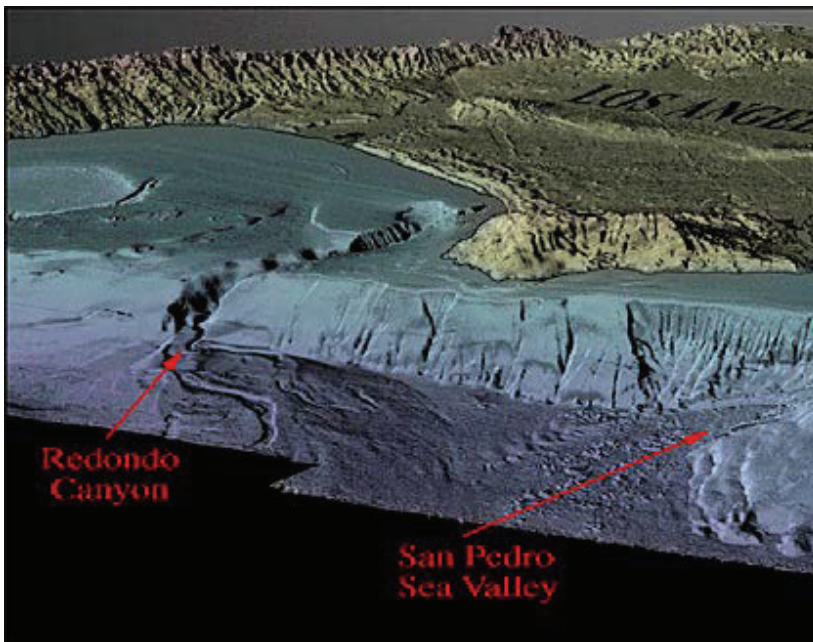
On the West Coast of the U.S., beach sand moves from river mouths to the beach. It then moves along the coast in the direction of prevailing currents and eventually it moves offshore. This sand transport system is called a littoral cell.

When waves break at an angle to the shoreline, part of the wave's energy is directed along the shore. These "longshore currents" flow parallel to the shore. Surfers call this the "drift". This current will move sand along the shore and a beach will be formed. The same current that transports a surfer down the beach from the point of entry will also move beach sand down the shoreline. When this longshore current turns seaward, it is called a rip current.



(/File:Littoral_cell.jpg)

Some areas have underwater canyons near the beach. These submarine canyons were prehistoric river mouths. Sometimes the longshore current will be interrupted by one of these canyons. In this case, the sand is lost from the beach in water too deep to be returned to shore. The littoral cell system, from the river mouth to the underwater canyon, will always lose beach sand. If the sand supply from the river is cut off, the beach will lose sand causing the beach to become narrower.



(/File:Canyons.jpg)

On the East Coast of the U.S., the shore formed differently. Sand comes from the erosion of headlands, bluffs and cliffs. The underwater coast (continental shelf) of the east is broad and flat. East Coast beaches are generally wider. Barrier islands run along the coast. In contrast to the West Coast, submarine canyons are rarely near the beach and seldom act as conduits for sand loss. A notable exception is the Hudson Canyon at the southwest end of Long Island, New York. Sand that moves south here is lost down the canyon. On the East Coast, sand "loss" is primarily from the movement of barrier islands. Barrier islands naturally migrate landward due to sea level rise, but this migration is accelerated

during storm events. Powerful hurricanes deposit sand inland by washing it over the dunes. Sometimes these storms will create strong currents that take sand too far offshore for it to return to the beach. The depth where sand is moved so far offshore that it cannot return is known as the "closure depth". The precise depth is under scientific debate and varies with time, wave and weather conditions. When humans try to interfere with the natural migration of barrier islands, it is usually at their long-term peril.

Erosion is a process, not a problem. Beaches are dynamic and natural. Buildings, bridges and roads are static. The problem occurs when there is a static structure built on a dynamic, moving beach. If buildings and roads were not built close to the shore, we would not have to worry about shoreline structures or sand erosion, as beaches would simply migrate inland.

Responses to Erosion

Seawalls

See the full article: [Seawalls \(/Seawalls\)](#)

When coastal buildings or roads are threatened, usually the first suggestion is to "harden" the coast with a seawall. Seawalls are structures built of concrete, wood, steel or boulders that run parallel to the beach at the land/water interface. They may also be called bulkheads or revetments. They are designed to protect structures by stopping the natural movement of sand by the waves. If the walls are maintained they may hold back the ocean temporarily. The construction of a seawall usually displaces the open beach that it is built upon. They also prevent the natural landward migration of an eroding beach.



(/File:Seawall_photo1.jpg)

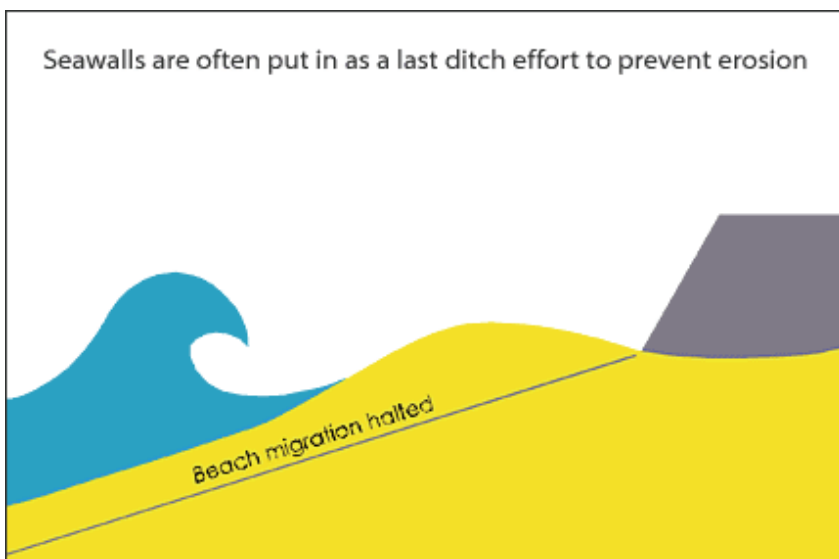
See this gallery of photos (<http://picasaweb.google.com/santaaguila/Armoring#>) of seawalls, revetments and other attempts at shoreline armoring from around the world.

When waves hit a smooth, solid seawall, the wave is reflected back towards the ocean. This can make matters worse. The reflected wave (the backwash) takes beach sand with it. Both the beach and the surf may disappear.

Seawalls can cause increased erosion in adjacent areas of the beach that do not have seawalls. This so-called "flanking erosion" takes place at the ends of seawalls. Wave energy can be reflected from a seawall sideways along the shore, causing coastal bluffs without protection to erode faster. When it is necessary to build a seawall, it should have a sloped (not vertical) face. Seawalls should also have pockets and grooves in them that will use up the energy of the waves instead of reflecting it.

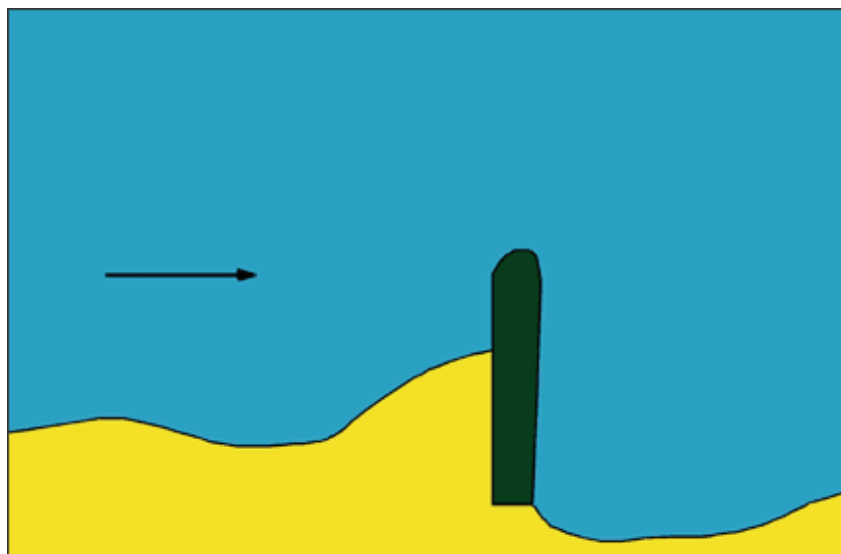
Usually the most cost-effective, environmental solution is to move the building away from danger.

Building seawalls will buy time against natural processes, but it will not "solve the problem" of erosion by waves.



Groins

Groins (/Groin) are another example of a hard shoreline structure designed as so-called "permanent solution" to beach erosion. A groin is a shoreline structure that is perpendicular to the beach. It is usually made of large boulders, but it can be made of concrete, steel or wood. It is designed to interrupt and trap the longshore flow of sand. Sand builds up on one side of the groin (updrift accretion) at the expense of the other side (downdrift erosion). If the current direction is constant all year long, a groin "steals" sand that would normally be deposited on the downdrift end of the beach. The amount of sand on the beach stays the same. A groin merely transfers erosion from one place to another further down the beach.



Groins occasionally improve the shape of surfing waves by creating a rip current next to the rocks. The rip can be a hazard to swimmers. The rip can also divert beach sand onto offshore sand bars, thereby accelerating erosion. Groins can also ruin the surf. If the waves are reflected off the rocks, the waves may lose their shape and "close-out."

As soon as one groin is built, property owners downdrift of it may start clamoring for the government to build groins to save "their" beach. Eventually, the beach may become lined with groins. Since no new sand is added to the system, groins simply "steal" sand from one part of the beach so that it will build up on another part. There will always be beach erosion downdrift of the last groin.

Breakwaters

A breakwater (/Breakwater) is a large pile of rocks built parallel to the shore. It is designed to block the waves and the surf. Some breakwaters are below the water's surface (a submerged breakwater). Breakwaters are usually built to provide calm waters for harbors and artificial marinas. Submerged breakwaters are built to reduce beach erosion. These may also be referred to as artificial "reefs."

A breakwater can be offshore, underwater or connected to the land. As with groins and jetties, when the longshore current is interrupted, a breakwater will dramatically change the profile of the beach. Over time, sand will accumulate towards a breakwater. Downdrift sand will erode. A breakwater can cause millions of dollars in beach erosion in the decades after it is built.

Beach Nourishment

In recent years, the hard structures described above have fallen somewhat out of favor by communities due to the negative impacts we have discussed. Beach nourishment (or beach fill (/Beach_fill)) is becoming the favored "soft" alternative. Beach nourishment is simply depositing sand on the beach in order to widen it. Although paid for by all taxpayers, it is frequently undertaken to protect private oceanfront buildings. Occasionally the taxpaying public is refused access to beaches that they have paid to protect. Sand nourishment is a costly, temporary solution. The projects are not intended to have a long life span and must be renourished on a regular basis, creating a cycle that will go on until the money runs out or shorefront buildings are relocated.

There are many considerations that must be addressed when designing a nourishment project. If the grains of sand are not exactly the same size as that of the natural beach, the newly nourished beach may erode faster than the natural beach was eroding. Beach nourishment can cause bottom organisms and habitats to be smothered by "turbid" water that has sand and mud suspended in it. The shoreline is moved seaward into deeper water, causing the beach to drop off quickly, posing a hazard to swimmers. This may also impact the surf for a period of time, causing the waves to break as shore break, until the beach and sandbars can reestablish a level of equilibrium.

Navigation Structures

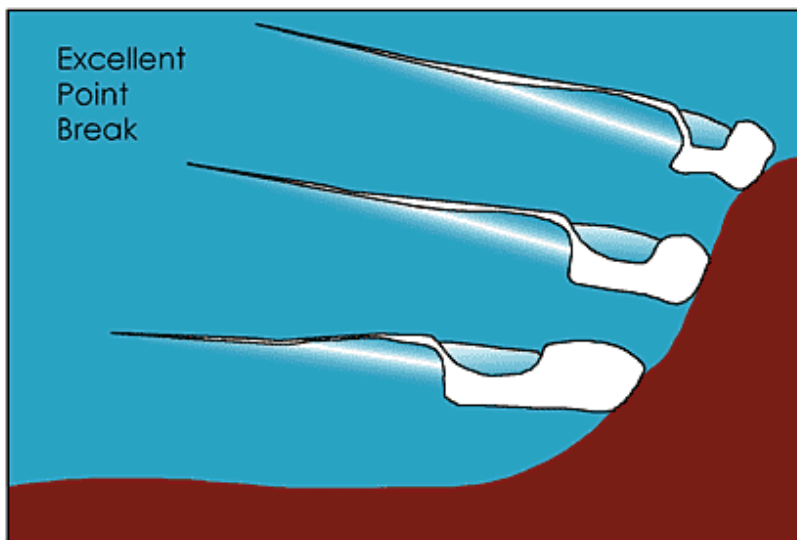
Harbors, Natural and Artificial

On the West Coast of the U.S., artificial harbors have been constructed by building a series of breakwaters and jetties. When an artificial harbor is built in an area that is subject to high-energy wave action, it will invariably interrupt the longshore flow of sand. This will

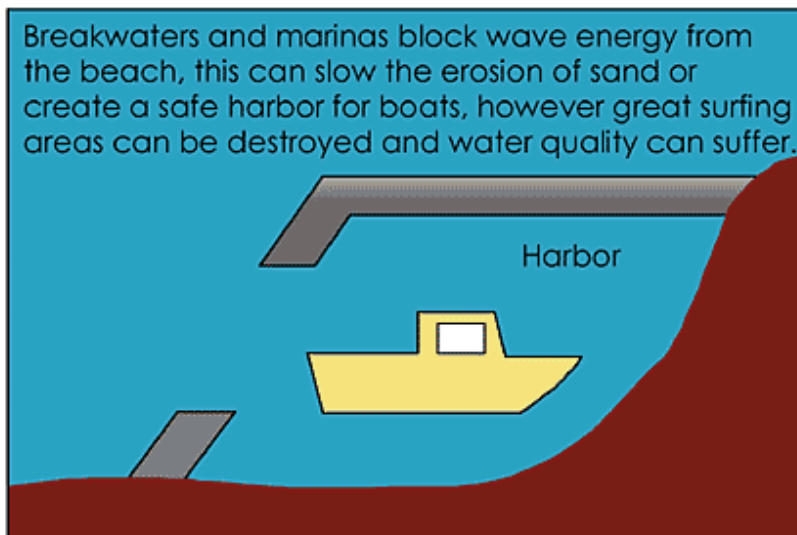


(/File:Harbor_photo1.jpg)

cause serious downdrift erosion. Some harbor designs force the longshore current to make a 90-degree turn towards the ocean. This causes a large rip current that may carry sand offshore that might otherwise remain in the surf zone. This will have the effect of completely changing the shape of the ocean bottom. An artificial harbor mouth can act as a trap for the longshore sand transport causing it to clog up with sand, which makes costly periodic dredging projects necessary.



(/File:Breakwaters.gif)



Natural harbors, like San Francisco Bay, are protected from the ocean's fury but are still subject to tidal and wave energy. This causes water mixing and circulation. Stagnant artificial harbors are easily polluted by boating activities: paint, oil, grease, garbage and illegally dumped sewage. These wastes can poison the living creatures that swim in these waters. When the harbor is dredged, the sand and contaminated sediments cannot be returned to the beaches and must be disposed of in a safe place. Often, the sediments are dumped in deeper waters, poisoning the marine life food web.

Some harbors have been built by dredging wetland areas. Wetlands are habitat for birds and marine life. They can also provide water storage capacity to prevent coastal flooding during rains. Wetlands are natural water filters that purify land run-off before it enters the ocean. Dredging a wetland to build a boat harbor should never be done. We have lost over half the wetlands in the U.S. to human development. In California, we have lost over 94% of our wetlands.

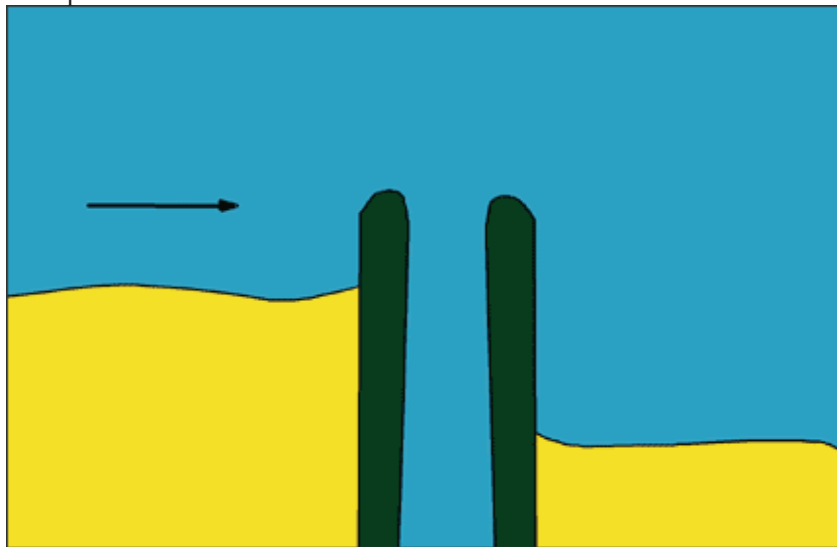
Jetties

Jetties (/Jetties) are large, man-made piles of boulders or concrete that are built on either side of a coastal inlet. Whereas groins are built to change the effects of beach erosion, jetties are built so that a channel to the ocean will stay open for navigation purposes. They are also built to prevent rivermouths and streams from meandering naturally.

Jetties completely interrupt or redirect the longshore current. Just as a groin accumulates sand on the updrift side, so do jetties. The major difference is that jetties are usually longer than groins and therefore create larger updrift beaches at the expense of the smaller downdrift beaches.

On East Coast barrier islands, ocean tidal inlets migrate naturally with the longshore current. A jetty system will permanently disrupt the equilibrium of the beach. This may seriously affect the tidal circulation and the health of the wetlands between the barrier islands and the mainland.

Inlets with short jetties that don't quite reach the surf will clog up with sand. The sand must be dredged on a regular basis. A "sand by-passing" system may be built to pump sand around the jetties. The sand pumping may come from within the inlet or from the updrift beach. These methods are expensive and must be maintained indefinitely.

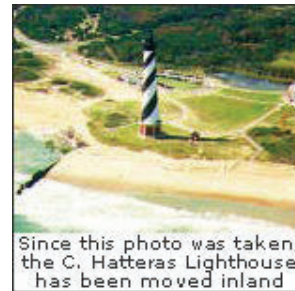


(/File:Jetties.gif)

What You Can Do

Environmental Impacts

Before a shoreline structure is built, the local community must be informed of its environmental impacts. The National Environmental Protection Act (NEPA) mandates that an Environmental Impact Statement (EIS) must be prepared to identify environmental impacts of the project. This document must spell out all effects that a new structure will have on the surrounding area. **It is during the scoping of and subsequent public comment period of preparing an EIS that Surfrider Foundation activists can have the greatest impact on the proposed project.**



(/File:Hatteras.jpg)

The EIS process allows activists to educate the public about the project's impacts on the environment. Written comments on the draft EIS are crucial for legal purposes. Oral comments at hearings are even more important because they are picked up in the media, which allows more of the public to become informed.

Our goal is to make sure that the long-term effects and the true costs of the project are carefully spelled out for both the public and the decision-makers. If there are environmental impacts, the developer must provide ways to "mitigate" the damage. For instance, if the project will cause downcoast erosion, the developer may be required to install and maintain a sand replenishment system or promise to post a bond that will pay for periodic sand replenishment as long as the structure exists. This may be impractical. If there is wildlife habitat destroyed, the developer may be required to restore habitat on site if feasible.

The Only Permanent Solution: Retreat from the Beach

(/Managed_Retreat)!

"Hard" shoreline structures have severe environmental impacts on the longshore current and the natural processes of beach sand distribution. "Soft" solutions like sand nourishment are expensive and temporary. Marinas should be built in natural harbors away from the energy of the waves. Building on our ocean's shore is not a good idea. NATURE WILL ALWAYS PREVAIL.

Shoreline construction means that taxpayers pay the bills when the ocean behaves as expected. Whether it is fire department rescues, the Public Works Department placing sand bags, the police guarding vacant buildings from looters or the Army Corps of Engineers spending millions to "correct the problem," taxpayers are the ones who pay. Shoreline protection is, often, "welfare for the rich."

Shoreline property owners frequently limit the public's access to the beach by refusing to let the public cross their property to get to the beach.

Shoreline building also means habitat destruction. Birds, plants and animals that call coastal dunes and beaches their homes are slowly becoming extinct.

As humans continue to overpopulate our coastal areas (and the planet) we will have to be more thoughtful about our relationship with the ocean. Surfrider Foundation activists will continue to educate the public about the natural processes that create and maintain our shoreline. Sometimes shoreline structures must be built, but the public must know the impacts. Society will have to continually pay to maintain the structures and correct the environmental damage caused by them. The best solution is to retreat from the beach (/Managed_Retreat) and allow nature to replenish, maintain and change the beach as she sees fit.

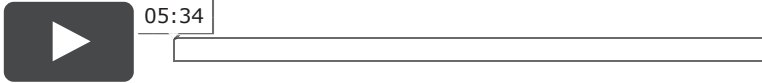
Surfrider Foundation Beach Preservation Policy

Surfrider's official policy (<http://www.surfrider.org/pages/beach-preservation-policy>) regarding beach preservation and shoreline structures.

Restore the Shore Video

Video produced by the San Diego Chapter of Surfrider Foundation discussing beach erosion, shoreline structures and ways to respond to the changing coast.

Restore the Shore



North Carolina's Summary of the Effects of Shoreline Structures

Since 1985, North Carolina prohibited shoreline armoring. The following text, from the state's 2010 Habitat Protection Plan (http://portal.ncdenr.org/c/document_library/get_file?uuid=f43f10b1-b2bf-4895-8bab-349e09fe88cc&groupId=38337) does a good job explaining the physical and ecological effects of shoreline armoring:

"Shoreline hardening, or hard stabilization, involves construction of hard immovable engineered structures, such as seawalls, rock revetments, jetties, and groins. Seawalls and rock revetments run parallel to the beach. Seawalls are vertical structures, constructed parallel to the ocean shoreline, and are primarily designed to prevent erosion and other damage due to wave action. Revetments are shoreline structures constructed parallel to the shoreline and generally sloped in such a way as to mimic the natural slope of the shoreline profile and dissipate wave energy as the wave is directed up the slope. Breakwaters are structures constructed waterward of, and usually parallel to, the shoreline. They attempt to break incoming waves before they reach the shoreline, or a facility (e.g., marina) being protected. Jetties and groins are manmade structures constructed perpendicular to the beach, with jetties usually being much longer, and are located adjacent to inlets with the purpose of maintaining navigation in the inlet by preventing sand from entering it. In contrast, terminal groins are structures built at the end of a littoral cell to trap and conserve sand along the end of the barrier island, stabilize inlet migration, and widen a portion of the updrift beach. Terminal groins are designed so that when the area behind the groin fills in with sand, additional sand will go around the structure and enter the inlet system.

It is well accepted that hard stabilization techniques along high energy ocean shorelines will accelerate erosion in some location along the shore as a result of the longshore sediment transport being altered (Defeo et al. 2009). The hydromodifications resulting from coastal armoring modifies sediment grain size, increases turbidity in the surf zone, narrows and steepens beaches, and results in reduced intertidal habitat and diversity and abundance of macroinvertebrates (Walton and Sensabaugh 1979; NRC 1995; Dolan et al. 2004: 2006; Pilkey et al. 1998; Peterson et al. 2000a; Miles et al. 2001; Dugan et al. 2008; Walker et al. 2008; Riggs and Ames 2009). A study looking at the effect of a short groin (95m) on the benthic community found that the groin created a depositional condition on one side of the structure and erosion on the other, and macroinvertebrate diversity and abundance was significantly reduced within 30m of the structure, as sand particle size and steepness increased (Walker et al. 2008). The change in benthic community was attributed to the change in geomorphology of the beach. Hard structures along a sandy beach can also result in establishment of invasive epibenthic organisms (Chapman and Bulleri 2003). A secondary impact of hardened structures is that the areal loss of beach resulting from hardening of shorelines is often managed by implementing nourishment projects, possibly having additional damage to subtidal bottom (Riggs et al. 2009). Anchoring inlets also prevents shoal formation and diminishes ebb tidal deltas, which are important foraging grounds for many fish species. Recognizing that hardened structures are damaging to recreational beaches and the intertidal zone, four states have prohibited shoreline armoring: Maine, Rhode Island, South Carolina, and North Carolina (effective in North Carolina since 1985).

Perhaps the greatest impact of terminal groins and jetties results in the long-term effect on barrier islands and the effect that will have on marine and estuarine ecosystems. By stabilizing the inlet,

inlet migration and overwash processes are interrupted, causing a cascade of other effects (Riggs and Ames 2009). In the case of Oregon Inlet, the terminal groin anchored the bridge to Pea Island and stopped the migration of the inlet on the south side. But the continuing migration of the north end of Bodie Island led to an increased need for inlet dredging. The combination of reduced longshore transport of sediment due to the groin and the post-storm dune construction to open and protect the highway prevented overwash processes that allow Pea Island to maintain its elevation over time. With overwash processes disrupted, the beach profile has steepened, and the island has flattened and narrowed, increasing vulnerability to storm damage (Dolan et al. 2006; Riggs and Ames 2009; Riggs et al. 2009). At Oregon Inlet and Pea Island, the accelerated need for beach replenishment is further aggravated by the need to maintain Hwy 12 on the narrowing beach. From 1983 to 2009 approximately 12.7 million cubic yards of sand have been added to the shoreline within three miles of the terminal groin (Riggs and Ames 2009). Dolan (2006) documented that the large volumes of sand replenishment in this area, required to maintain the channel, protect the road, and maintain a beach have resulted in a significant reduction in grain size and reduction in mole crab abundance. Mole crabs are considered an important indicator of beach conditions due to their importance in the food web as prey for shorebirds and surf fish. In addition to causing erosion on downdrift beaches, altering barrier island migration processes, and accelerating the need for beach nourishment projects, jetties obstruct larval fish passage through adjacent inlets (Blanton et al. 1999)."

This article is part of a series on Shoreline Structures (/Category:Shoreline_Structures) looking at types of structures commonly built along shorelines, and the policies, laws, and regulations which can affect where and under what conditions they are built.

For information about laws, policies and conditions impacting shoreline structures (/State_of_the_Beach/Beach_Indicators/Shoreline_Structures) in a specific state, please visit Surfrider's State of the Beach (/State_of_the_Beach) report to find the State Report (/State_of_the_Beach/State_Reports) for that state, and click on the "Shoreline Structures" indicator link.

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Beach Preservation (/Category:Beach_Preservation)

Climate Change Adaptation (/Category:Climate_Change_Adaptation) Articles (/Category:Articles)

Shoreline Structures (/Category:Shoreline_Structures)



June 3, 2021

To: Sarah Absher, CMF, Director
Tillamook County
Department of Community Development
1510- B Third St.
Tillamook, OR 97141

Submitted via email to sabsher@co.tillamook.or.us and ahindere@co.tillamook.or.us

Re: Additional comments opposing beachfront protective structure; #851-21-000086-PLNG-01: Goal exception request

Dear Ms. Absher,

Thank you, again, for allowing us to provide written testimony regarding the proposed beachfront protective structure (“BPS”) in the Pine Beach Subdivision and George Shand Tract, Ocean Boulevard properties. On behalf of our activist network, we would like to formally oppose the BPS project, the Goal 18 exception, and hope that the Commissioner’s office rejects the applicant’s proposal outright. Please include these comments—as well as our comments submitted on May 27, 2021—on the record.

In this letter you will find: 1) a request to include on the record our comments filed at 3:58 p.m. on May 27 that were not reflected in the Public Comments file; 2) our comments on potential beach access loss; 3) our comments on the BPS’s negative impacts on adjacent properties; 4) and our comments on alternative solutions; and 5) a photograph of the deeded easement we reference.

1) Our Original Testimony Was Timely Filed by the 4 p.m. Deadline on May 27

Please let the record reflect that our first set of comments was submitted in a timely manner before 4 p.m. on May 27, 2021.

2) The BPS will Likely reduce or Eliminate a Unique Recreational Site for Beachgoers

If the BPS is permitted, access to this stretch of beach would be reduced or completely eliminated to the public and to the neighbors with an easement interest. We believe this is a problem for multiple reasons. First, we hope that you consider that the beach near Barview jetty has unique qualities for beachgoers that are rare in the region. This is because it offers the only wind protection from southerly winds in the area. Anyone who has ever been to the beach knows that even mild wind can make for an unpleasant beach experience. This is amplified for ocean-goers, who use wind conditions as a determining factor when considering where to surf, swim, fish, etc. Loss of access would be detrimental to this recreational site that exemplifies the open spaces for which Oregon is recognized. We hope that you reject the application because we need this specific stretch of beach to go to. It is unlike any beaches in the area because of its southerly wind protection.

Additionally, there is an equity issue that we would like for you to consider. We are very concerned about the potential loss of beach access and how easy the existing beach access is for beachgoers. The BPS, if it does not completely eliminate access to the beach altogether, would present a very real access problem for anyone that experiences physical disabilities. Traversing a physical obstruction like the one the BPS would present would be difficult—if not impossible—for some people. As detailed in the public comments of adjacent landowners, a deeded easement exists within the project area (Exhibit 1). The current beach access, which is relatively flat, allows community members with limited mobility to access the beach. If this project moves forward, it will prohibit people with a deeded easement from safely accessing the beach. Requiring people to climb down rip rap or use stairs is a significant change to the character of the current flat, sandy beach access points.

Further, the applicants did not sufficiently research access impacts as this easement was not referenced in their application.

3) BPS Would Likely Harm Adjacent Properties

We would like you to consider the detrimental impact the BPS would have on properties adjacent to the proposed structure. Property owners have time and again commented on the detrimental effect they witness on rip rap adjacent properties. Water gets refracted off of the hard structure and creates more erosion to the adjacent properties than if the structure was not there. It can funnel and focus wave energy to create destruction. We, along with some of the residents in the area urge you to consider the negative impact the structure would have on adjacent properties.

Moreover, the 1967 easement allows neighbors (lots in Blocks 1,3, and 5 in Watseco) to access the beach, intersecting the project area. The BPS will obstruct the easement—rendering it null—and prevent the neighbors from easily accessing the beach like they have for decades.

The BPS will likely negatively impact the adjacent property designated for recreational use. The beach area adjacent to the proposed structure is a recreational management zone (RM). The RM is designated “for public and private parks and day-use facilities. This includes areas that contain significant natural or scenic values. The RM zone is intended to accommodate the

type of recreational developments that preserve an area's natural values.” ([Tillamook County website](#)). The increased erosion caused by rip rap could decrease the actual land and usable space in the RM properties.

4) Alternatives to the Proposed BPS Should be Considered

The Surfrider Foundation is an environmental nonprofit organization dedicated to the protection and enjoyment of the world's ocean, waves and beaches for all people, through a powerful activist network. To further understand our stance on beach preservation, please refer to our Beach Preservation Policy.¹

We are concerned that the applicants have not exhausted all of their options to mitigate property loss and intrusion to our beaches before installing BPS. We urge the applicants to look into alternate ways of mitigating ocean erosion before the BPS project is approved. Surfrider is a solution-oriented organization. We are experienced in finding solutions to problems with competing interests and welcome the opportunity to assist in searching for alternative solutions.

When it comes to beach development, we favor non-structural solutions. We have engaged in multiple projects that do not use BPS as a solution for property threatened by coastal erosion. For example, in Coos Bay, we were involved in a [relocation project](#) where we helped move a house 50 feet away from a deteriorating bluff. Surfrider is also currently engaged in a collaborative partnership with the City of Cannon Beach, private property owners, and nonprofit partners to seek funding and solutions to erosion on Ecola Creek. We would like you and the applications to consider other alternatives before implementing BPS. We feel that alternate methods can adequately redress the applicant's problem.

Conclusion

In summary, Surfrider requests that the subject properties be denied Goal 18 exception and permit to build rip rap revetment. The ramifications of this decision on our beaches in Oregon could be devastating and long lasting. If granted an exception, what is to stop this decision from being the hallmark decision in allowing beach protective structures from being engineered all over the state? We need to consider appropriate long-term solutions that maximize public benefit in areas where erosion threatens existing coastal development. This includes landward retreat of structures from dynamic shorelines.

Thank you for the opportunity to comment on the issue. Please enter this letter into the record of these proceedings.

Sincerely,

Briana Goodwin
Oregon Policy Manager
Surfrider Foundation

Ben Moon Vice Chair
Vice Chair
Three Capes Chapter of Surfrider Foundation

¹ <https://www.surfrider.org/pages/beach-preservation-policy>

Exhibit 1

18-5 29-1

181528

BOOK 208 PAGE 56

DECLARATION OF EASEMENT

June 30, 1967

RAY B. LOSLI, a single man, and owner of a parcel of real property described as that part of Section 7, Township 1 North, Range 10 West of the Willamette Meridian beginning at a point that is 489.6 feet west of the initial point of the Plat of Watseco; thence West a distance of 401 feet; thence North 10° 25' West a distance of 60.34 feet; thence East a distance of 420.75 feet to the West line of Ocean Boulevard; thence South 8° 28' 26" West along the West line of said Ocean Boulevard to the point of beginning, in Tillamook County, Oregon, hereby sets aside the south five (5) feet of the parcel of real property hereinabove described for the use of and access across to the property owners of lots in Blocks 1, 3 and 5, Watseco, in Tillamook County, Oregon, such use of and access to be limited to said property owners and the members of their families, the easement being hereby granted, bargained and conveyed in equal rights to all present and future owners of lots in Blocks 1, 3 and 5, Watseco, Tillamook County, Oregon, said rights to run with the title to each and all of said lots forever, said access, however, to be limited to pedestrian traffic only and to include use for ingress or egress to and from the beach.

The grantor of this easement or successors in ownership of the property upon which such easement is located shall have no obligation whatsoever to maintain such easement or to keep it clear from debris or brush.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30th day of June, 1967.

Ray B. Losli

 Ray B. Losli

STATE OF OREGON)
 County of Multnomah) ss

June 30, 1967

Personally appeared the above named Ray B. Losli and acknowledged the foregoing instrument, to be his voluntary act and deed.

Before me:

Loe Siegel

 Notary Public for Oregon
 My Commission Expires: 2-27-71



FILED FOR RECORD *June 30* 1967 AT 9:32 AM JUNE WAGNER, COUNTY CLERK

Sean T. Malone

Attorney at Law

259 E. Fifth Ave.,
Suite 200-C
Eugene, OR 97401

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

May 27, 2021

Via Email

Tillamook County Planning Commission
c/o Melissa Jenck
Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141

mjenck@co.tillamook.or.us, sabsher@co.tillamook.or.us

Re: Oregon Coast Alliance testimony for a request for an exception to Goal 18, #851-21-000086

Dear Members of the Planning Commission,

On behalf of Oregon Coast Alliance (ORCA), please accept this testimony for requested goal exception to Goal 18 for the installation of a beachfront protective structure (rip rap revetment along roughly 880 feet) within an active eroding foredune east of the line of established vegetation in the Coastal High Hazard (VE) zone, an Area of Special Flood Hazard within the Flood Hazard Overlay Zone. The subject properties are Lots 11-20 of the Pine Beach Replat Unit #1, designated as Tax Lots 114 through 123, of Section 7DD, and Tax Lots 3000, 3100, 3104, 3203, and 3204 of Section 7DA all in Township 1 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.

Goal 18 intends “to conserve, protect, where appropriate develop, and appropriate restore the resources and benefits of the coastal beach and dune areas.” Goal 18 places a limitation on permits for beachfront protective structures when the development exists after a date-certain:

“Permits for beachfront protective structures shall be issued only where development existed on January 1, 1977. Local comprehensive plans shall identify areas where development existed on January 1, 1977. For the purposes of this requirement and Implementation Requirement 7 ‘development’ means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through

construction of streets and provision of utilities to the lot and includes areas where an exception to (2) above has been approved.”

Goal 18, Implementation Requirement 5. The subdivision at issue was first platted after 1977 and no development occurred prior to 1977. As noted in the staff report, this property is one where “development did not exist[] ... on January 1, 1977[.]” Staff Report at 4.¹ Because of this, an exception is necessary to place any beachfront protective structures. Moreover, because the area at issue in this application is not part of an exception area to Goal 18, a goal exception is necessary. Because a “committed” exception is focused on adjacent uses, and the applicant does not rely on adjacent uses, a “committed” exception is not applicable. Therefore, a reasons exception process is the applicant’s only path forward, even though an approval is foreclosed on that basis as well.

Any request for an exception faces a high bar. The criteria for a “reasons” exception are found in OAR 660-004-0020(2).²

¹ ORCA also agrees that “the development was not in existence on any of the subject properties on January 1, 1977, that creation of the properties alone does not meet the definition of *development* under Goal 18 and concurs with the determination reflected on the Coastal Atlas Map. Evidence from the agencies and records identified above confirms *development* as defined above and which requires more than simply the creation of the lots/parcels occurred after January 1, 1977.” Staff Report, Page 4.

² (2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant

factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

(c) “The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.” The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which

The applicant alleges that the public water and sewer systems that provide serve to the properties would be threatened, as well as the integrity of the systems themselves. This obviously proves too much. If ever these were threatened, they could be shut off or even removed. There is no evidence that the beach would be contaminated prior to some remedial action.

The applicant's focus on the particular design at issue here is irrelevant. Rather, it is the broader issue – whether a protective structure is allowed at all. The siting and design of the protective structure is another matter.

The applicant has not sufficiently presented alternatives that would not require a goal exception. Only through an analysis of alternatives can the applicant demonstrate that a goal exception is necessary. The applicant has also not demonstrated a particularly unique need for the proposed exception. Eroding shores are common throughout Oregon and the general area. If all eroding shorelands are eligible for a protective structure, then Goal 18 has simply become superfluous and nothing about this property is unique. The applicant must demonstrate that this area is somehow different than other areas where shoreline armoring is not permitted. Moreover, the applicant must demonstrate alternatives to the use of a protective structure.

Consistent with the purpose of Goal 18 the applicant must address the impacts of additional shoreline armoring on the beach, access to the beach, and adjacent or nearby properties. These are “relevant factors,” and the application, at this point, fails to address these impacts. For example, the use of riprap would affect other, non-armored areas of the cell. The applicant has not presented an analysis of these impacts, and, instead, presents a narrow view, one where “[t]he only ‘relevant factors’ to consider in this ‘reasons’ exception are the specific exception area as defined, and the above-cited specific characteristics of a beachfront protective structure that require its shoreline location on the subject properties.” The applicant has failed to consider the effect of the exception on surrounding properties; nor has the applicant considered the unique circumstance of the property directly to its north: Shorewood RV Park.

resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses."

Built before 1977, Shorewood is eligible for shoreline armoring under Goal 18. Shorewood received, from the Division of State Lands, an initial emergency authorization for riprap on March 8, 1999, following the erosion caused by the El Niño year of 1997-98. The DSL authorization wrongly relies on a statement from the City of Rockaway Beach that Shorewood’s emergency permit “qualifies for stabilization under the City’s comprehensive land use plan and, specifically, Statewide Planning Goal 18, as addressed in the plan.” Shorewood is not in the city limits of Rockaway Beach, and the city had no authority or jurisdiction over Shorewood. The Tillamook County permit for the 1999 emergency riprap (issued September 30, 1999) properly indicates that Shorewood is part of the unincorporated Twin Rocks community. It does not appear in research thus far that Shorewood has ever been issued a permanent riprap permit by any agency of either the state or the county. ORCA has only been able to locate an Oregon Parks Department repair permit, dated July 22, 2003, for the original emergency riprap structure. *See* attachments to the testimony.

The riprap at Shorewood has caused significant erosion around the structure over the twenty-two years since it was authorized as an emergency placement. Especially as it apparently has never been finalized as a permanent structure, it is appropriate to take notice of the damage to beach integrity it has caused in the immediate area, as there is little to no other riprap in the vicinity. This erosion damage is precisely what Goal 18 seeks to prevent in all unnecessary situations, such as this Pine beach proposal.

But the applicants’ failure to address the relevant Goal 18 factors goes yet deeper. The applicants’ proposal repeatedly refers to 1994 as the date from which to judge the state of the shoreline. But the first houses were built on the oceanfront lots in 1997 – the same year as the strong El Niño year of 1997-98 impacted the area, and caused the first relatively recent pulse of erosion. Other houses were built after two subsequent El Niño events caused some further erosion – noticeable but not of emergency proportions. In other words, the applicants’ reliance on steady accretion of the beach for 70 years as a ground for now allowing a Goal 18 exception is misplaced. There is a regular recurring cycle of sand shifts, normal in every littoral cell, and these are irrelevant for any discussion of a Goal 18 exception. The applicants have failed to carry their burden showing that circumstances exist that would compel an exception.

Additionally, the applicant is wrong to allege that no resource land is being used for the proposed shoreline protection. The properties are subject to Goal 17 and 18, and, therefore, the proposed protective structure is resource land. The applicant must consider other alternatives that would not require an exception on the subject property i.e., on resource land.

The proposed ESEE analysis is also deficient. For the environmental considerations, the applicant alleges that the structure was “designed to reduce adverse impacts” but then fails to explain the expected impacts. Even if it is assumed that the allegation is correct, some degree of impact is conceded. It is incumbent upon the applicant to address those impacts. The applicant

essentially threatens the possibility of loss of homes and detritus after years of erosion with the certainty of riprap. The ESEE analysis must present a straightforward analysis of the impacts, not a skewed version of merely “addressing” the impacts by a request for riprap.

It is relevant to an ESEE analysis that as of 2015, 64 percent of the 9.5 km of shoreline between Tillamook Bay north jetty and Nehalem south jetty is eligible under Goal 18 for beach armoring, but contains only 2.6 km of existing armoring. This is only 27.4 percent of the entire shoreline in this stretch. In other words, the primary purpose of the Goal 18 restriction on armoring, which is to prevent further erosion of the shoreline, can easily be upheld. The shoreline in the area is subject to a low percentage of armoring, even of those properties eligible, and is in a largely natural condition, showing little erosion other than regular cycles of sand movement. Granting a Goal 18 exception to Pine Beach would disrupt natural cycles, fly in the face of the required alternatives analysis and an analysis of actual shoreline conditions. However, the applicant did not include discussion of existing regional shoreline armoring, and its relevance in Goal 18 implementation, in its ESEE analysis.

The economic analysis is likewise deficient. It fails to acknowledge the economic impacts to other properties. The applicant focuses almost exclusively on the value of the existing homes and the possibility of damage to water and sewer facilities. The notion that remedial action would not occur for such facilities is far-fetched, not to mention other, less drastic solutions to any future problems.

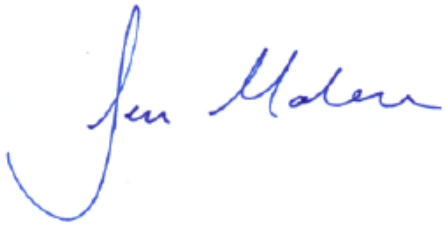
The applicant also includes four vacant oceanfront lots within the proposed exception area. There is no demonstrated reason for the inclusion of these properties, as the alleged threats are not present on vacant land.

ORCA adopts by reference the analysis of DLCD, including the statement that “this application contains problematic and missing analyses. Therefore, DLCD recommends that the County deny the goal exception request.” DLCD letter, May 19, 2021, Page 5 (emphasis in original).

For the above reasons, the application must be denied because it fails in several respects to satisfy the requirements for a Goal 18 reasons exception.

ORCA requests that the record remain open for new evidence and testimony for a period not less than seven days, and that the hearing be continued to a date certain.

Sincerely,

A handwritten signature in blue ink that reads "Sean T. Malone". The signature is fluid and cursive, with a large initial "S" and "M".

Sean T. Malone
Attorney for Oregon Coast Alliance

Cc:
Client



Oregon

John A. Kitzhaber, M.D., Governor

Division of State Lands

775 Summer Street NE

Salem, OR 97310-1337

(503) 378-3805

FAX (503) 378-4844

TTY (503) 378-4615

March 8, 1999

JV02SP-16876
ROGER AND SUE NIEMI
SHOREWOOD TRAVEL TRAILER VILLAGE
17600 OCEAN BLVD
ROCKAWAY BEACH OR 97136

State Land Board

John A. Kitzhaber
Governor

Phil Keisling
Secretary of State

Jim Hill
State Treasurer

**RE: EMERGENCY AUTHORIZATION FOR REMOVAL AND/OR FILL OF
MATERIAL IN WATERS OF THE STATE**

THIS AUTHORIZATION EXPIRES ON March 31, 1999

- ◆ DSL Project No. SP-16876
- ◆ Pacific Ocean, Tillamook County
Section 7, Township 1N, Range 10W; Tax Lot 2301, 2400, 2500, 2600

Dear Mr. and Mrs. Niemi:

1N-10W-7DD

This is not a permit. This letter is an authorization for emergency purposes only. An emergency is defined in Oregon Administrative Rule (OAR 141-85-010 {6}) as "...circumstances which present an immediate and direct threat to public health, safety and/or welfare." Emergency letters of authorization may be issued to protect existing structures under immediate threat by flood or storm waters.

You requested authorization to place quarry rock on the above listed tax lot fronting the Pacific Ocean at Rockaway Beach, Oregon. The shoreline has experienced accelerated erosion in recent days, threatening the mobile home park and associated utilities. The site was inspected by the Division of State Lands on February 19, 1999, and emergency repair was found to be justified. Riprap shall be installed as depicted in Figure 1, which parallels the west border of the access road. The rock revetment shall be toe trenched and be no higher than 4 feet above the existing road elevation. A maximum of 700 cubic yards of material shall be placed and covered with sand after construction. Your request has been approved as an emergency authorization under ORS 196.810 (4).

The City of Rockaway Beach has stated that the affected properties were developed prior to January 1, 1977, and that the emergency work qualifies for stabilization under the City's comprehensive land use plan and, specifically, Statewide Planning Goal 18,



as addressed in the plan. In the performance of the emergency work **by you and/or contractors**, the following conditions shall be followed:

1. The project shall be in conformance with the above description and the attached drawings unless the Permittees obtain prior written approval from the Division of State Lands (DSL).
2. Shore Pine (*Pinus Contorta*) salal and other native vegetation shall be planted east of the riprap in the old roadway to reestablish shoreline vegetation.
3. The work authorized by this emergency permit must be completed on or before March 31, 1999, unless otherwise authorized by the Division of State Lands. No additional repairs shall be made after that date without an amendment to this permit, a new permit, or other written authorization from DSL.
4. Permittee shall agree to indemnify, defend, save and hold harmless the State of Oregon, the Oregon Parks and Recreation Commission, OPRD, DSL, and their respective members, officers, agents and employees from any claim, suit, action or activity undertaken under the authorization, including without limitation, DSL's approval of the authorization or any action taken by DSL or its employees or agents.
5. This authorization is in addition to, and not in lieu of, any other governmental permit or approval that may be required under applicable federal, state or local laws. Permittees and Permittee's employees, agents and contractors agree to comply with all applicable federal, state or local laws in the performance of any work undertaken under the Permit. In no event shall the issuance of the Permit be construed as a sale, lease, granting of any easement or any form of conveyance of the state recreational area, ocean shore or submerged lands.
6. Permittees represent and warrant that they are the owners of the properties shown on Tillamook County Assessor's Map 1N10W7DA as tax lots 2301, 2400, 2500 and 2600 and have the authority to execute this document.
7. This authorization is revocable at any time at the sole discretion of DSL. Without limiting the generality of the foregoing, in the event that you or your contractor is in violation of any term or condition of the authorization, DSL may revoke the authorization and remove or require the immediate removal of any fill, rock, or riprap structure or works placed on the shoreline.
8. This emergency authorization is issued based on the understanding that it does not supersede the City of Rockaway Beach requirements for an after-the-fact Development Permit if required.

RECEIVED

MAR 22 1999



South Beach Office

Any additional removal-fill work required **after completion of the emergency work** may require a permit from the Division of State Lands.

For Disaster Recovery Assistance, victims need to apply through the National Teleregistration Center at 1-800-462-9029/TTY 1-800-462-7585.

Please be aware that you must also receive authorization, when required, from the U.S. Army Corps of Engineers before beginning construction (Dale Haslem, 503-808-4389).

If you have any questions regarding this authorization or its conditions, please contact me at (503) 378-3805 extension 244.

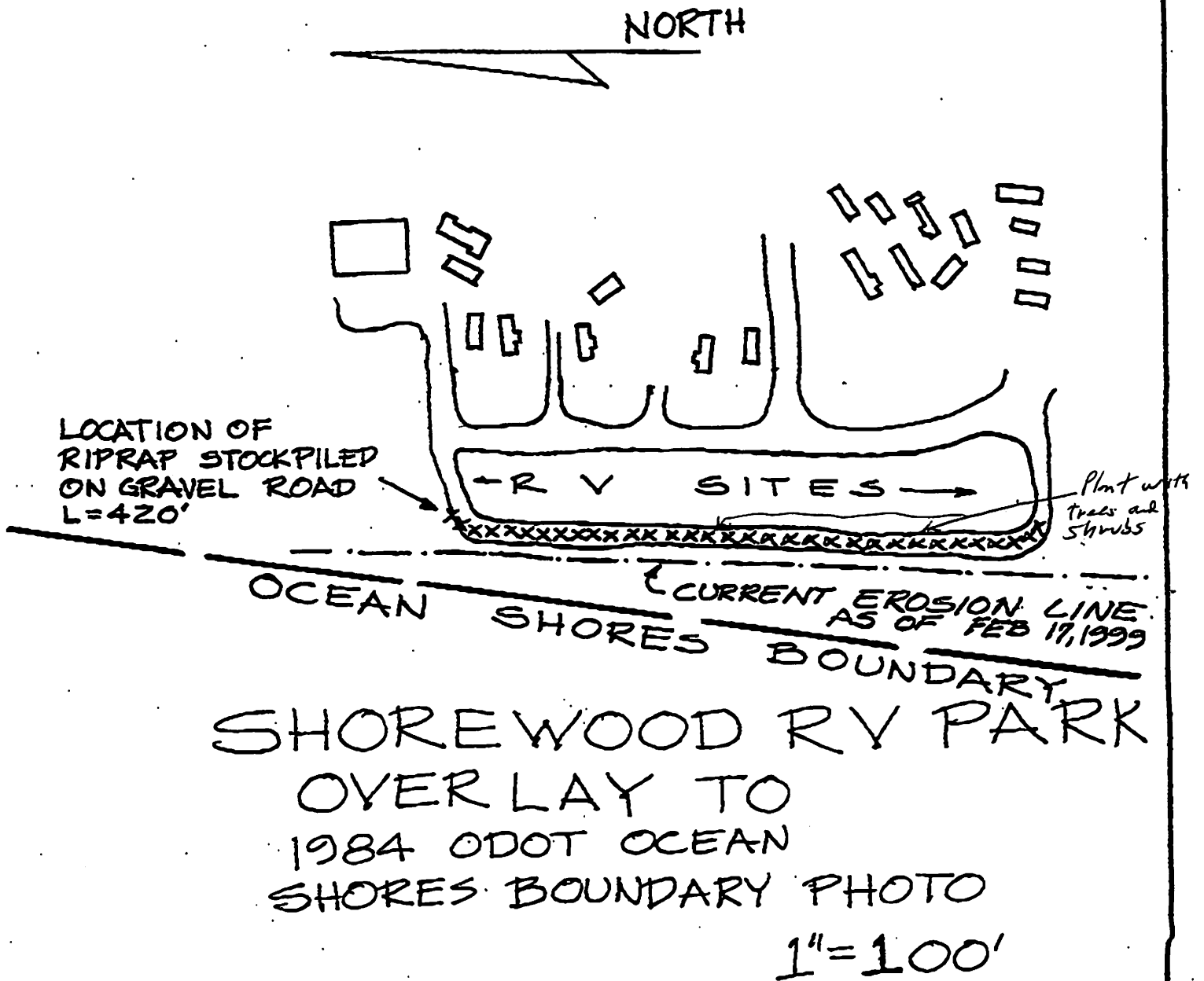
Sincerely,

Earle A. Johnson
Western Region Manager
Field Operations

attachmentAwest\emergencies\SP-16876.doc

Enclosure - Figure 1

- c: John Johnson, Oregon Department of Fish & Wildlife
Dale Haslem, U.S. Army Corps of Engineers
Nan Evans, Oregon Parks and Recreation Dept.
Tammy Metherell, Oregon Parks and Recreation Dept.
Steve Williams, Oregon Parks and Recreation Dept.
Joanne L. Dickinson, City of Rockaway Beach
Ron Larson, HLB & Associates, Inc., PO Box 219, Manzanita OR 97130
Mohler Sand & Gravel Co., 36435 Hwy 101 N, Nehalem OR 97131





Oregon

Theodore R. Kulongoski, Governor

September 7, 2007

Parks and Recreation Department

Ocean Shores Program

84505 Highway 101 S

Florence, OR 97439

(541) 997-5755

FAX (541) 997-4425

Chuck Barrett
1750 4th St NE
Salem, OR 97301



Nature
HISTORY
Discovery

RE: Shorewood Travel Trailer Village

Dear Mr. Barrett,

Thank you for sharing your concerns regarding the current beach conditions in the Twin Rocks area just north of Garibaldi.

The subject property received an Emergency Authorization allowing the owner to place approximately 700 cubic yards of material under Project # SP-16876 from the Division of State Lands (DSL) on March 8, 1999. They conducted a site inspection on February 19, 1999 confirming the emergency need due to coastal erosion.

As an outcome of the 1999 Legislative Assembly, Senate Bill 11 transferred all permitting authority under statute and rule on the ocean shore to Oregon Parks and Recreation Department. All subsequent repairs to the structure authorized by our agency are not given allowances to increase their existing footprint outside of the original approval by DSL. This permit condition precludes the property owner from extending the structure further west so as not to further impede recreational access along the ocean shore.

This past winter, a rip embayment located just west of the subject property has certainly exacerbated the erosion issue and contributed to the loss of beach sand you mention that has restricted north-south access. Significant erosion was created this past spring to the three adjoining properties to the north of the subject property to which our agency gave emergency permit approval to place riprap. These owners are now seeking an Ocean Shore Alteration Permit from our agency as required by law. The request for a public hearing you mentioned ended on September 6, 2007.

We share your concern with the current beach profile in this area and will continue to monitor the situation to see if sand supply conditions change.

Sincerely,

Jeff Farm
Ocean Shores Program Manager

Cc: Governor's Office
~~Tony Stein, Coastal Land Use Coordinator~~

Walk-In -

Chuck Barrett

TRACKING #

REFERRAL CODE: OPRD/Building on beach; Garibaldi & Rockaway

OPINION CASEWORK REFERRAL NO FURTHER ACTION

RECEIVED 8/23/07 RECORDED

AM PM RETURN CALL:

NAME: Chuck Barrett

NAME CONFIRMED:

HOME PHONE #: 503-362-6512

BUS. PHONE #:

STREET: 1750 4th St NE

CITY: Salem

STATE: OR

ZIP 97301

NOTES:

SS# AND/OR CLAIM#:

DOB:

HAS CALLER CONTACTED THIS OFFICE BEFORE: No Phone Ltr Fax E-mail

Garibaldi and Rockaway beach can't walk up the beach. Cit
has spoken with State Parks. Shorewood RV owns the property
and have brought rocks in to extend property. People can't walk
along the beach. They have "No Trespassing" signs. There
are other property owners that want to do the something.
There is a hearing scheduled in September in Newport. Thinks
State parks is a part of hearing. Parks states that (Mr.
Stein) Shorewood got the permits from DSL. Building took
place since last summer.

North of Smith Lake between Barview/Garibaldi & Rockaway
Beach.

RETURN CALL LOG:

DATE	TIME	N/A	STANDARD MESSAGE	INFO PROVIDED	BY
8-23-07	11 ⁰⁰ AM				



- Forwarded to Brett
6-8-07
- MAILED to Sue
6-8-07

Request for Repair of Shoreline Protective Structure

Date: May 31, 2007

1. Name of Contractor: Bret Smith (Mohler Sand & Gravel)
 Address: 36435 Highway 101 North
 Phone: (503) 368-5157

2. Name of Property Owner: Sue Niemi (Shorewood RV Park)
 Address: 17600 Ocean Blvd
 Phone: (503) 355-2278

3. Map and Tax Lot Numbers of Property: T 1N R 10W Section 7 Subsection
 Tax Lot 2301, 2400, 2500, 2600

4. Permit #'s of Original Project: OPRD #: DA- _____ - _____ DSL #: SP-16876

5. Describe damage to structure:
Riprap base at beach end has been washed away causing landward boulders to slough down in the seaward direction.

6. When did the damage occur?
Throughout the months of April & May 2007

7. Describe the proposed repairs:
Four (4) to five (5) foot-size boulders will be placed by excavator to be supplied by contractor to effect placement of material where washout and slumping areas occur in the northern half of the existing rock berm. The height of the rock wall will be restored to four (4) feet above existing ground level.

8. Will additional material be hauled in? Yes No If yes, how much material is needed? 300 cubic yards to start, then reassessment

REQUESTS FOR REPAIR WORK MUST INCLUDE A SITE PLAN AND CROSS SECTION DRAWING OF THE PROPOSED WORK. THESE DRAWINGS WILL BE COMPARED WITH THE ORIGINAL PERMIT APPROVAL TO VERIFY THAT THE REPAIR WORK WILL CONFORM TO THE DIMENSIONS OF THE ORIGINAL PROJECT. IF NECESSARY, A PERMIT FOR EQUIPMENT ACCESS ON THE BEACH SHALL BE SUBMITTED ALONG WITH THIS INFORMATION.

IN CASES WHERE THE ORIGINAL WORK WAS CONSTRUCTED PRIOR TO 1967, OR WHERE A PERMIT WAS NOT REQUIRED, APPLICANTS MAY NEED TO SUBMIT PHOTOS OR OTHER EVIDENCE OF THE ORIGINAL STRUCTURE.

THE INFORMATION ON THE PREVIOUS PAGE SHALL BE COMPLETED SEPARATELY FOR EACH TAX LOT.

I certify that I am familiar with the information contained in the repair application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that local permits may be required before the state authorization is issued.

Frances E. (Sue) Niemi
Frances E. (Sue) Niemi
Property Owner or Authorized Agent

5/31/07
5/31/07
Date

OREGON REVISED STATUTE 390.650 ALLOWS REPAIRS TO BE EXEMPT FROM THE NORMALLY REQUIRED PERMIT PROCESS WHEN THE FOLLOWING IS MET:

ORS 390.650(5): An application for a new Ocean Shore Improvement Permit is not required for the repair, replacement or restoration, in the same location, of an authorized improvement or improvement existing on or before May 7, 1967, if the repair, replacement or restoration is commenced within three years after the damage to or destruction of the improvement being repaired, replaced or restored occurs.

To be completed by OPRD:

Repair Project is is not exempt from the Ocean Shore Improvement Permit requirements of ORS 390.640.

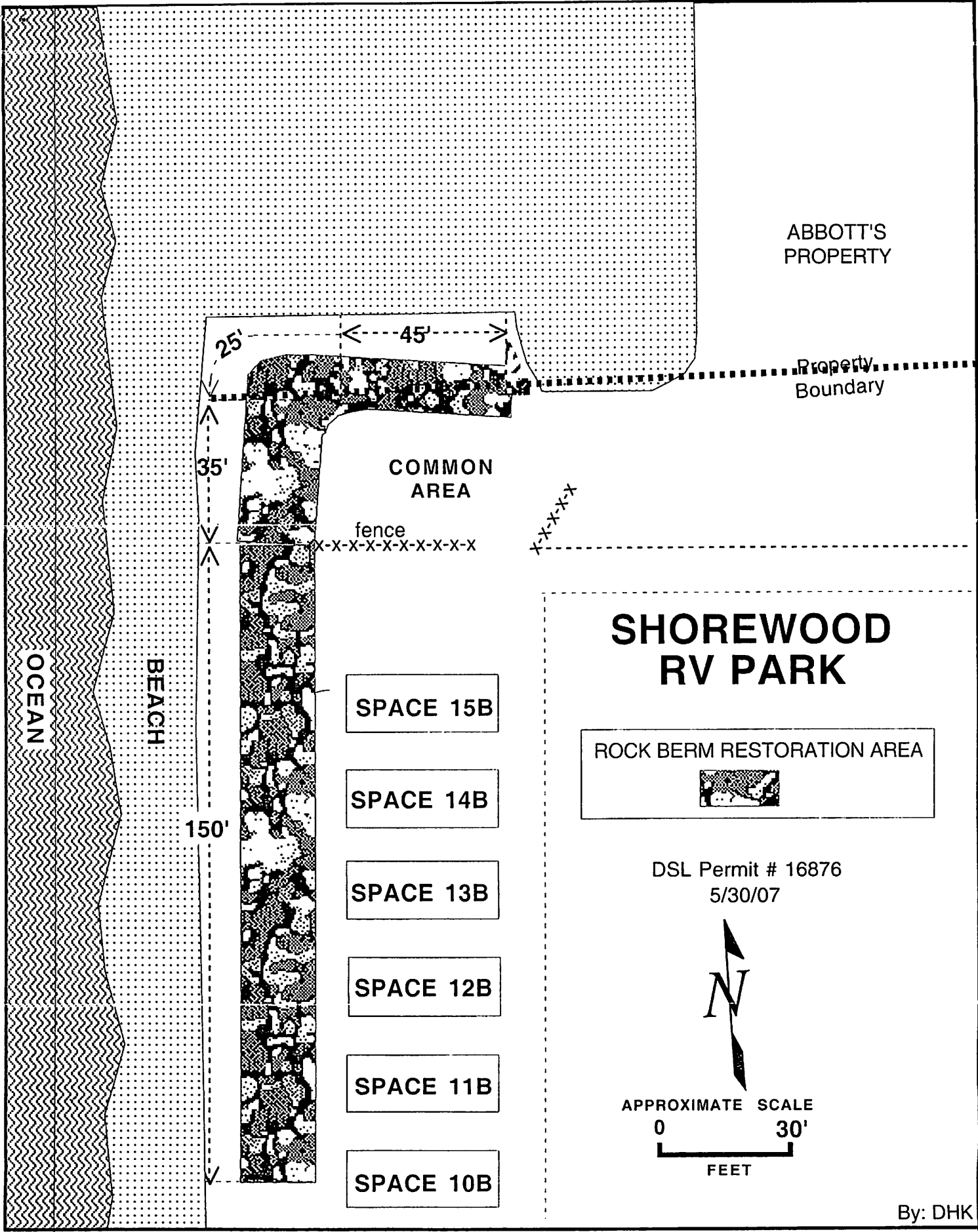
Special Conditions Required:

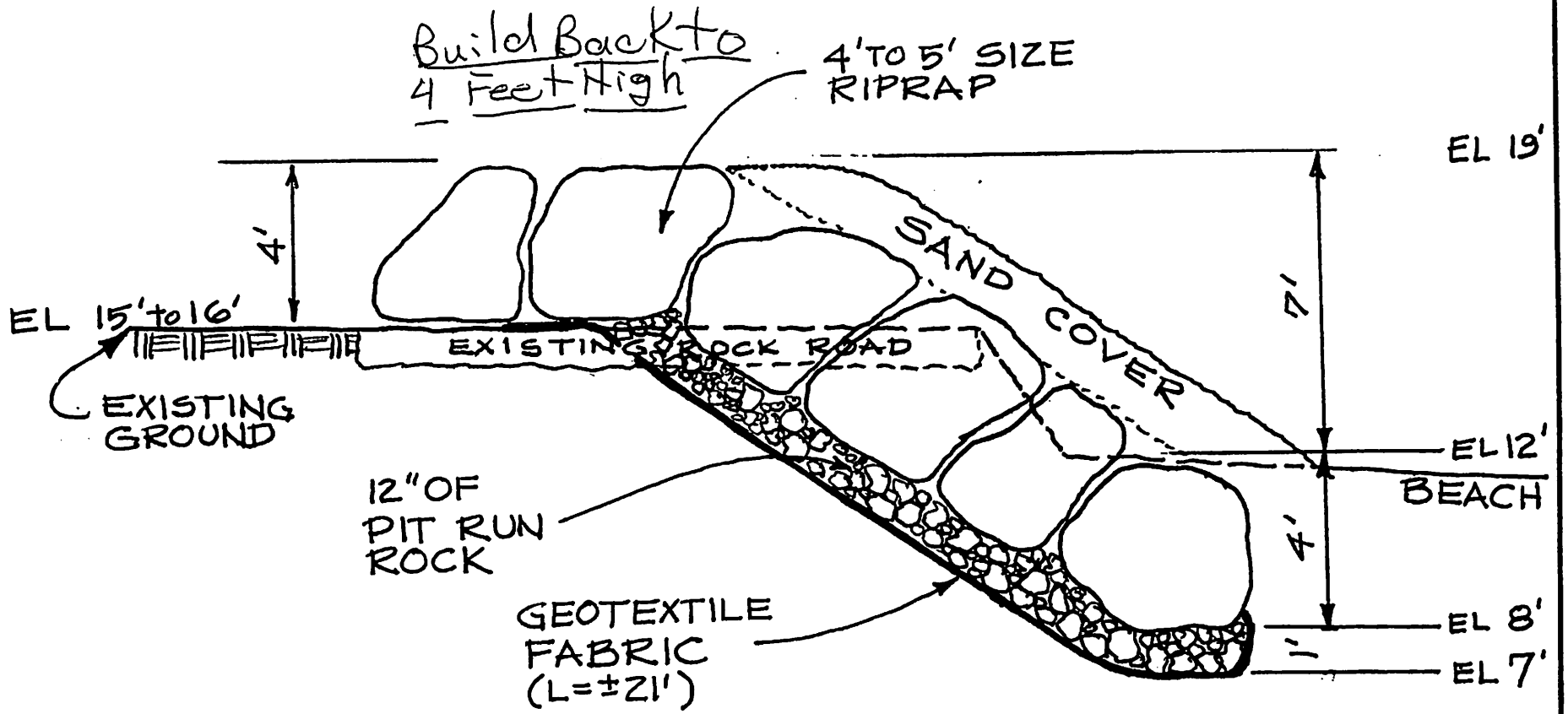
REPAIR WORK TO EXISTING RIP RAP REVETMENT SHALL CONFORM TO THE ORIGINAL DIMENSIONS AS SHOWN ON DSL PERMIT NO. 16876. UP TO 300 CUBIC YARDS OF ADDITIONAL MATERIAL MAY BE ADDED TO REPLENISH SETTLED ROCK. A PROJECT EVALUATION WILL BE REVIEWED UPON COMPLETION OF THE PLACEMENT OF 300 CU. YDS. THE BEACH WILL BE RESTORED TO ITS PRE-EXISTING CONDITION.

Authorized by:

T. Steen
Coastal Land Use Coordinator or Designee

6-7-07
Date





Build Back to
4 Feet High

4' TO 5' SIZE
RIPRAP

EL 19'

EL 15' to 16'

EXISTING
GROUND

EXISTING ROCK ROAD

SAND COVER

EL 12'
BEACH

12" OF
PIT RUN
ROCK

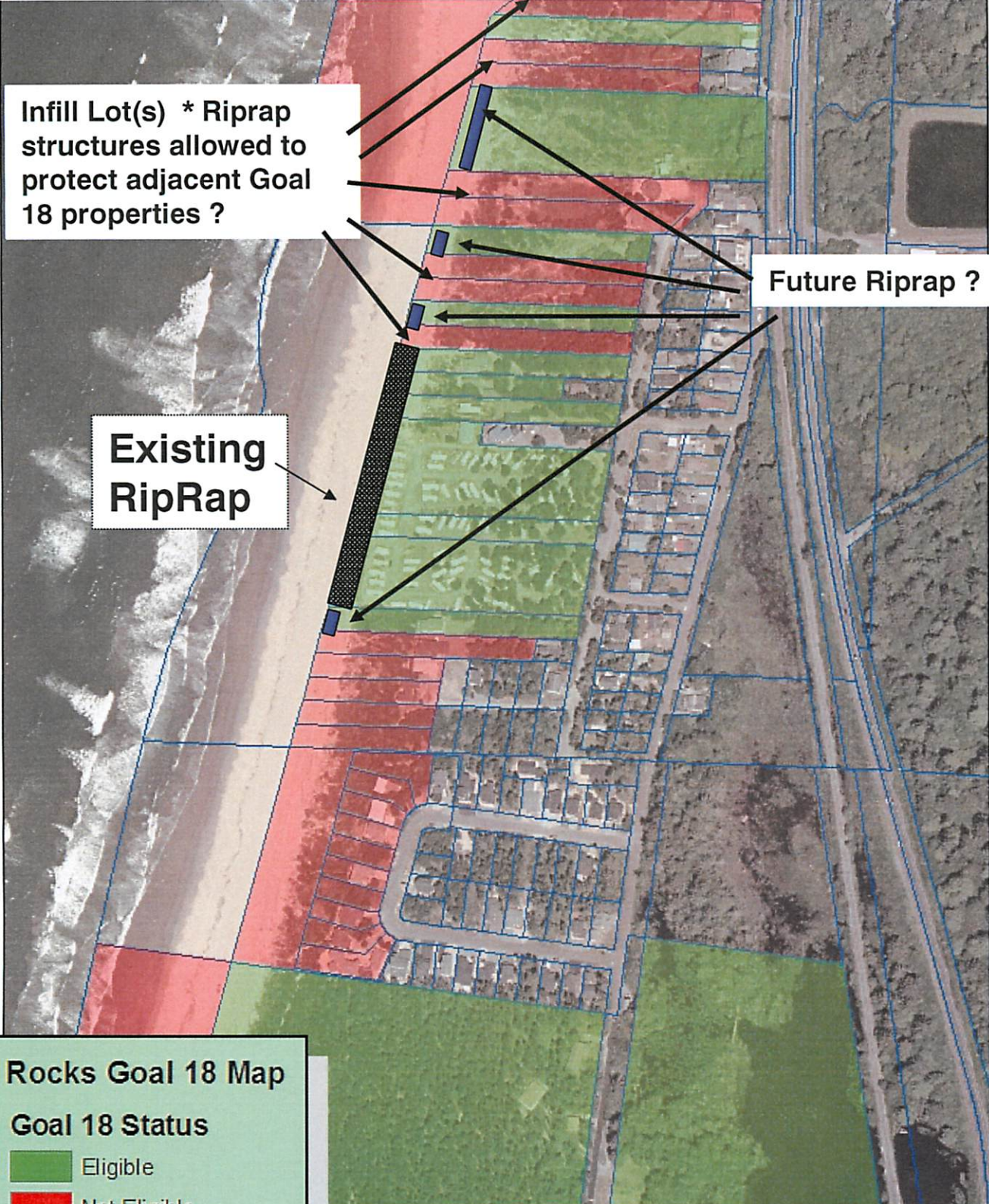
GEOTEXTILE
FABRIC
(L = ± 21')

EL 8'

EL 7'

SHOREWOOD
RV PARK

1/4" = 1'-0"



Infill Lot(s) * Riprap structures allowed to protect adjacent Goal 18 properties ?

Future Riprap ?

Existing RipRap

Twin Rocks Goal 18 Map

Goal 18 Status

- Eligible
- Not Eligible

Taxlots 2007



From: "VAUGHAN Joy" <Joy.Vaughan@state.or.us>
To: "STEIN Tony" <Tony.Stein@state.or.us>
Date: 10/22/07 8:42AM
Subject: Shorewood Travel Trailer Village

Hi Tony,

Thanks for the clarification regarding the Shorewood Travel Trailer Village in Rockaway Beach. Since this is Parks jurisdiction, I am forwarding this email to you. If you need anything from DSL, let me know.

See you on Friday!

Joy

From: STAFFORD Lorna
Sent: Friday, October 19, 2007 2:22 PM
To: SOLLIDAY Louise
Cc: MOYNAHAN Kevin; MORALES Michael; VAUGHAN Joy
Subject: Rep. Boone

Debbie called saying she got a call from Rep. Clem's office who received a call from a Mr. Chuck Barrett (ph: 503-362-6512). He owns property in Rockaway and called with a complaint that the Shorewood Travel Trailer Village has exceeded their 750cy rock "thing" (assuming its riprap or something). She would like a call back to find out if we have been out there or what the story is on this. She said that Jeff Farm with Parks has been dealing with the issue.

Debbie's cell phone is 503-717-2931.

Lorna M. Stafford
Assistant to the Director & Land Board Secretary
Oregon Department of State Lands
775 Summer St. NE, Suite 100
Salem OR 97301-1279
Phone: 503-986-5224
Fax: 503-378-4844
www.oregonstatelands.us

CC: "MOYNAHAN Kevin" <Kevin.Moynahan@state.or.us>, "MORALES Michael" <Michael.Morales@state.or.us>

FROM : CAROLYN BURRIS
04/24/2007 11:11 FAX 3685158

FAX NO. : 5033502732

Apr. 25 2007 08:13AM P1



Request for Repair of Shoreline Protective Structure

Date: 4/25/07

1. Name of Contractor: MOHLER SAND & GRAVEL (BRETT SMITH)

Address: 36435 HWY 101 NORTH

Phone: (503) 368-5157

2. Name of Property Owner: SHREWOOD RV PARK (SUE NIEMI)

Address: 17600 OCEAN BLVD.

Phone: (503) 355-2278

3. Map and Tax Lot Numbers of Property: T 1N R 10W Section 7DA Subsection

Tax Lots 2301, 2400, 2500, 2600

4. Permit #'s of Original Project: OPRD #: BA- _____ DSL #: SP- 16846

5. Describe damage to structure:
Rip Rap has fallen down to beach level.

6. When did the damage occur? APRIL 18 THRU 21, 2007

7. Describe the proposed repairs:
Rip Rap needs to be re-stacked and additional Rip Rap
Needs to be placed along The Wall

8. Will additional material be hauled in? Yes No If yes, how much material is needed? 100 yd³

FROM : CAROLYN BURRIS
04/24/2007 11:12 FAX JUSJ1JU

FAX NO. : 5033502732

Apr. 25 2007 08:14AM P2

REQUESTS FOR REPAIR WORK MUST INCLUDE A SITE PLAN AND CROSS SECTION DRAWING OF THE PROPOSED WORK. THESE DRAWINGS WILL BE COMPARED WITH THE ORIGINAL PERMIT APPROVAL, TO VERIFY THAT THE REPAIR WORK WILL CONFORM TO THE DIMENSIONS OF THE ORIGINAL PROJECT. IF NECESSARY, A PERMIT FOR EQUIPMENT ACCESS ON THE BEACH SHALL BE SUBMITTED ALONG WITH THIS INFORMATION.

IN CASES WHERE THE ORIGINAL WORK WAS CONSTRUCTED PRIOR TO 1967, OR WHERE A PERMIT WAS NOT REQUIRED, APPLICANTS MAY NEED TO SUBMIT PHOTOS OR OTHER EVIDENCE OF THE ORIGINAL STRUCTURE.

THE INFORMATION ON THE PREVIOUS PAGE SHALL BE COMPLETED SEPARATELY FOR EACH TAX LOT.

I certify that I am familiar with the information contained in the repair application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that local permits may be required before the state authorization is issued.

[Signature]

4/25/07

Property Owner or Authorized Agent

Date

OREGON REVISED STATUTE 390.650 ALLOWS REPAIRS TO BE EXEMPT FROM THE NORMALLY REQUIRED PERMIT PROCESS WHEN THE FOLLOWING IS MET:

ORS 390.650(5): An application for a new Ocean Shore Improvement Permit is not required for the repair, replacement or restoration, in the same location, of an authorized improvement or improvement existing on or before May 1, 1967, if the repair, replacement or restoration is commenced within three years after the damage to or destruction of the improvement being repaired, replaced or restored occurs.

To be completed by OPRD:

Repair Project is is not exempt from the Ocean Shore Improvement Permit requirement of ORS 390.640.

Special Conditions Required:

REPAIR WORK SHALL CONFORM TO ORIGINAL DIMENSIONS OF RIP-RAP REVETMENT. BEACH AREA WILL BE RESTORED TO PRE-EXISTING CONDITION. UP TO 100 CU YDS OF FILL MAY BE ADDED TO THE STRUCTURE

Authorized by:

T. St
Coastal Land Use Coordinator or Designee

4-26-07
Date

TILLAMOOK COUNTY ASSESSOR
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2007

9/9/2008 3:07:09 PM

Account # 62274
Map # 1N1007-DA-02500
Code - Tax # 5624-62274
Owner F E MORGAN LLC 42.12%
Agent
In Care Of SHOREWOOD INC 57.88%
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # BOOK 1998 PAGE 375973
Sales Date/Price 12-29-1998 / \$0.00
Legal Description UNKNOWN
Appraiser UNKNOWN

PO BOX 950
 NORTH PLAINS, OR 97133

		MA	SA	NH	Unit
Prop Class	200	07	01	200	13523-1
RMV Class	200				

Situs Address(s)	Situs City
-------------------------	-------------------

Value Summary					
Code Area		AV	RMV	RMV Exception	CPR
5624	Impr.	0	0	Impr.	0
	Land	180,120	338,550	Land	0
Code Area Total		<u>180,120</u>	<u>338,550</u>	<u>0</u>	
Grand Total		180,120	338,550	0	

Land Breakdown										
Code Area	ID#	RFD	Plan Zone	Value Source	TD%	LS	Size	Land Class	IRR Class	IRR Size
5624	0	R		Market	0	A	0.57			
Code Area Total							<u>0.57</u>			<u>0</u>
Grand Total							<u>0.57</u>			<u>0.00</u>

Improvement Breakdown							
Code Area	ID#	YR Built	Stat Class	Description	TD%	Total Sq. Ft.	MS ACCT #
Code Area Total						<u>0</u>	
Grand Total						<u>0</u>	

Exemptions/Special Assessments/Potential Liability	
Code Area	Type Description

TILLAMOOK COUNTY ASSESSOR

Real Property Assessment Report

FOR ASSESSMENT YEAR 2007

9/9/2008 3:08:15 PM

Account # 62309
Map # 1N1007-DA-02600
Code - Tax # 5624-62309
Owner F E MORGAN LLC 42.12%
Agent
In Care Of SHOREWOOD INC 57.88%
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # BOOK 1998 PAGE 375973
Sales Date/Price 12-29-1998 / \$0.00
Legal Description UNKNOWN
Appraiser UNKNOWN

PO BOX 950
 NORTH PLAINS, OR 97133

		MA	SA	NH	Unit
Prop Class	207	07	01	200	13526-1
RMV Class	201				

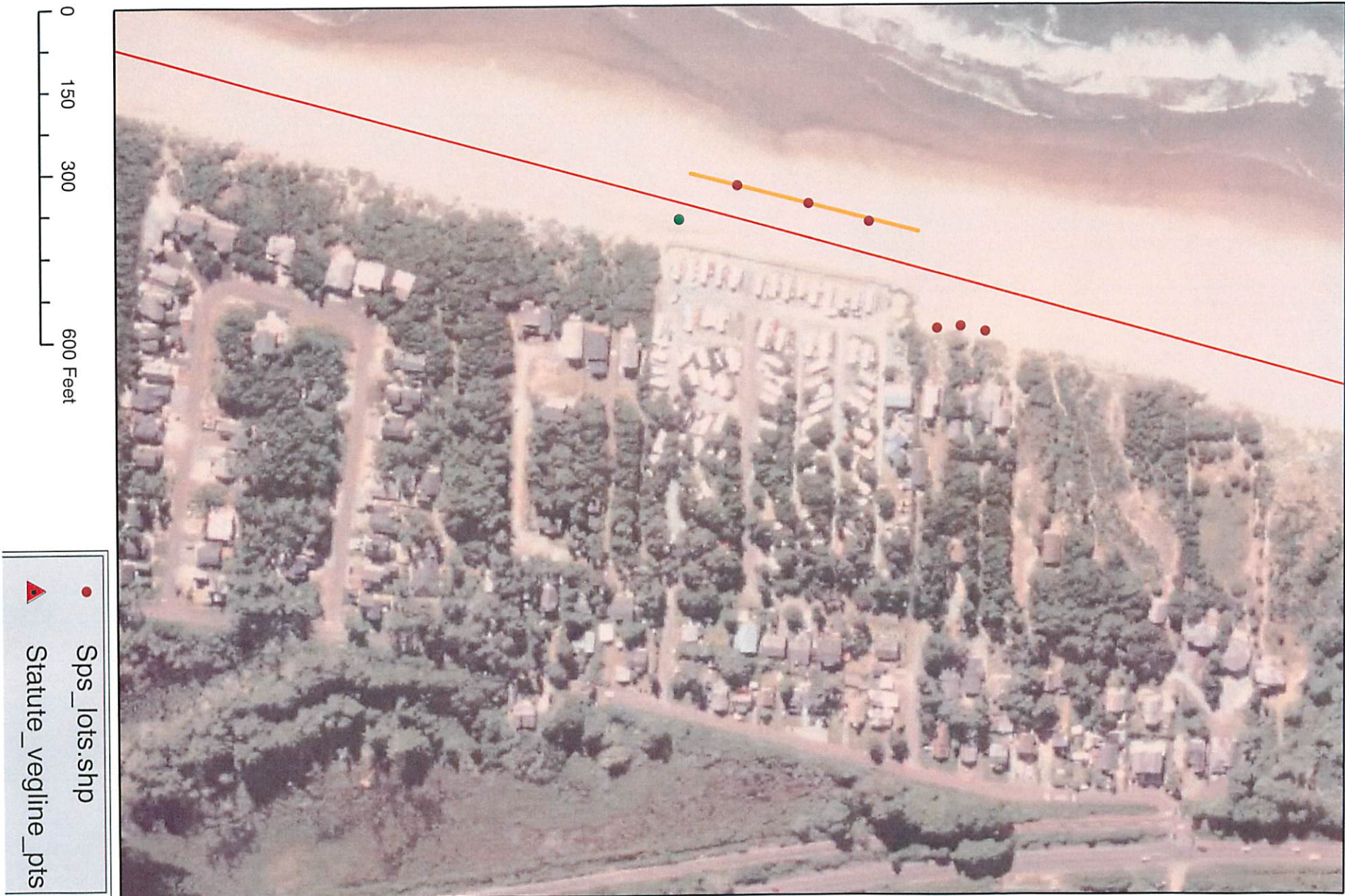
Situs Address(s)	Situs City
-------------------------	-------------------

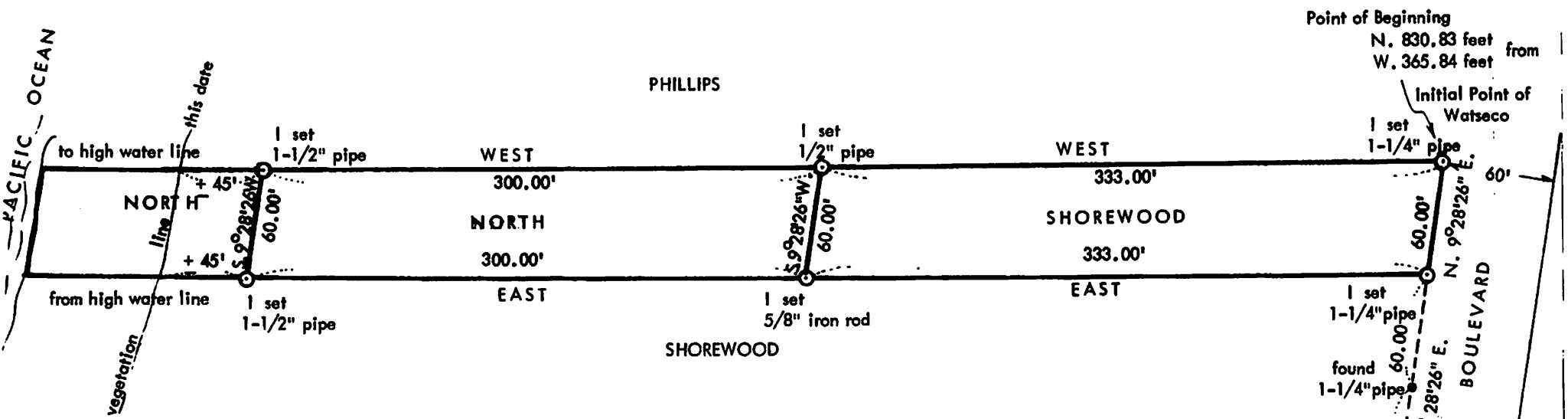
Value Summary					
Code Area		AV	RMV	RMV Exception	CPR
5624	Impr.	430	570	Impr.	0
	Land	540,420	1,015,650	Land	0
Code Area Total		540,850	1,016,220	0	
Grand Total		540,850	1,016,220	0	

Land Breakdown											
Code Area	ID#	RFD	Plan Zone	Value Source	TD%	LS	Size	Land Class	IRR Class	IRR Size	
5624	0	R		Market	0	A	1.70				
Code Area Total							1.70			0	
Grand Total							1.70			0.00	

Improvement Breakdown							
Code Area	ID#	YR Built	Stat Class	Description	TD%	Total Sq. Ft.	MS ACCT #
5624	1	1900	511	RV Park/Campground	0	0	
Code Area Total						0	
Grand Total						0	

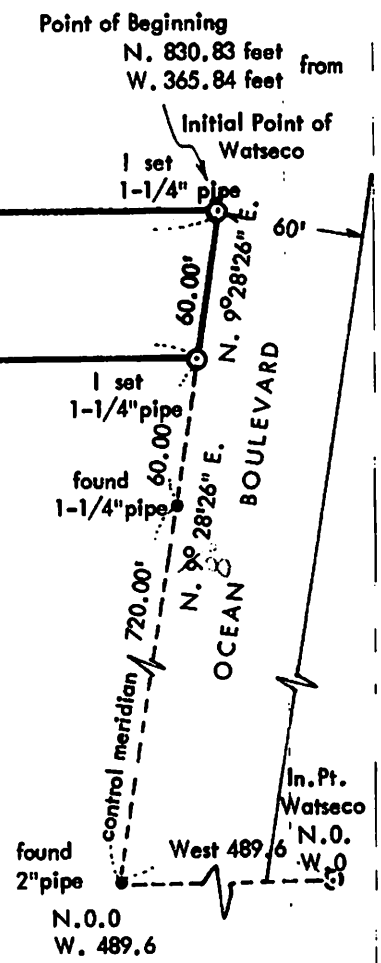
Exemptions/Special Assessments/Potential Liability		
Code Area	Type	Description
5624	SPECIAL ASSESSMENT:	SOLID WASTE Amount: 612.00 Acres: 51





TRANSIT & TAPE SURVEY MAP
 for
 SHOREWOOD & NORTH
 in
 Section 7, T. 1 N., R. 10 W., W.M.
 December, 1972
 SCALE 1" = 60 FEET
 refer to C.S. maps PA-444 & A1045"

REGISTERED
OREGON
 LAND SURVEYOR
John L. Carllich
 MAY 9, 1962
JOHN L. CARLICH
 287

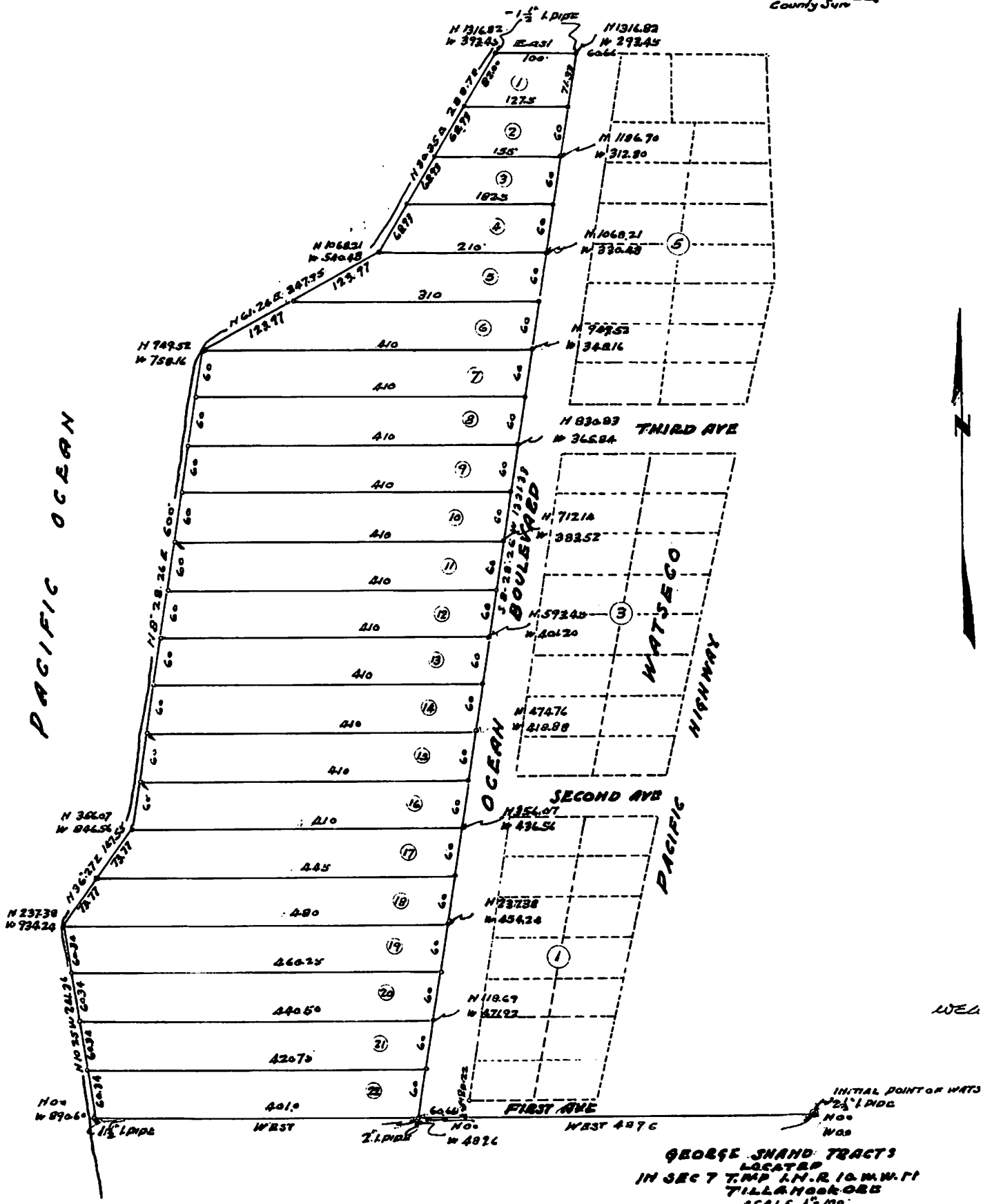


A-2350

SURVEYOR'S CERTIFICATE

I, W. E. Anderson, County Surveyor of Tillamook, Oregon, do hereby certify that this map was made from notes taken during an actual survey made by me on Oct. 1950, and that it correctly represents the property herein shown.

County Surveyor W.E.A.



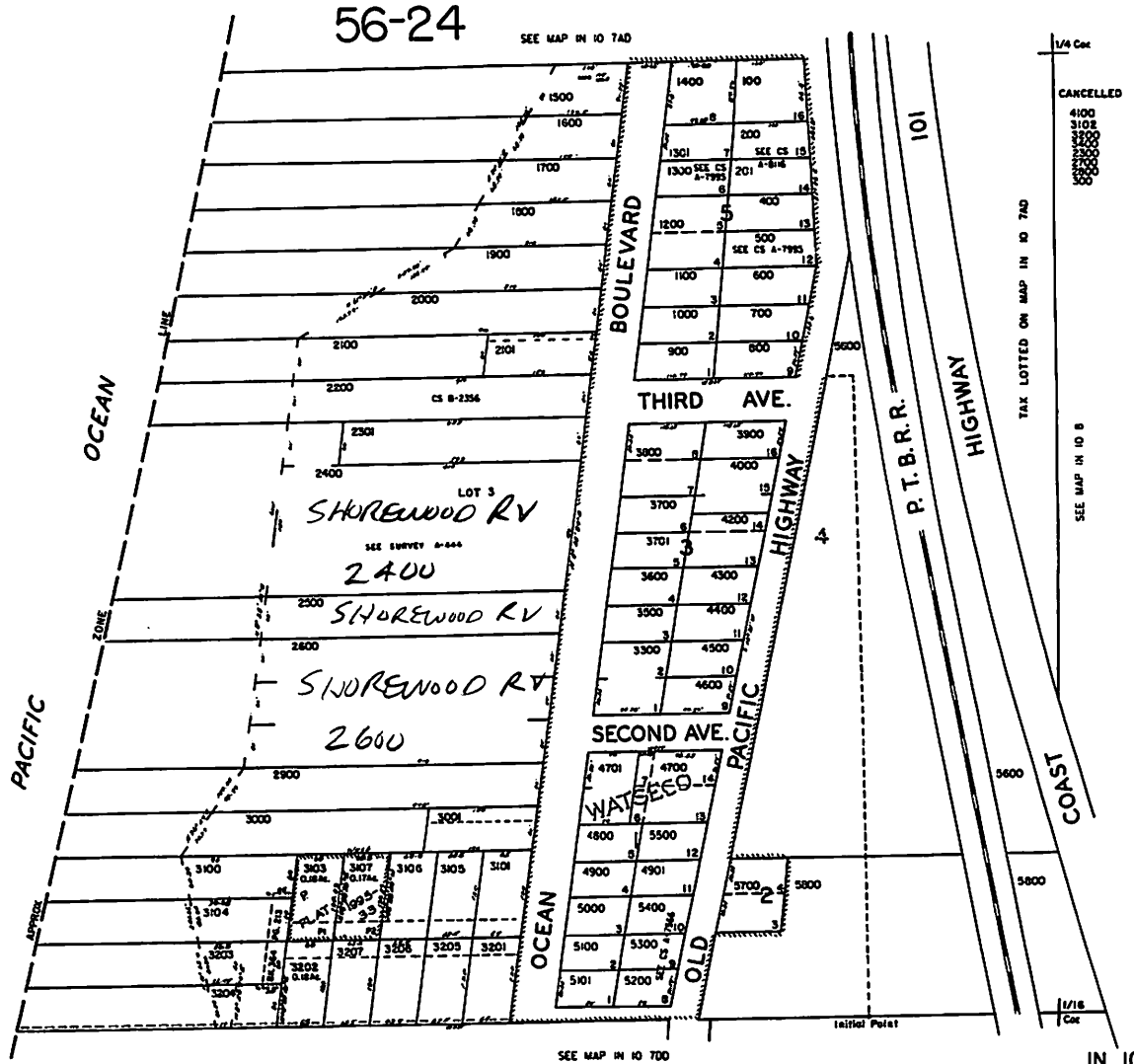
GEORGE SHAND TRACTS
 LOCATED
 IN SEC 7 T1P 1N.R. 10.W.W.1
 TILLAMOOK CO. OR.
 SCALE 1"=100'
 W.E. ANDERSON

A
 444

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NE1/4 SE1/4 SEC.7 T.10N.R.10W.W.M
TILLAMOOK COUNTY
(" = 100'

IN 10 7DA
WATSECO





OREGON PARKS & RECREATION DEPARTMENT

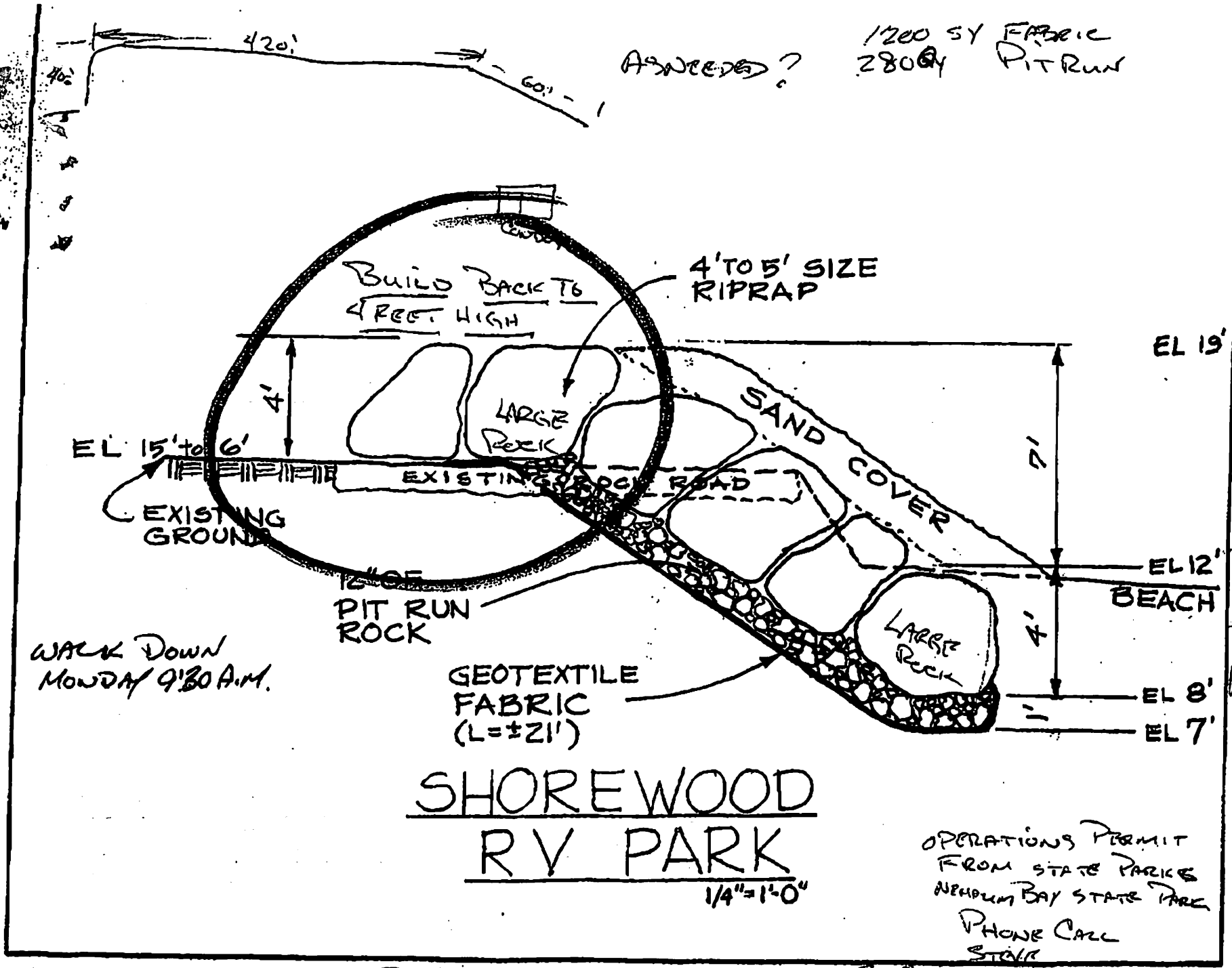
Application and Permit
to Operate a Motor Vehicle on the Ocean Shore
Under the Authority of ORS 390.668

File Code: BEA 4.4

Name and Address of Applicant: Don Smith Shorewood RV Park 17600 Ocean Blvd. Rockaway OR 17136		Date of Application: January 3, 2002
Days of Proposed Use: Jan 4 - Jan 18, 2002		Telephone Number (contact while permit is valid): (503) 355-2278
Area of Vehicle Operation on Ocean Shore, limited to one beach per permit (use local landmarks): Northern landmark: Shorewood RV Park Southern landmark: Shorewood RV Park County: Tillamook		Ocean Shore Vehicle Entrance and Departure Location: 17600 Ocean Blvd, Rockaway
Reason for Operation of Vehicle on Ocean Shore: <input type="checkbox"/> Driftwood collection (For personal use) <input type="checkbox"/> Physical limitation (Permit may be renewed annually. Attach copy of physicians letter or DMV handicapped permit.) <input type="checkbox"/> Ocean Shore Construction (List permit #s for other permits obtained.): # _____ Agency _____ <input checked="" type="checkbox"/> Other (describe): Repair and maintenance of previously authorized riprap (estimated 60 - 80 yards of rock) see attached plans		
Make and Color of Vehicle to be Used: Excavator - Yellow & Black	Body Type: Excavator	
Operator (if other than applicant): Brett Smith - Mohler Sand & Gravel (503) 368-5157 36435 Hwy 101 N. Nehalem, OR 97131	Vehicle License Number: N/A	
Permit must be displayed in /on vehicle and shown upon request.		Operator's Driver's License Number: N/A
I have read and understand the conditions of this permit. I agree to abide by the regulations on both sides of this application. Any violation of said regulations shall invalidate the permit and may result in my disqualification for future permits.		
Applicant Signature:	Authorized by: Bryan A. Herczeg, Coastal Land Use Coordinator	
Date: January 4, 2002	OPRD Office Sunset Bay SP	
Special Conditions: 1) Permit is valid for operating excavator on beach for repairs and maintenance to existing riprap. 2) The minimum amount of rock necessary to make repairs shall be used. 3) In no case shall the repair work exceed original dimensions or volume authorized under 1999 DSL Permit No. SP-16876. 4) Permittee shall be responsible for obtaining any additional necessary approvals from City of Rockaway or Tillamook County if applicable to this project.		

cc: Steve Williams, South Beach SP; Mark Smith, Nehalem Bay SP; John Allen, Area 1 Manager

*Jim Adams, Assistant Manager
talked*



AS NEEDED? 1200 SY FABRIC 2800Y PIT RUN

BUILD BACK TO 4 FEET HIGH

4' TO 5' SIZE RIPRAP

LARGE ROCK

SAND COVER

EL 15' to 16'

EXISTING GROUND

EXISTING ROCK ROAD

12" OF PIT RUN ROCK

EL 12' BEACH

LARGE ROCK

EL 8' EL 7'

GEOTEXTILE FABRIC (L=±21')

SHOREWOOD RV PARK

1/4" = 1'-0"

OPERATIONS PERMIT FROM STATE PARKS NEHALEM BAY STATE PARK PHONE CALL STICK

Beach Ponds

ENGINEER

NORTH

LOCATION OF
RIPRAP STOCKPILED
ON GRAVEL ROAD
L=420'

RV SITES

Plant with
grass and
shrubs

OCEAN SHORES BOUNDARY
CURRENT EROSION LINE
AS OF FEB 17, 1999

SHOREWOOD RV PARK
OVERLAY TO
1984 ODOT OCEAN
SHORES BOUNDARY PHOTO

1"=100'

OREGON PARKS & RECREATION DEPT
SUNSET BAY MANAGEMENT UNIT
SOUTHWESTERN OREGON AREA 4
89814 CAPE ARAGO HIGHWAY
COOS BAY OR 97420-9647
PHONE: (541) 888-3778 (541) 888-8867



FAX:(541) 888-5650

FAX
TRANSMITTAL
SHEET

FAX NO. (541) 867-3254
TO: Steve Williams
South Beach S. P.

DATE: 1/15/02
FROM: Bryan Herczeg
NO. PAGES: 6 (including this page)

MESSAGE:

Call if you have any questions.
Vehicle Permit and attached plans

OCEAN SHORE VEHICLE PERMIT PROVISIONS

Issuance of permits, times and areas of beach available for access shall be determined by the Park Manager or his/her designee. Permits will be issued only during normal working hours from the offices listed below. Permits will be limited to daylight hours only. Permits will be issued for a specific person, vehicle, use, and ocean shore area. Permittee must have permit in possession during time of use.

Permits are not valid for commercial removal of driftwood. Vehicle use for the purpose of firewood collection will not be allowed on weekends from Memorial Day to Labor Day. The removal of wood with mechanized loading or yarding equipment is prohibited. Wood must be cut at location where wood is originally found; drift logs may not be dragged along the beach by vehicle or equipment. Removal is limited to wood that can be loaded by hand. No wood shall be removed which is imbedded in the beach or in sand dune banks. Wood may not be removed from Ocean Shore areas fronting State Parks without written permission of the Park Manager. Permittee shall abide by State Forestry regulations which require chainsaws to be equipped with spark arresting screens, a fire extinguisher and shovel at the cutting site, and fueling 20 feet away from location where saw is started.

Granting of a permit for use of vehicle on the ocean shore in no way authorizes the Permittee to trespass on private property or to remove materials owned or controlled by others. In some cases, private ownership may extend to the high water line. Removal of driftwood on private beach property may require permission of the property owner.

Permittee agrees to hold the State of Oregon, its Parks & Recreation Commission officers, agents and employees harmless for any damages, claims and suits or action in law or in equity arising from any operation under the permit.


The Oregon Parks & Recreation Department may, at its discretion, require a certificate of insurance to cover any potential claims resulting from the activities of the Permittee.

Permittee shall not operate the vehicle in a careless manner, while under the influence of intoxicating beverages, narcotics or dangerous drugs; in excess of 25 miles per hour, or in excess of a lesser speed, if so posted.

Vehicles cannot block Emergency Access roads onto the beach.

Salem	-State Parks Headquarters
Astoria/Warrenton	-Fort Stevens State Park
Seaside	-Fort Stevens State Park
Cannon Beach	-Nehalem Bay State Park
Tillamook	-Cape Lookout State Park
Lincoln City	-Area 1 Office, Devil=s Lake State Park
Newport	-Beverly Beach State Park
South Beach	-South Beach State Park
Florence	-Honeyman State Park
Reedsport/Winchester Bay	-Umpqua Lighthouse State Park
Coos Bay	-Sunset Bay State Park
Bandon	-Bullards Beach State Park
Port Orford	-Cape Blanco State Park
Gold Beach	-Harris Beach State Park
Brookings	-Harris Beach State Park

WE WILL NEED TO USE 60 TO 80 CUBIC YARDS OF ROCK TO BUILD BACK THE 4 FOOT HIGH WALL, LOCATED ON TOP OF THE EXISTING ROCK ROAD AND THE NORTH AND SOUTH END CAPS. THIS ESTIMATE IS PER BRETT SMITH OF MOHLOR SAND & GRAVEL.

 11/3/02
DON SMITH 355-2278 MANAGER



OREGON PARKS & RECREATION DEPARTMENT

Steve Williams
Coastal Land Use Coordinator
South Beach State Park
5580 S. Coast Hwy.
Newport, OR 97366
Phone: 541-867-3340 Fax: 541-867-3254

FAX TRANSMISSION COVER SHEET

Date: 7/28
To: Lisa Phipps, Tillamook Co. Planning
From: Steve
Re: _____
cc: _____

YOU SHOULD RECEIVE 5 PAGE(S), INCLUDING THIS COVER SHEET.
If you do not receive all the pages, please call 541-867-3340.

FYI - Repair authorization for riprap repairs - Stonewoods
RV park. Note condition that County requirements
be met.



Request for Repair of Shoreline Protective Structure

Date: 7/22/2003

- 1. Name of Contractor: NEHALEM BAY READY MIX MAHLER SAND & GRAVEL
 Address: 36435 HWY 101 N. NEHALEM OR 97131
 Phone: 1-503-368-5157
- 2. Name of Property Owner: SHOREWOOD INC. MR & MRS. ROGER NIEMI
 Address: 17600 OCEAN BLVD ROCKAWAY BEACH, OREGON
 Phone: 503-355-2278 - 503-355-6307

3. Map and Tax Lot Numbers of Property: T 2N R 10W Section 7 Subsection
 Tax Lot 2301, 2400, 2500, 2600

4. Permit #'s of Original Project: OPRD #: BA- _____ DSL #: SD- 16876

5. Describe damage to structure:
RIP-RAP HAS SETTLED - SHIFTED & DETERIORATED

6. When did the damage occur? NOVEMBER 2002

7. Describe the proposed repairs:
RESET, REPOSITION EXISTING RIP-RAP & EXISTING ROCK ROAD TO ORIGINAL PERMIT ELEVATION OF PREVIOUSLY AUTHORIZED WORK 3/8/1999 & 1/3/2002. WORK WILL BE DONE FROM SHOREWARD EXISTING ROCK SERVICE ROAD TO SURVEY HEIGHT BY HLR ENGINEERING. RON LARSON 503-368-5394 WEEK OF 7/21/03 - 7/25/03. ROCK WORK WILL BE DONE AS SOON AS POSSIBLE AFTER SURVEY. HOPEFULLY 8/1/03 TO 9/1/03

8. Will additional material be hauled in? Yes No If yes, how much material is needed? _____

WE WILL NEED TO USE 21 TO 30 CUBIC YARDS OF ROCK TO BUILD BACK THE 4 FOOT HIGH WALL, LOCATED ON TOP OF THE EXISTING ROCK ROAD AND THE NORTH AND SOUTH END CAPE. THIS ESTIMATE IS PER BRETT SMITH OF MAHLER SAND & GRAVEL.

FROM : SHOREWOOD@INC

FAX NO. : 503+3552278

Jul. 22 2003 09:27AM P3

REQUESTS FOR REPAIR WORK MUST INCLUDE A SITE PLAN AND CROSS SECTION DRAWING OF THE PROPOSED WORK. THESE DRAWINGS WILL BE COMPARED WITH THE ORIGINAL PERMIT APPROVAL, TO VERIFY THAT THE REPAIR WORK WILL CONFORM TO THE DIMENSIONS OF THE ORIGINAL PROJECT. IF NECESSARY, A PERMIT FOR EQUIPMENT ACCESS ON THE BEACH SHALL BE SUBMITTED ALONG WITH THIS INFORMATION.

IN CASES WHERE THE ORIGINAL WORK WAS CONSTRUCTED PRIOR TO 1987, OR WHERE A PERMIT WAS NOT REQUIRED, APPLICANTS MAY NEED TO SUBMIT PHOTOS OR OTHER EVIDENCE OF THE ORIGINAL STRUCTURE.

THE INFORMATION ON THE PREVIOUS PAGE SHALL BE COMPLETED SEPARATELY FOR EACH TAX LOT.

I certify that I am familiar with the information contained in the repair application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that local permits may be required before the state authorization is issued.

Michael P. Fitzpatrick

Property Owner or Authorized Agent

21 July 2003

Date

OREGON REVISED STATUTE 390.660 ALLOWS REPAIRS TO BE EXEMPT FROM THE NORMALLY REQUIRED PERMIT PROCESS WHEN THE FOLLOWING IS MET.

ORS 390.660(5): An application for a new Ocean Shore Improvement Permit is not required for the repair, replacement or restoration, in the same location, of an authorized improvement or improvement existing on or before May 1, 1987, if the repair, replacement or restoration is commenced within three years after the damage to or destruction of the improvement being repaired, replaced or restored occurs.

To be completed by OPRD:

Repair Project is is not exempt from the Ocean Shore Improvement Permit requirement of ORS 390.640.

Special Conditions Required:

All work to be as described - New rock limited to placement on upland roadway - All work to take place from upland side of structure.

Work must meet all requirements of Tillamook County Planning Dept. Contact Lisa Phipps at 503-842-3408.

Authorized by:

Steve Williams

Coastal Land Use Coordinator or Designee

7/28/03

Date

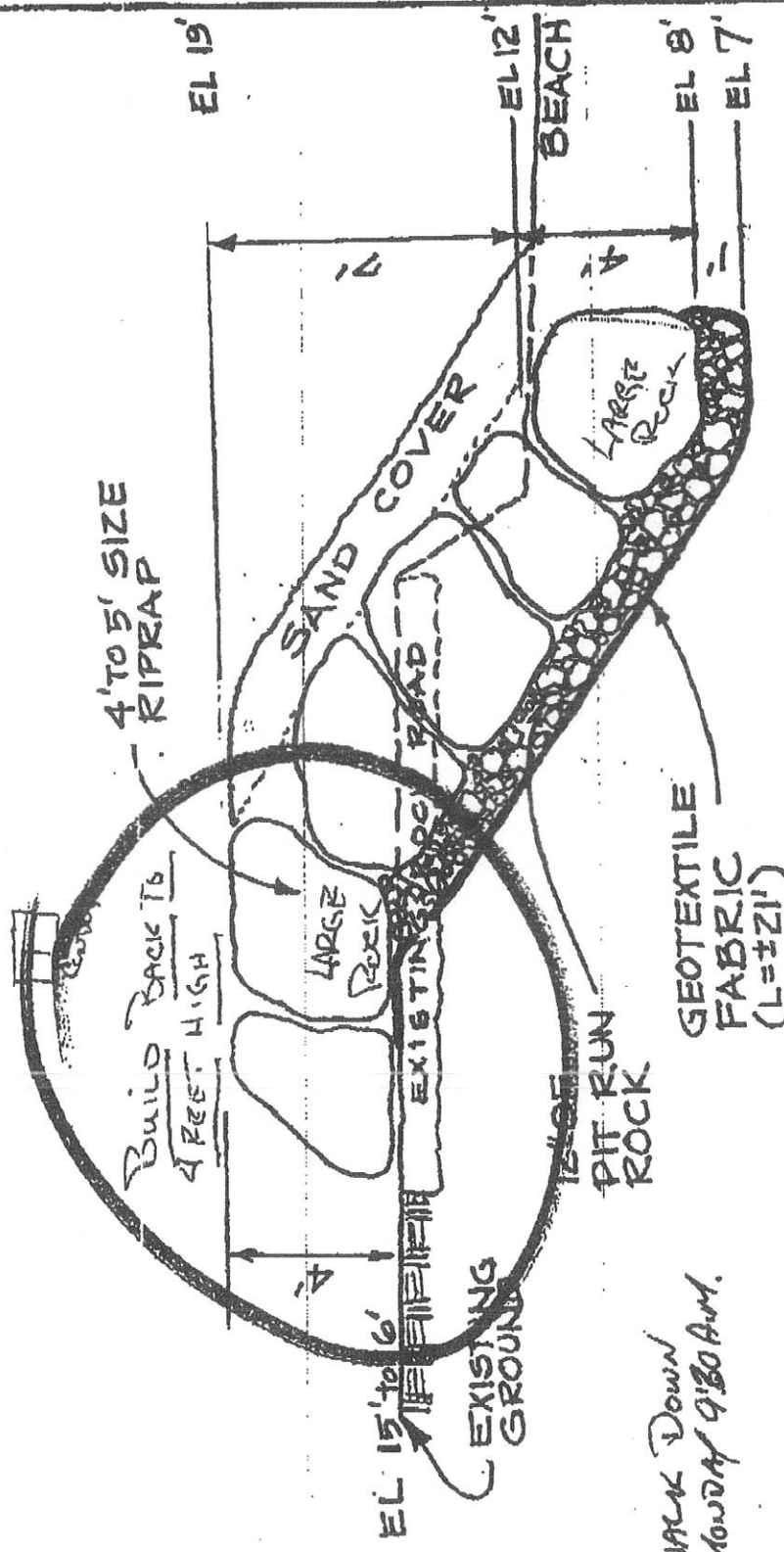
FROM : SHOREWOOD@INC

FAX NO. : 503+3552278

Jul. 22 2003 09:27AM P4

1200 SY FABRIC
2800Y PIT RUN

Approved?



SHOREWOOD
RV PARK
1/4" = 1'0"

OPERATIONS PERMIT
FROM STATE PARKS
NORTH BAY STATE PARK
PHONE CALL
STATE

ENGINEER

Becky Pinder
Richard Pinder

FROM : SHOREWOOD@INC

FAX NO. : 503+3552278

Jul. 22 2003 09:28AM P5

3-21-1999 12:11PM

FROM FILE MANCANIA 1 503 355504

P. 3

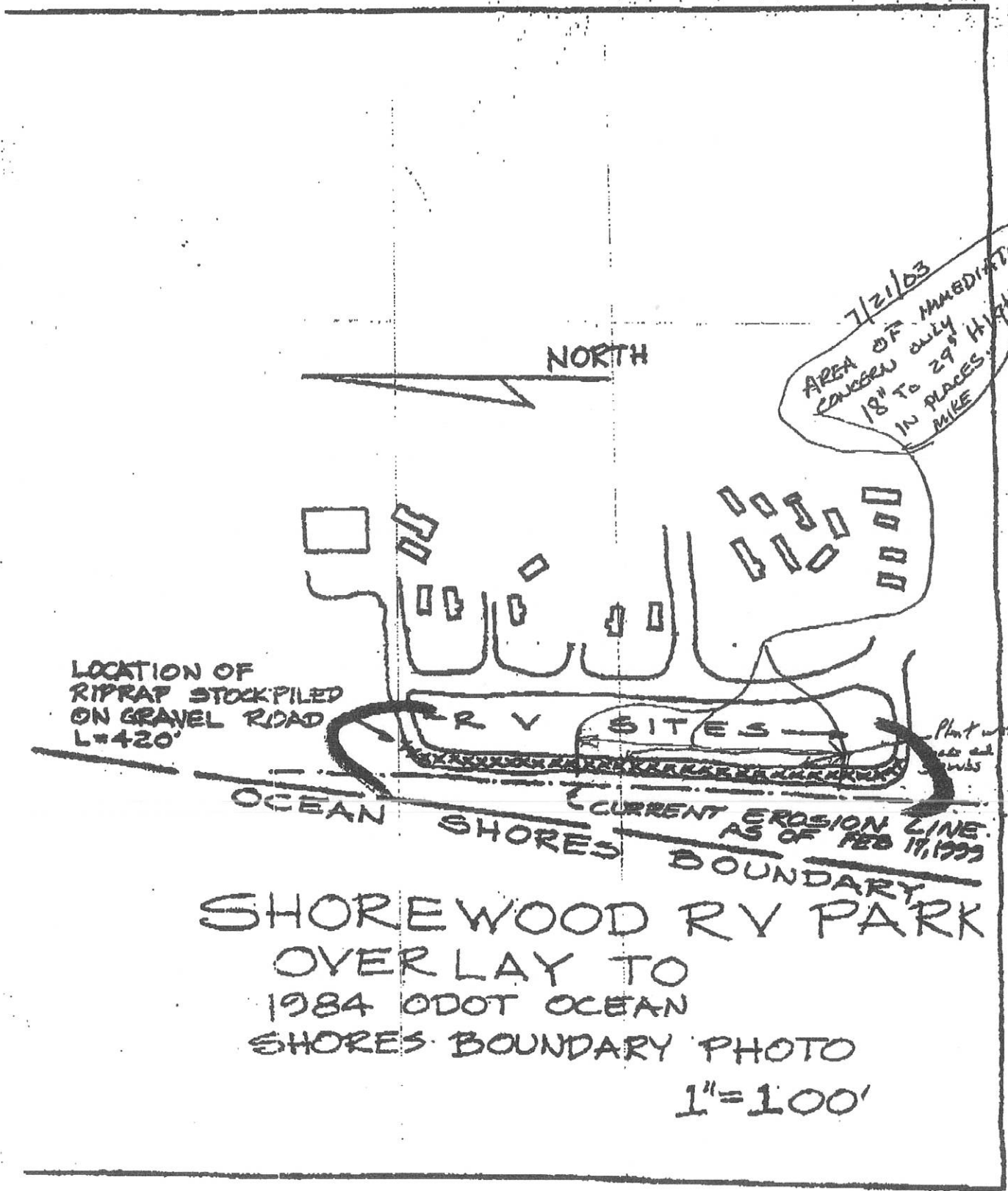


Figure 1



DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

201 Laurel Avenue
Tillamook, Oregon 97141

Land of Cheese, Trees and Ocean Breeze

Building (503) 842-3407
Planning (503) 842-3408
On-Site Sanitation (503) 842-3409
FAX (503) 842-1819
Toll Free 1-(800) 488-8280

DEVELOPMENT PERMIT DP-99-47

Approved with Conditions

Approval Date: September 30, 1999

Staff Contact: Tom Ascher, Coastal Resource Planner

I. GENERAL INFORMATION:

- Description of Request:** Emergency Installation of a Beachfront Protective Structure using riprap.
- Location:** Shorewood RV Park in the community of Twin Rocks; Township 1 North, Range 10 West W.M., Section 7DA, Tax Lots 2400, 2500, 2600; Tillamook County, Oregon.
- Zone:** Section 3.014: Medium Density Urban Residential (R-2)
- Applicable Ordinances:** Section 3.085: Beach and Dune Overlay Zone
- Applicant:** Roger and Frances (Sue) Niemi, 17600 Ocean Drive, Rockaway Beach, OR 97136.
- Property Owner:** F.E. Morgan LLC, c/o Shorewood Inc., P.O. Box 950 North Plains, OR 97133.

Description of Site and Project: Twin Rocks is located just north of the jetties at Tillamook Bay. The beachfront in this area lost substantial amounts of sand during the 1997/1998 El Nino. Dune erosion continued during the winter of 1998/1999. This site is experienced significant erosion during winter storms of January and February 1999, resulting in a request to the Oregon Division of State Lands for emergency authorization to install riprap on the beach in March, 1999.

Tillamook County concurred with DSL on the need for emergency stabilization. DSL authorized an emergency removal/fill permit on February 8, 1999 (DSL SP-16876).

Decision: The project is consistent with the Tillamook County Land Use Ordinance if constructed according to the approved plans and subject to the conditions listed below. The project is approved with conditions.

II. CONDITIONS OF APPROVAL:

This permit is valid for the 1999 installation only. Failure to comply with the Conditions of Approval may result in both nullification of this permit approval and citation. All activities shall conform to the following conditions:

1. The project shall be constructed and maintained according to the design as submitted. The riprap shall be covered with sand and planted with beachgrass during the fall of 1999.
2. The conditions of state and federal permits obtained for this project are adopted as a condition of this permit.
3. The conditions of the Emergency Authorization for Removal/Fill (SP-16876) are adopted as a condition of this permit.

Tillamook County Department of Community Development



**Tom Ascher
Coastal Resource Planner**



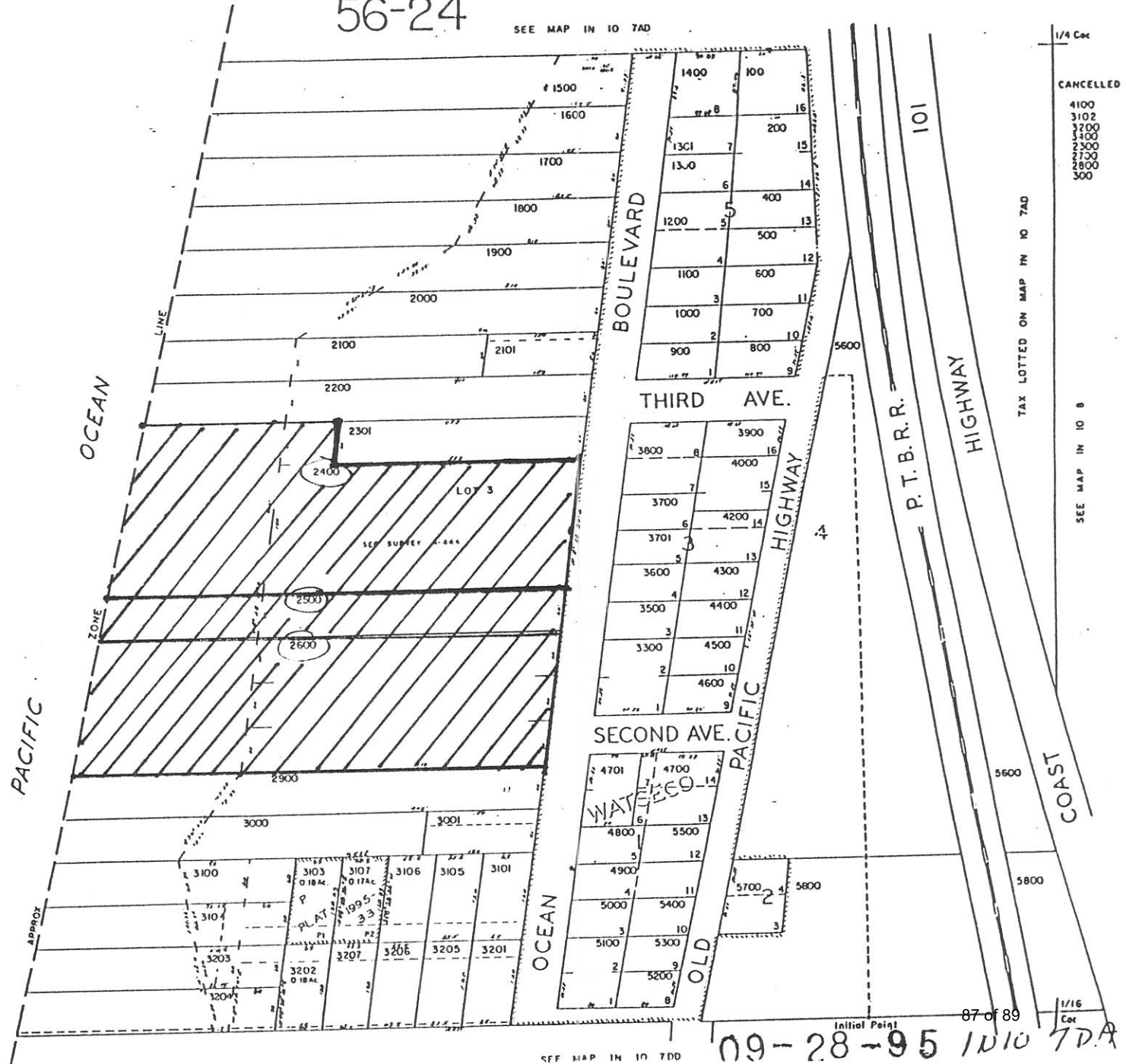
56-24

SEE MAP IN 10 7AD

PROJECT LOCATION
DEVELOPMENT PERMIT

DP - 99-47

1N10 7DA 2400
2500
2600



CANCELLED
4100
3102
3200
3300
2300
2700
2800
300

TAX LOTTED ON MAP IN 10 7AD

SEE MAP IN 10 8

Oceanfront Stabilization Findings

Permit: DP-99-47

Section 3.085(4)(A) Beach and Dune Overlay Zone 4. Beachfront Protective Structures

- a. For the purposes of this requirement, "development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through the construction of streets and provision of utilities to the lot.

Lots or parcels where development existed as of January 1, 1977, are identified on the 1984 Oregon State Highway Ocean Shores aerial photographs on file in Tillamook County.

Findings: This site is on our inventory as a Developed Beachfront Area

- b. Beachfront protective structures (riprap and other revetments) shall be allowed only in Developed Beachfront Areas and Fore-dune Management Areas, where "development" existed as of January 1, 1977, or where beachfront protective structures are authorized by an Exception to Goal 18.

Findings: . Building Permit Records indicate that the Shorewood RV Park was approved for 105 trailer sites in 1975. Construction plans include the set of RV spaces along the western edge of the park, where riprap was placed for shore protection.

- c. Proposals for beachfront protective structures shall demonstrate that:

- 1. The development is threatened by ocean erosion or flooding;

Findings: Confirmed, March 1999

- 2. Non-structural solutions can not provide adequate protection;

Findings: Too late by March 1999

- 3. The beachfront protective structure is placed as far landward as possible;

Findings: Confirmed March 1999, within 10 feet of structures.

- 4. Adverse impacts to adjoining properties are minimized by angling the north and south ends of the revetment into the bank to prevent flank erosion;

Findings: Confirmed on site. Riprap is angled to minimize impact on adjacent properties to south and north.

- 5. Public costs are minimized by placing all excess sand excavated during construction over and seaward of the revetment, by planting beachgrass on the sand-covered revetment, and by annually maintaining the revetment in such condition.

Findings: Sand covers riprap at this time, conditions require maintenance of vegetation and riprap.

- 6. Existing public access is preserved; and

Findings: Public access is not required at this site.

7. The following construction standards are met:

- a. The revetment includes three components; an armor layer, a filter layer of graded stone (beneath armor layer), and a toe trench (seaward extension of revetment structure).

Findings: Confirmed according to design.

- b. The revetment slope is constructed at a slope that is between 1:1 to 2:1.

Findings: Confirmed according to design.

- c. The toe trench is constructed and excavated below the winter beach level or to the existing wet sand level during the time of construction.

Findings: Confirmed according to design.

- d. Beachfront protective structures located seaward of the state beach zone line (ORS 390.770) are subject to the review and approval of the State Parks and Recreation Division. Because of some concurrent jurisdiction with the Division of State Land, the Parks Division includes the Division of State Lands in such beach permit reviews.

Findings: Emergency approval (DSL SP-16786)

- e. The State Parks and Recreation Division shall notify Tillamook County of emergency requests for beachfront protective structures. Written or verbal approval for emergency requests shall not be given until both the Parks and Recreation Division and the County have been consulted. Beachfront protective structures placed for emergency purposes, shall be subject to the construction standards in Section 3.140 (17).

Findings: Verbal approval by Tillamook County to DSL February 1999.