

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? 100yd³

FROM : CAROLYN BURRIS
04/24/2007 11:12 FAX 3685158

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				

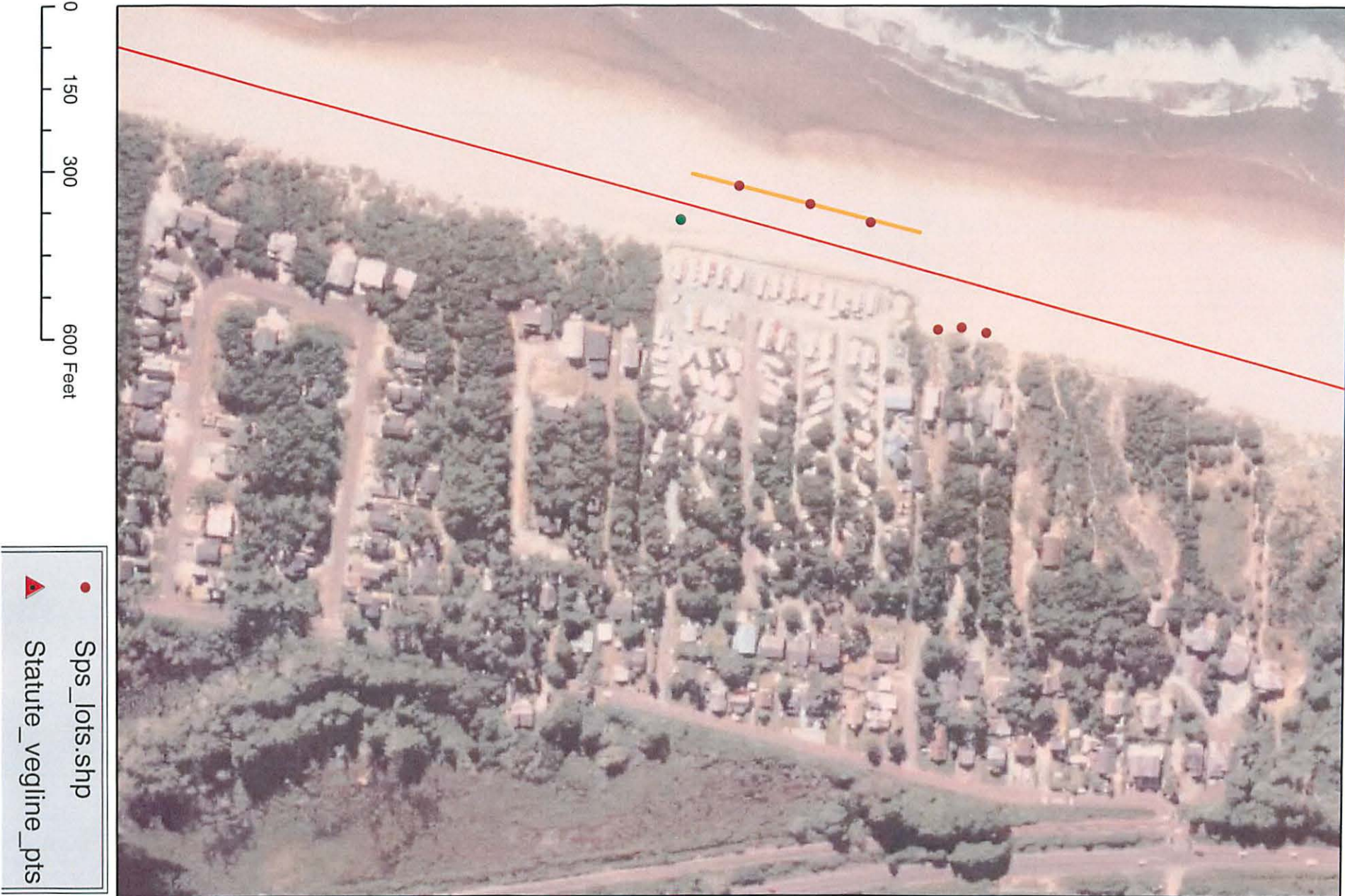
Situs Address(s)	Situs City
-------------------------	-------------------

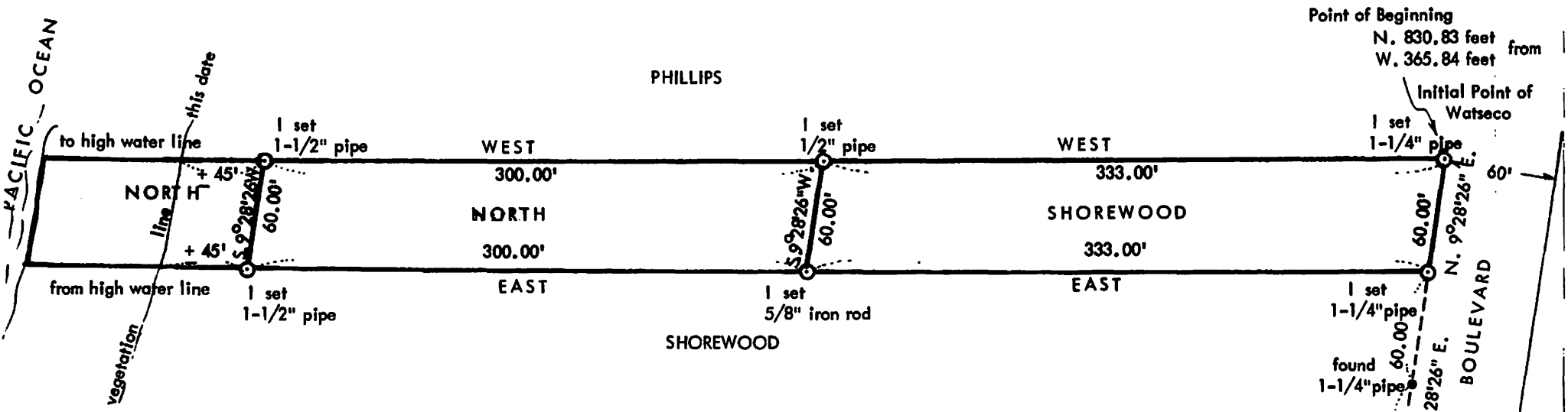
Value Summary				
Code Area		AV	RMV	CPR
5624	Impr.	430	570	0
	Land	540,420	1,015,650	0
Code Area Total		540,850	1,016,220	0
Grand Total		540,850	1,016,220	0

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"

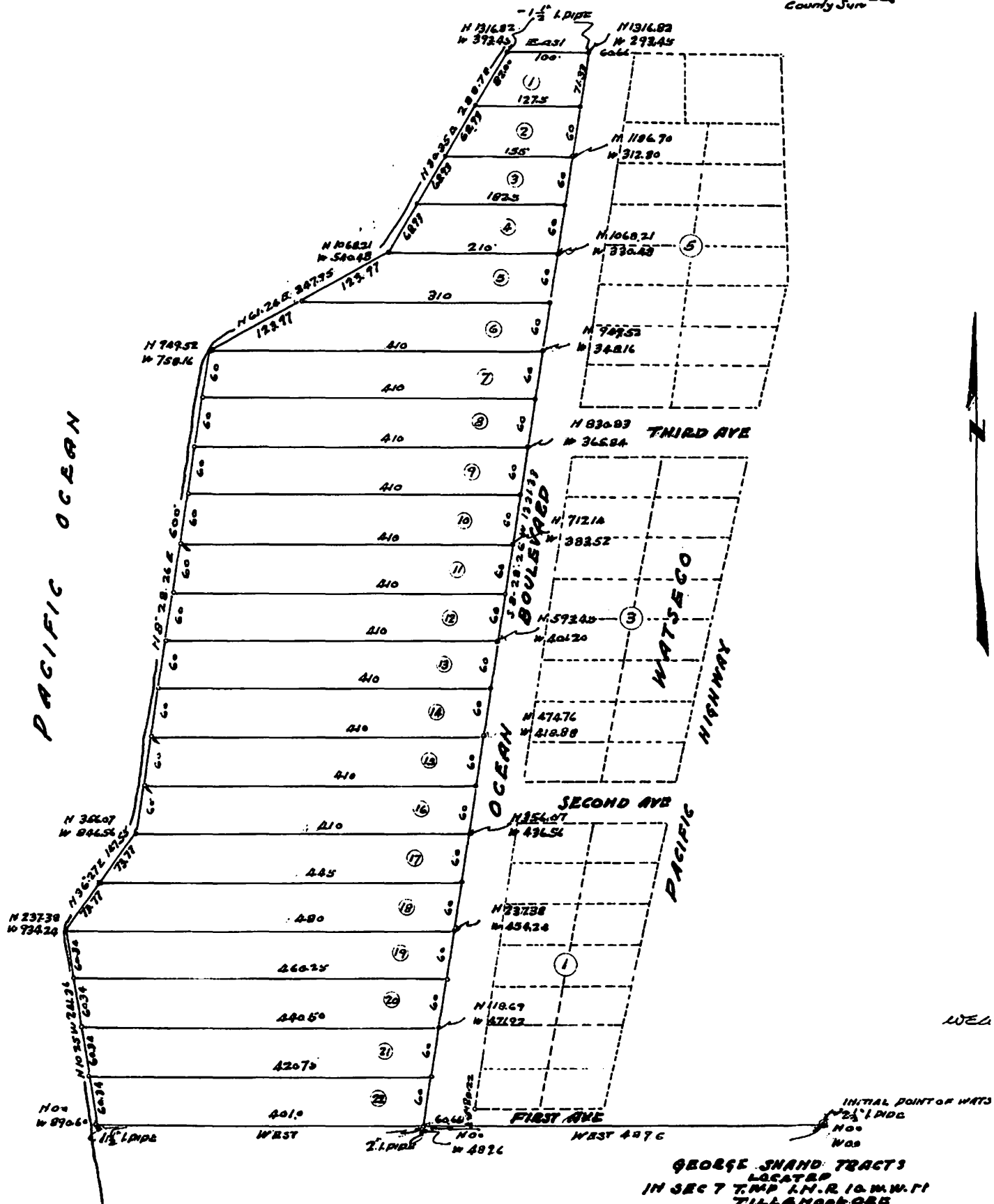
REGISTERED
OREGON
LAND SURVEYOR
John L. Carllich
MAY 9, 1962
JOHN L. CARLICH
287

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 in Oct. 1950, and that it correctly represents the property herein shown.

County Surveyor W.E.A.



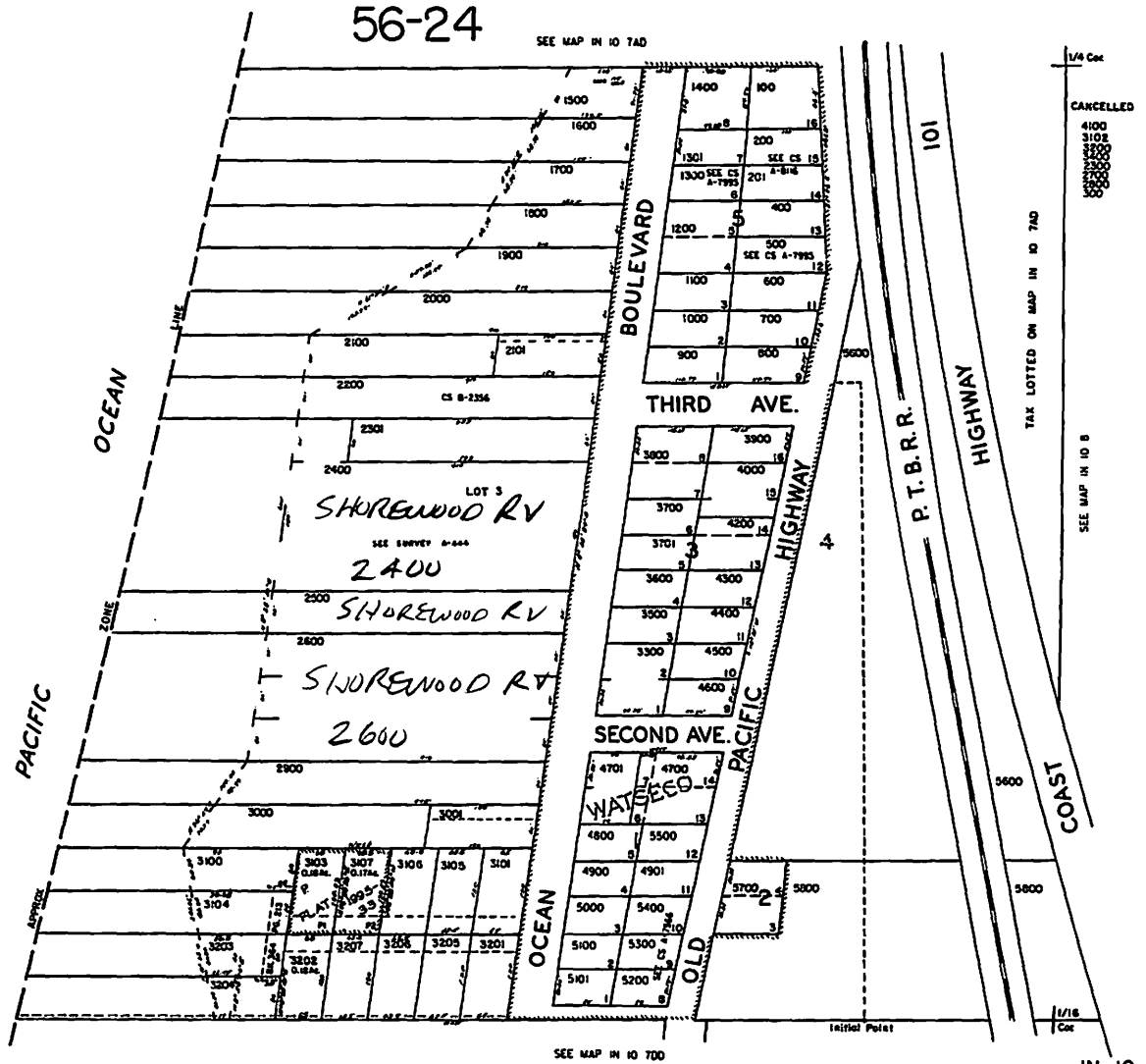
GEORGE SHAND TRACTS
 LOCATED
 IN SEC 7 T.14 N. R. 16 W. W. 11
 TILLAMOOK CO. OR.
 SCALE 1" = 100'
 W. E. ANDERSON

A
444

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY.

NE 1/4 SE 1/4 SEC. 7 T. 10 N. R. 10 W. W.M
TILLAMOOK COUNTY
1" = 100'

IN 10 7DA
WATSECO



IN 10 7DA
REVISED 02/06/07, NS

FROM : SHOREWOOD@INC

FAX NO. : 503+3552278

Jul. 22 2003 09:26AM P2



Request for Repair of Shoreline Protective Structure

Date: 7/22/2003

1. Name of Contractor: NEHALEM BAY READY MIX MOHLER 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 2 N R 10 W Section 7 Subsection
 Tax Lot 2301, 2400, 2500, 2600

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

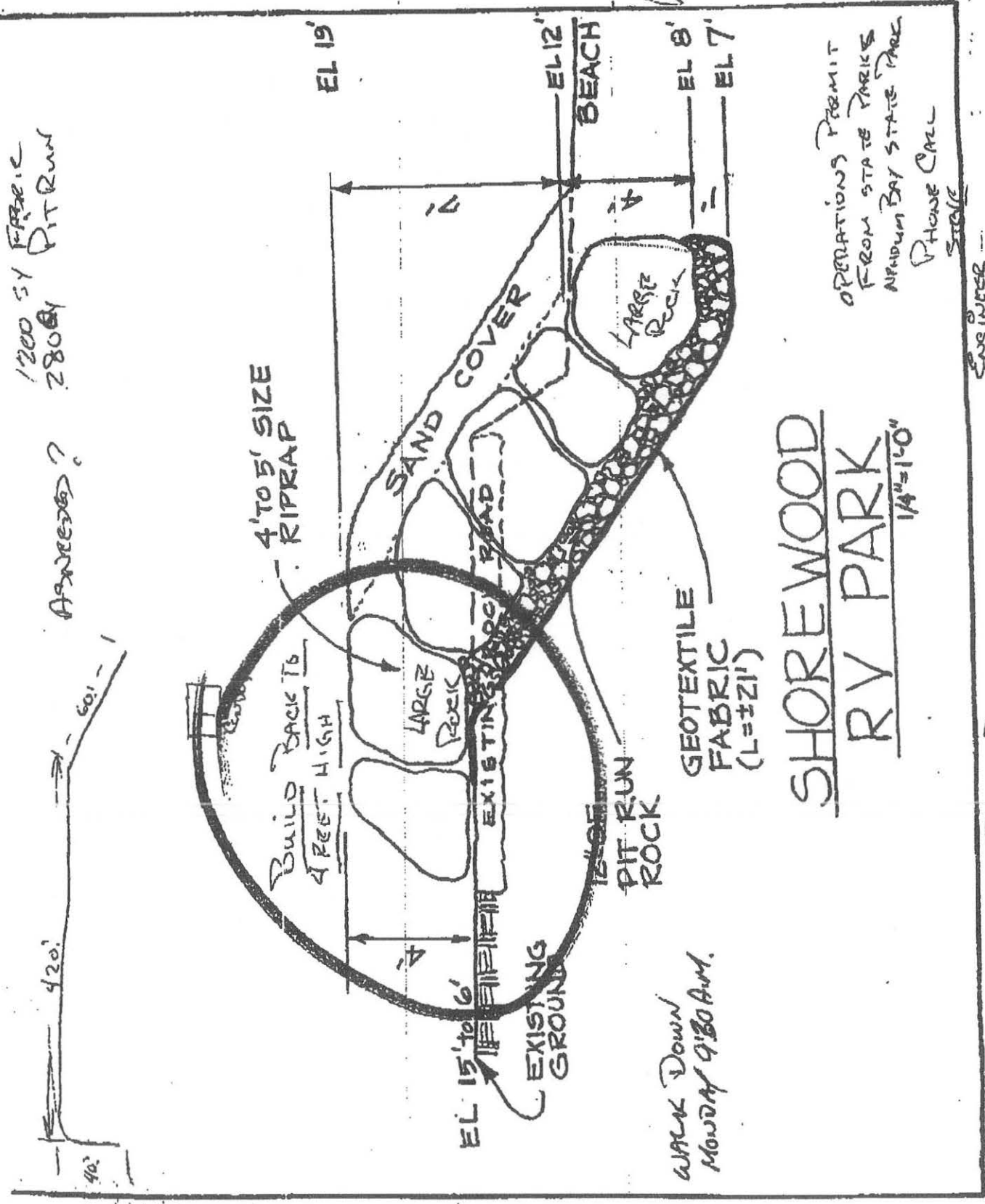
5. Describe damage to structure:
RIP-RAP HAS SETTLED - SHIFTED & DETERIORATED

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 CAPS. THIS ESTIMATE IS PER BRETT SMITH OF MOHLER SAND & GRAVEL.



1200 SY FABRIC
2800Y PIT RUN
Agreed?

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

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

WALK DOWN
MONDAY 9:30 AM.

ENGINEER

BRECK FINE
SILVER DIV

FROM : SHOREWOOD@INC

FAX NO. : 503+3552278

Jul. 22 2003 09:28AM P5

3-21-1999 12:11PM

FROM FILE MANCAN11A 1 503 355504

P.5

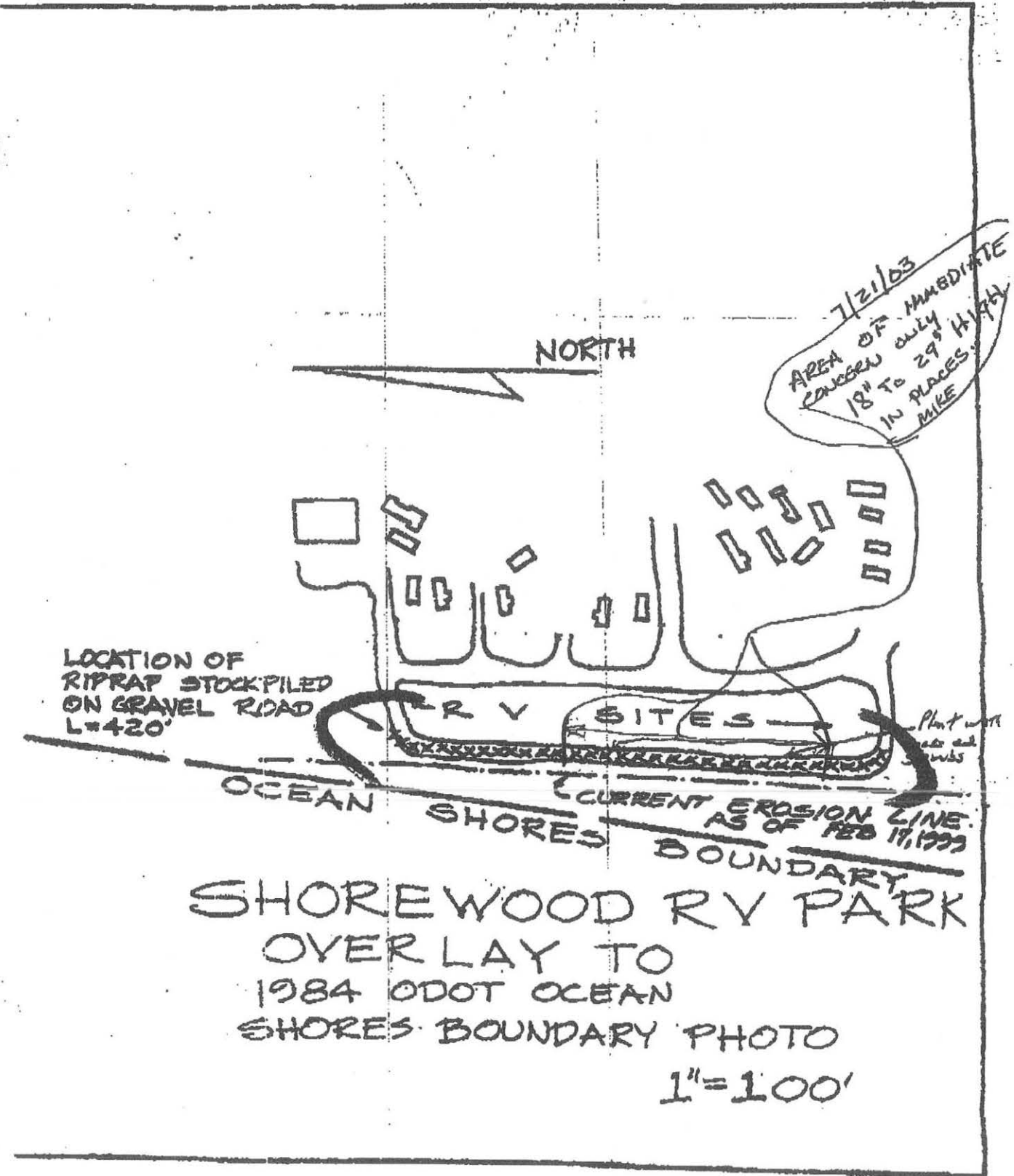


Figure 1



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.

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 390.650(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, 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



OREGON PARKS & RECREATION DEPARTMENT

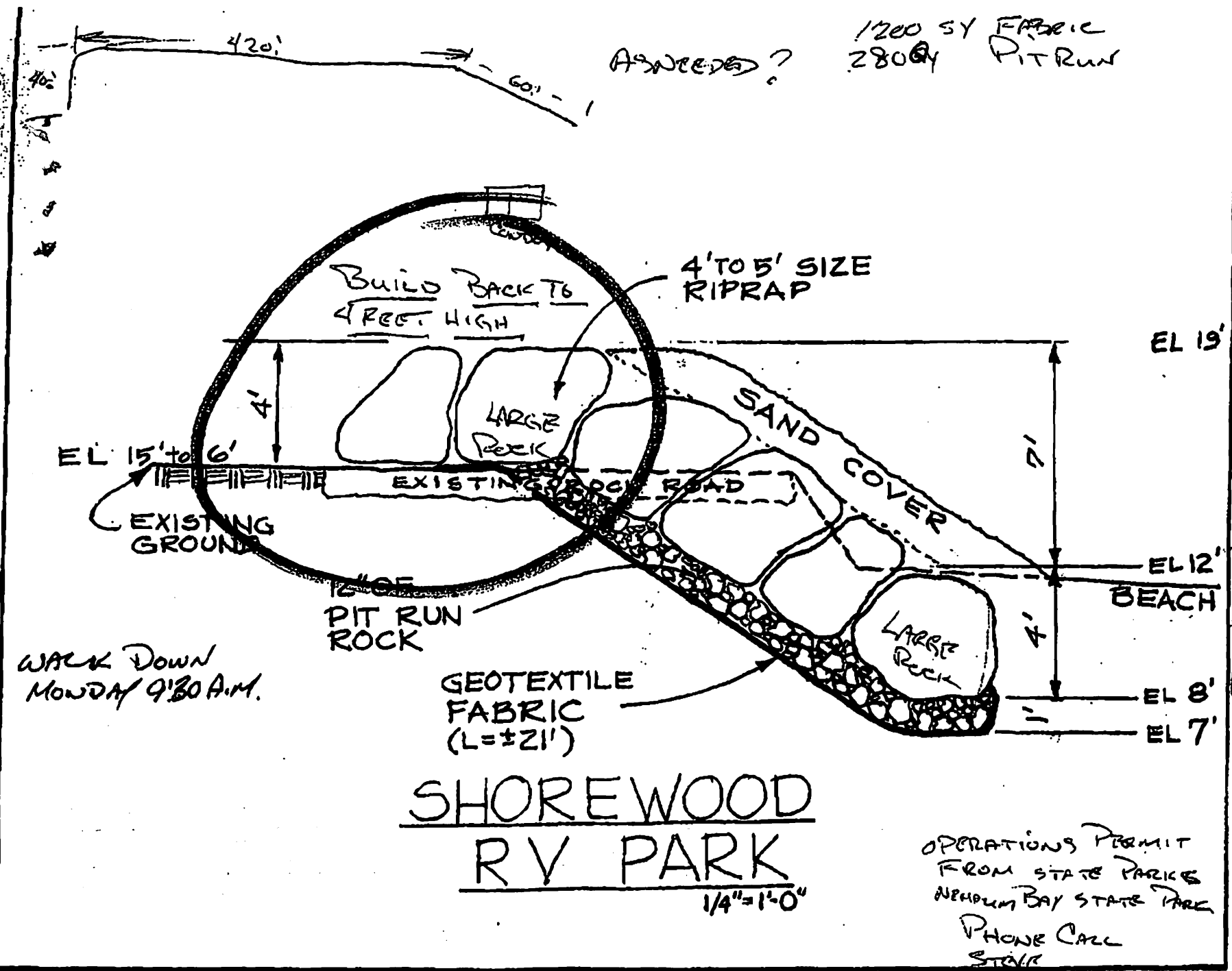
Application and Permit to Operate a Motor Vehicle on the Ocean Shore Under the Authority of ORS 390.668

File Code: BBA 4.4

Name and Address of Applicant: Don Smith Shorewood RV Park 17600 Ocean Blvd. Rockaway OR 17136		Date of Application: January 3, 2002
		Telephone Number (contact while permit is valid): (503) 355-2278
Days of Proposed Use: Jan 4 - Jan 18, 2002		Ocean Shore Vehicle Entrance and Departure Location: 17600 Ocean Blvd, Rockaway
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		
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.): <input checked="" type="checkbox"/> Other (describe): Repair and maintenance of previously authorized riprap (estimated 60 - 80 yards of rock) see attached plans # _____ Agency _____		
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
		Operator's Driver's License Number: N/A
Permit must be displayed in /on vehicle and shown upon request.		
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*



WALK DOWN MONDAY 9:30 AM.

SHOREWOOD RV PARK

1/4" = 1'-0"

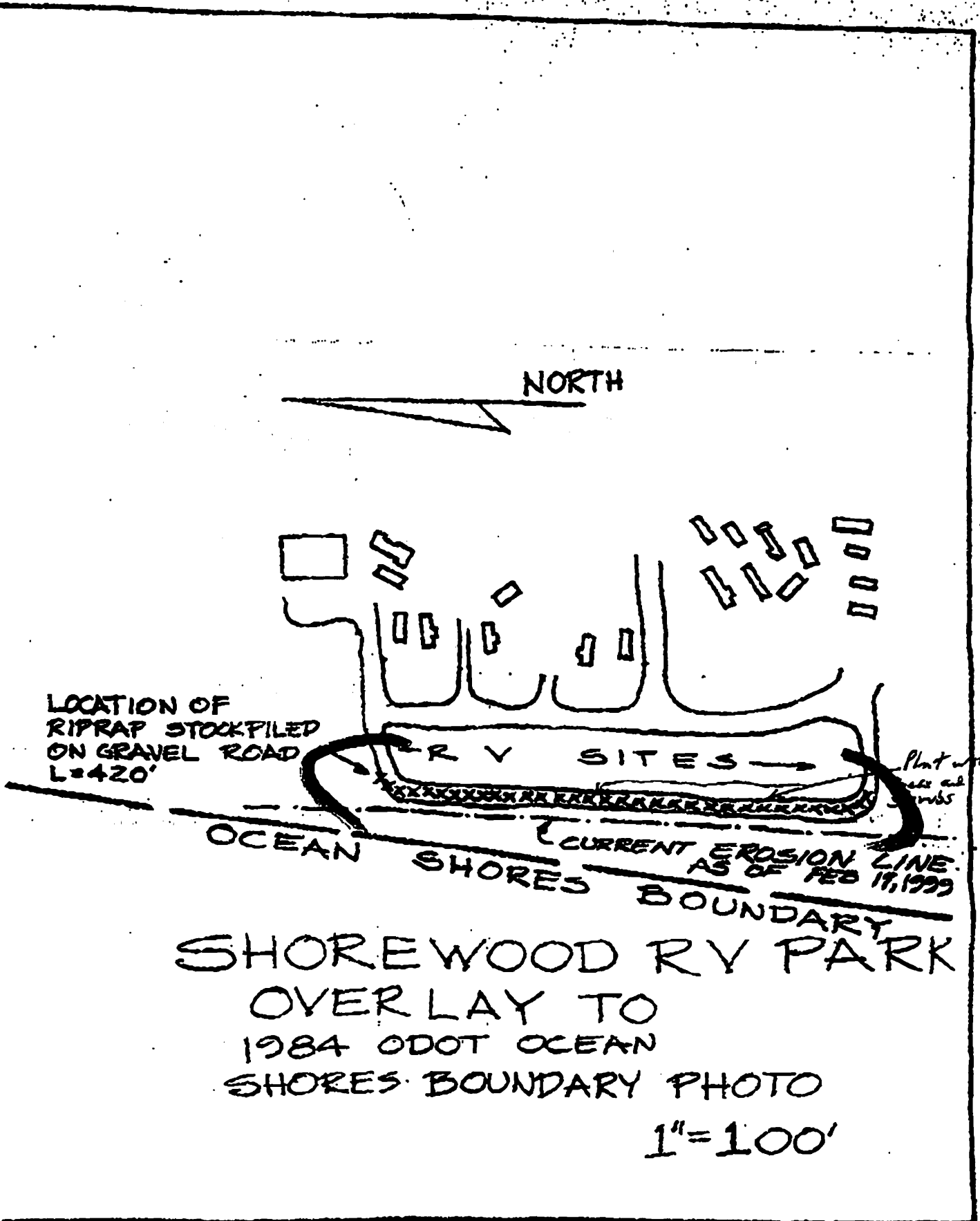
1200 SY FABRIC
2800Y PIT RUN

AS NEEDED?

OPERATIONS PERMIT FROM STATE PARKS
NEHAUM BAY STATE PARK
PHONE CALL STAIRS

Bruce Pinder
Relief Date

ENGINEER



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 Herzog
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
MANAGER
DON SMITH 355-2278



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



This map was prepared for assessment purposes only

56-24

SEE MAP IN 10 7AD

PROJECT LOCATION
DEVELOPMENT PERMIT

DP - 99-47

1N10 7DA 2400
2500
2600



1/4 Cor
 CANCELLED
 4100
 3102
 2700
 2400
 2300
 2200
 2800
 300

TAX LOTTED ON MAP IN 10 7AD

SEE MAP IN 10 8

09-28-95 1N10 7DA Initial Point

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 Foredune 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.



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.

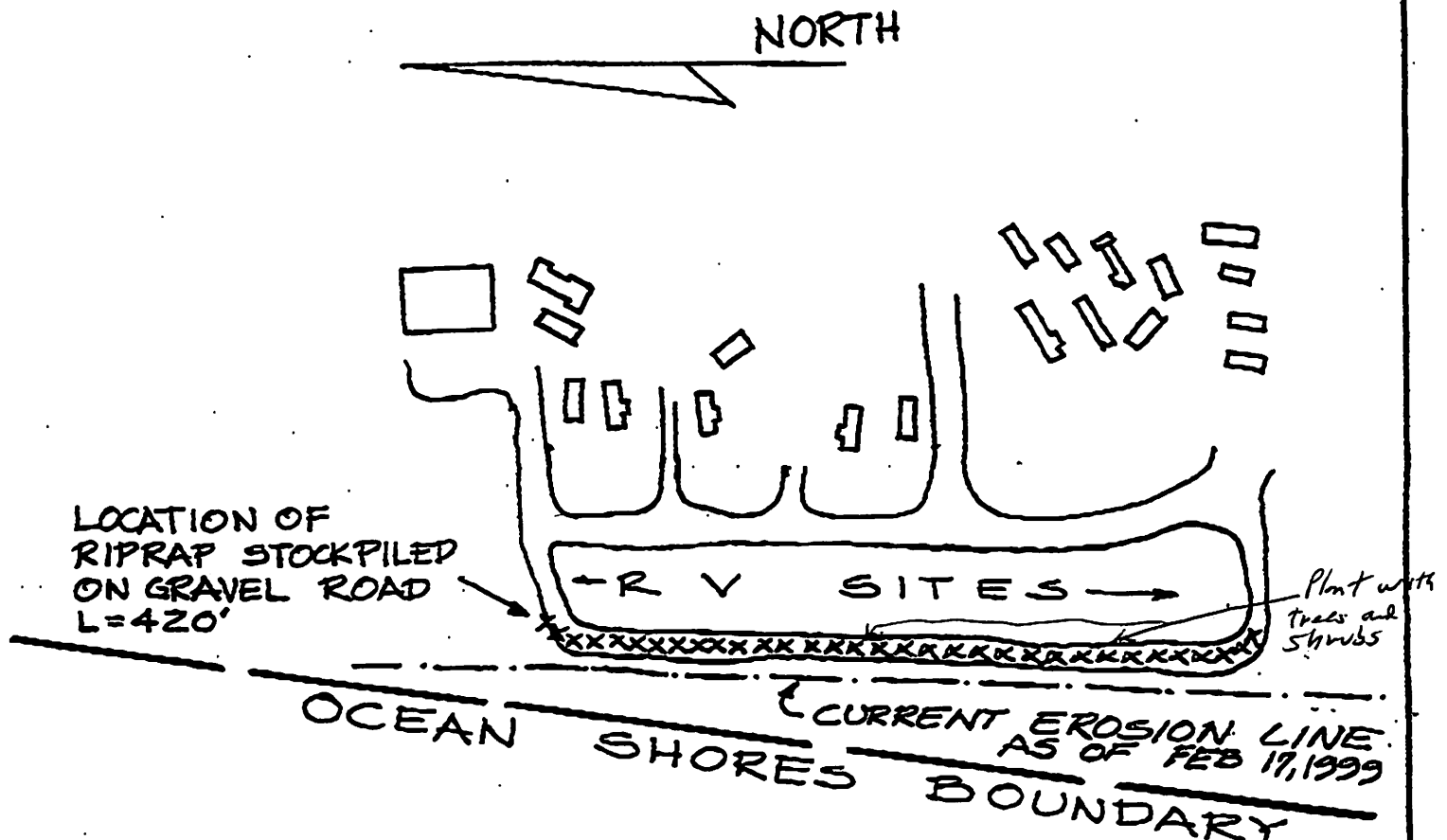
Sincerely,

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



SHOREWOOD RV PARK
 OVERLAY TO
 1984 ODOT OCEAN
 SHORES BOUNDARY PHOTO

1" = 100'

TILLAMOOK COUNTY PLANNING COMMISSION

To Be Held

May 27, 2021- Beginning at 6:30 p.m.

VIRTUAL & TELECONFERENCE MEETING

The Tillamook County Courthouse remains closed to the public at this time and public hearings must adhere to State of Oregon public gathering limitations. The hearing can be accessed via teleconference and live video. To access the live video, please visit the Tillamook County homepage the date of the hearing: <https://www.co.tillamook.or.us/> where a link will be provided the evening of the hearing. For teleconference access the evening of the hearing, please call 971-254-3149. Conference ID: 887 242 77#. Virtual Meeting Access: <https://www.co.tillamook.or.us/commdev>. Click on Virtual Teams Link. *Microsoft Teams Meeting Format.

I. CALL TO ORDER

II. ROLL CALL

III. OLD BUSINESS: NONE

IV. NEW BUSINESS: Hearings Time Certain of 6:30pm and 7:30pm

#851-21-000069-PLNG: Zone Change/Map Amendment request for the expansion of the City of Rockaway Beach Urban Growth Boundary to accommodate approximately 10.5 acres of Forest (F) zoned land for future relocation of the City of Rockaway Beach's critical facilities outside of the Tsunami Hazard Overlay Zone. The subject property located east of the City of Rockaway Beach, is accessed via North Palisade Street, a City street, and is designated as Tax Lot 6000 of Section 00, Township 2 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon. The Property Owner is Greenwood Resources Inc. The Applicant is the City of Rockaway Beach.

#851-21-000086-PLNG-01: A Goal Exception request for approval of an exception to Statewide Planning Goal 18, Implementation Measure (IM) 5; approval of a comprehensive plan amendment for a "committed" exception and/or a "reasons" exception to Goal 18, Implementation Measure 5 for the construction of shoreline stabilization along the westerly lots of the Pine Beach Subdivision and five oceanfront lots to the north located within the Barview/Twin Rocks/Watseco Unincorporated Community Boundary together with Floodplain Development Permit Request #851-21-000086-PLNG for the installation of a beachfront protective structure (rip rap revetment) 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. There are multiple property owners and applicants.

V. AUTHORIZATION FOR CHAIR TO SIGN APPROPRIATE ORDERS, IF NECESSARY

VI. ADMINISTRATIVE DECISIONS: Administrative Decisions are available for public review on the Tillamook County Department of Community Development website.

VII. HOUSING COMMISSION UPDATE

VIII. DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT

IX. ADJOURNMENT

The Courthouse is accessible to citizens with disabilities. If special accommodations are needed for persons with hearing, visual, or manual impairments that wish to participate in the meeting, please contact 1-800-488-8280 at least 24 hours prior to the meeting in order that appropriate communications assistance can be arranged.

1510 – B Third Street
Tillamook, Oregon 97141
www.tillamook.or.us

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



Lands of Cheese, Trees and Ocean Breeze

GOAL EXCEPTION REQUEST #851-21-000086-PLNG-01

TOGETHER WITH

DEVELOPMENT PERMIT REQUEST #851-21-000086-PLNG:

Staff Report Date: May 20, 2021

Planning Commission Hearing Date: May 27, 2021 & June 24, 2021

Board of County Commissioners Hearing Date: July 28, 2021 & August 16, 2021

REPORT PREPARED BY: Sarah Absher, CFM, Director

I. GENERAL INFORMATION:

Request: Goal Exception request for approval of an exception to Statewide Planning Goal 18, Implementation Measure (IM) 5; approval of a comprehensive plan amendment for a “committed” exception and/or a “reasons” exception to Goal 18, Implementation Measure 5 for the construction of shoreline stabilization along the westerly lots of the Pine Beach Subdivision and five oceanfront lots to the north located within the Barview/Twin Rocks/Watseco Unincorporated Community Boundary together with Floodplain Development Permit Request #851-21-000086-PLNG for the installation of a beachfront protective structure (rip rap revetment) 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.

Location: 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. There are multiple property owners and applicants (Exhibit A).

Applicants & Property Owners: Multiple: See attached table in “Exhibit B” for applicant/property owner contact information.

Description: The subject properties are oceanfront properties located within the Barview/Twin Rocks/Watseco Unincorporated Community Boundary, specifically within the Watseco region of the unincorporated community (Exhibit A). The unincorporated community is bordered by the urban growth boundaries of the City of Garibaldi to the south and the City of Rockaway Beach to the north. Uses in the area are predominantly residential with recreational facilities located to the north (Shorewood RV Park), to the south (Camp Magrueder) and further to the east across Oregon State Highway 101 (Twin Rocks Friends Camp). Natural features identified in the area include Smith Lake, a coastal lake (Exhibit A).

The subject properties are zoned Community Medium Density Urban Residential (CR-2) and are located within the Beach and Dune Overlay Zone and the Flood Hazard Overlay Zone (Exhibit A). Most of the residential properties within this area have been developed, including the subject properties.

The area is served by urban levels of existing public services including the Twin Rocks Sanitary District, Watseco Water District, Tillamook PUD, Garibaldi Volunteer Fire Department, and the Tillamook County Sheriff's Office.

II. APPLICABLE PROVISIONS:

- A. Oregon Statewide Planning Goals
- B. Oregon Revised Statutes
 - a. ORS 197.732
- C. Oregon Administrative Rules, Exception Requirements
 - a. OAR 660-004-0020-0022 Goal 2, Part II(c), Exception Requirements, (11) Goal 18 Foregone Development Reasons Exception Requirements
- D. Tillamook County Comprehensive Plan
- E. TCLUO Section 3.510: Flood Hazard Overlay Zone
- F. TCLUO Section 3.530: Beach & Dune Overlay Zone
- G. TCLUO Section 9.030: Text Amendment Procedure and Criteria
- H. TCLUO Article 10: Administrative Provisions

III. ANALYSIS:

A. Oregon Statewide Planning Goals

1. General Discussion of Statewide Planning Goals

Findings: Oregon's 19 statewide planning goals are adopted as Administrative Rule and express the state's policies on land use as well as land use related topics. Each county is required to have a comprehensive plan consistent with the statewide planning goals as well as zoning and land division ordinances for implementation of plan policies and objectives. The Tillamook County Comprehensive Plan contains 17 of the 19 Statewide Planning Goal Elements. A Goal 15 Element (Willamette Valley) and Goal 19 Element (Ocean Resources) are absent from the Tillamook County Comprehensive Plan as the goals and policies for the Willamette Valley do not apply to Tillamook County and the Ocean Resources Element was created after the adoption of the County's comprehensive plan.

Applicant's narrative includes findings of fact and conclusions of law for goal exceptions, demonstrating compliance with Statewide Planning Goals 1 through 19, as applicable (Exhibit B). Because the subject property is not located within the Willamette Valley and is within a built and committed area (exception already taken to Goals 3 and 4) consideration of these goals is not considered. Applicants explain why the proposed Goal Exception is consistent with, compliant with, or not in conflict with Oregon's Statewide Planning Goals (Exhibit B).

Statewide Planning Goal 2 outlines the basic procedure for the statewide planning program, including the standards that allow a local government to adopt an exception to a Statewide Planning Goal. In this instance, the Applicant is requesting a "Reasons" Exception to Statewide Planning Goal 18, Implementation Measure (IM) 5 (Exhibit B). Four standards for granting a "reasons" exception are implemented by OAR-660-004-0020. The Applicant's submittal includes an analysis of these four standards and these standards are addressed later in this report (Exhibit B).

2. Discussion of Statewide Planning Goal 18: Beaches and Dunes

Findings: Statewide Planning Goal 18: Beaches and Dunes, 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. Inventories of beaches and dunes at the local level is required followed by development of policies by local governments for permitted or prohibited uses in these areas. Permitted uses are based on the capabilities and limitations of beach and dune areas to sustain different levels of use or development while also taking into account the need to protect areas of critical environmental concern. These policies for uses within beach and dune areas are reflected in seven (7) implementation requirements described in Statewide Planning Goal 18.

**Implementation Requirement and Implementation Measure are used interchangeably. For purposes of this report, "Implementation Measure" will be predominantly used.*

A series of findings must be made by the local jurisdiction on land use decisions or actions within beach and dune areas. At a minimum, these findings must include consideration of adverse effects by the use, implementation of new stabilization programs or maintenance of existing programs, methods to protect the surrounding areas from adverse effects of the development and a discussion of hazard risk to life, property and the natural environment which may be caused by the proposed use. (See Implementation Requirement #1.)

Local governments must also assess areas where residential, commercial and industrial development is prohibited based upon dune inventories and classification, and if development is allowed, require additional findings that the development is adequately protected from hazards and flooding and is designed to minimize adverse environmental effects. (See Implementation Requirement #2.)

Implementation Measure #2 as carried out in Tillamook County is further discussed in Section 3 below.

Implementation Measure #5 of Statewide Planning Goal 18 only allows beachfront protective structures where development existed on January 1, 1977. *Development is defined as 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.* Criteria that must be met for the construction of beachfront protective structures is included in Implementation Measure #5 and require evidence that visual impacts are minimized, access to the beach is maintained, negative impacts to adjacent properties are minimized, and long-term or recurring costs to the public are avoided.

The Oregon Coastal Atlas Map included in "Exhibit A" of this report depicts properties determined to have eligibility for beachfront protective structures based upon evidence of development as defined above that existing on January 1, 1977. Eligible properties where it has been determined development existed

on January 1, 1977 are highlighted in green. Properties where it has been determined development did not exist as per the definition above on January 1, 1977 are highlighted in red.

The subject properties are highlighted in red (Exhibit A). Applicants have provided substantial evidence in the record (Exhibit B) arguing that development was in existence as of January 1, 1977. As such, the Applicants request the exception to Goal 18 IM 5 out of an abundance of caution (Exhibit B).

Findings: In review of County survey and tax records, as well as information provided by Twin Rocks Sanitary District, Watseco Water District and Tillamook People’s Utility District (PUD), all included in “Exhibit D” of this report, staff finds 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 finds that an exception to Goal 18, IM 5 is required for the construction of a beachfront protective structure on the subject properties.

3. Discussion of Goal 18 Element of the Tillamook County Comprehensive Plan

Findings: Tillamook County’s Comprehensive Plan was adopted in 1981. Tillamook County met its obligation as a local jurisdiction to inventory local beaches and dunes and developed implementing policies reflecting permissible uses based upon the capabilities and limitations of beach and dune areas to sustain different levels of use or development and also developed policies and prohibitions that protect areas of critical environmental concern. These policies contained within the Goal 18 element of the Tillamook County Comprehensive Plan reflect the seven (7) implementation requirements described in Statewide Planning Goal 18 and are also carried out in a regulatory capacity through TCLUO Section 3.530: Beach and Dune Overlay Zone.

Statewide Planning Goal 18 Implementation Measure #2 requires prohibition of residential, commercial and industrial development on beaches, active foredunes and other 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.

Section 6 of the Goal 18 element of the Tillamook County Comprehensive Plan 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 unincorporated community of Barview/Twin Rocks/Watseco is a built and committed area where exceptions to Goals 11 and 14 have been taken. While exceptions were taken to Goal 11 and Goal 14, the unincorporated community of Barview/Twin Rocks/Watseco was not included in the Goal 18 Implementation Measure #2 exception. As depicted on the maps made part of the Goal 18 element of the Tillamook County Comprehensive Plan included with this report as “Exhibit A”, this area was not identified as an area of ocean flooding at the time the Goal 18, IM2 exception was taken. *It should be noted however that the northern portion of the Twin Rocks area is within the City of Rockaway Beach Urban Growth Boundary and is mapped as an area of ocean flooding (Exhibit D).*

In review of the 1975 Beaches & Dunes of the Oregon Coast map for this area (Exhibit A), the map locates this unincorporated community in an area classified as a younger stabilized dune. A Goal 18 Implementation Measure #2 (IM 2) exception was not needed because residential, commercial and industrial development was not prohibited on this type of dune classification.

A copy of FEMA Flood Insurance Rate Map #41057C0379F dated September 28, 2018 is included in “Exhibit A” of this report. The map identifies the boundary of the Coastal High Hazard Zone as the Velocity Zone (VE) which represents those areas subject to ocean flooding. The map confirms the developed areas of the oceanfront properties are outside of the mapped VE zone however if the goal exception were approved, the revetment structure would be constructed within the VE zone.

Applicants are requesting an exception to Statewide Planning Goal 18, Implementation Measure (IM) 5; approval of a comprehensive plan amendment for a “committed” exception and/or a “reasons” exception to Goal 18, Implementation Measure 5 for the construction of shoreline stabilization (Exhibit B). Staff finds that an exception to Goal 18, IM 5 is required for the construction of shoreline stabilization on the subject properties.

As discussed later in this report, staff also finds that an exception to one goal or goal requirement (ex. Goals 11 and 14) does not ensure compliance with any other applicable goals or goal requirements, in this case for the proposed construction of the beachfront protective structure. Staff finds the Applicants 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 or because there was a lack of need for an exception to be taken (ex. Goal 18, IM 2) at the time of development of the properties.

B. Oregon Revised Statutes

1. ORS 197.732: Goal Exceptions; Criteria; Rules; Review

(a) “Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(b) “Exception” means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

(A) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(B) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(C) Complies with standards under subsection (2) of this section.

(2) A local government may adopt an exception to a goal if:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) 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; or

(c) The following standards are met:

(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 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; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(3) The commission shall adopt rules establishing:

(a) That an exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (2)(c)(A) of this section; and

(c) Which uses allowed by the applicable goal must be found impracticable under subsection (2) of this section.

(4) A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this section have or have not been met.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(6) Upon review of a decision approving or denying an exception:

(a) The Land Use Board of Appeals or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (2) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons that sets forth the basis for the determination that the standards of subsection (2) of this section have or have not been met.

Findings: Applicants are requesting a Goal Exception for approval of an exception to Statewide Planning Goal 18, Implementation Measure (IM) 5; approval of a comprehensive plan amendment for a “committed” exception and/or a “reasons” exception to Goal 18, Implementation Measure 5 for the construction of shoreline stabilization on the westerly lots of the Pine Beach Subdivision and five oceanfront lots to the north located within the Barview/Twin Rocks/Watseco Unincorporated Community Boundary together with Development Permit Request #851-21-000086-PLNG for the installation of a beachfront protective structure (rip rap revetment) 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 (Exhibit B).

The Applicant’s narrative addresses the applicable state standards (statutes, administrative rules and Statewide Planning Goals) required for taking an exception and for demonstrative state-level consistency for a comprehensive plan amendment. Included in the response is background information about the exception process and Goal 18, IM 5 as well as justification for the requested committed exception and reasons exception, respectively (Exhibit B).

Applicants discuss the meaning of “impracticable” and raise the issue of whether it is impracticable to apply a restriction to not allow beachfront protective structures on irrevocably committed properties where development did not exist as of January 1, 1977. Applicants state the issue now is whether the authorized residential development commits the property to residential use such that the property is also entitled to now benefit from the Goal 18 policy of reducing the hazard to human life and property from natural actions associated with these areas given the historically unprecedented reversal of 70 years of beach progression.

Applicants seek flexibility in the application of Goal 18, arguing that development on the subject properties was located where Goal 18 said it should be and included the natural shorefront protections Goal 18 said it should have. Given the unexpected threat to development that now exists and without an exception to Goal 18, IM 5, Applicants state there is no other practicable way to protect the residential development that was entirely consistent with Goal 18 when authorized.

Applicants also state the required alternative analysis standard to demonstrate there are no alternative locations for the proposed beachfront protective structure is not functionally possible for this specific “reasons” exception to Goal 18, IM 5 given the site-specific protections afforded by a beachfront protective structure (Exhibit B). Applicants argue that given the protective nature of the use of a beachfront protective structure and the fact that the structure can only protect residential development immediately landward of the protective structure, it must be located in the area depicted on ‘Exhibit F’ of the Applicants’ submittal (Exhibit B). Applicants add that beachfront protective structures are by design and function site-specific and cannot serve the purpose of abating shoreline erosion for the subject properties unless located, construction and installed in the proposed location depicted on the site plan identified as ‘Exhibit F’, Attachment 2 (Exhibit B).

Out of an abundance of caution, Applicants discuss the long-term environmental, economic, social and energy (ESEE) consequences resulting from the location of the proposed beachfront protective structure in relation other properties that would also require an exception to Goal 18 (Exhibit B). Applicants reiterate that the subject properties are within an exception area and no resource land is proposed to be the subject of the requested Goal 18 exception for shoreline protection. Comparison is focused on the subject properties and other site that are eligible for shoreline protection and potential impacts to beaches and dunes are discussed in the ESEE analysis (Exhibit B).

Applicants conclude that the ESEE demonstrates consequences that would result from the construction of a beachfront protective structure at the subject location are not significantly more adverse than what would typically result from the same proposal being located in a different area that would or would not require a Goal 18, IM 5 exception. Applicants add that there are only two differences between the proposed exception area and the other sites:

- The proposed exception area is much larger than individual property elsewhere and while the adverse environmental impact of building a beachfront protective structure at the subject location is greater than for a single property, the impact will be temporary given the impact area will be re-covered with sand, replanted and monitored.
- An environmental benefit will result from this proposal for a larger area as a greater area of the foredune (not just an area within a single lot) will be restored and protected with beach grasses, shrubs and trees.
- Locating the beachfront protective structure at any other location would not protect the subject properties and related public infrastructure, hence the reason for the exception request (Exhibit B).

Applicants also state that the overall use of the subject properties will remain residential, consistent with the adjacent uses and their acknowledged residential zoning (Exhibit B). Once established, Applicants argue the beachfront protective structure will ultimately blend into the shoreline of the subject properties and that its appearance will be compatible with other existing shoreline vegetated areas of those uses north and south of the subject area, visually appearing as a dune formation (Exhibit B).

C. Oregon Administrative Rules, Exception Requirements, Statewide Planning Goal 2, Part 2

“Exception” means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that; (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability; (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and (c) Complies with standards for an exception.

1. OAR 660-004-0020 Goal 2, Part II(b), Committed Exception (see ORS 197.732 and OAR-660-004-0028)

... (b) 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;

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

- (a) The characteristics of the exception area;*
- (b) The characteristics of the adjacent lands;*
- (c) The relationship between the exception area and the lands adjacent to it; and*
- (d) The other relevant factors set forth in OAR 660-004-0028(6)...*

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

(2) *The four factors in Goal 2 Part II(c) required to be addressed when taking an Exception to a Goal are:*

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply":

(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(A) *The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which 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 which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor 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 rural centers, 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) *This alternative areas standard can 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 can describe why there are 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 other areas requiring a Goal exception other than the proposed site. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for 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.

(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. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses."

Findings: Applicants' submittal includes an analysis of OAR 660-004-0020 Goal 2, Part II(b) and Part II(c) for a "committed" exception and/or a "reasons" exception to Goal 18, IM 5 (Exhibit B). To highlight primary arguments contained within the Applicants' submittal, Applicants provide the following justification:

- The Pine Beach Subdivision and Ocean Boulevard properties were lawfully approved and developed based upon evidence that the shoreline was prograding.
 - Pine Beach Replat Subdivision and associated residential development was lawfully approved in on a younger stabilized dune as were the Ocean Boulevard properties.
 - Public utilities were extended to these properties at the time of development with the intent of urban residential development.
- The subject properties should qualify for shoreline protection under the original terms of Goal 18 and definition of "development".
- The existing development demonstrates an irrevocable commitment of the exception area for the approved urban level of residential use and allows development where is has been sited- on a younger stabilized dune.
 - Because the subject properties are located within an area considered to be irrevocably committed to urban levels of residential use which have been lawfully established and permitted by the County, these properties should also be afforded Goal 18 protections.
- The area proposed for the placement of the beachfront protective structure can be put to other practical use other than to protect the existing residential structures and public facilities.
- Taking a "committed" and/or a "reasons" exception is consistent with the second purpose of Goal 18- to reduce hazard to human life and property from natural actions associated with coastal beach and dune areas.
- Applicants assert the analysis and evidence provided in the submittal demonstrates that the proposal to install the beachfront protective structure complies with the "committed" and "reasons" exception statutory and administrative rule requirements.
- Visual impacts are minimized as a result of the location of the proposed beachfront protective structure along with the construction and recovering methods as outlined in "Exhibit B".
- Location of the beachfront protective structure in relation to the location of existing beach access points ensures existing access to the beach will be maintained.
 - Applicants describe the characteristics of the exception area and the characteristics of the adjacent lands- identifying common features. Included in these descriptions are identification of land use patterns and discussion of these patterns in relation to the transportation system (access patterns) within this area.
- The beachfront protective structure has been designed to minimize impacts on adjacent properties and is designed in a manner to avoid redirection of water on adjacent properties, not result in an increase in wave heights, wave runup or increase in flood water levels, and will not impact the natural littoral drift of sediment along the coast (Exhibit B).
- There will be no long-term or recurring costs to the public as the property owners will incur the costs for installation and maintenance of the beachfront protective structure.
- The area of the exception request consists of two self-contained subdivision that share some landscape sand development characteristics with development to the north but are largely separated from development to both the north and the south for reasons stated in "Exhibit B". Applicants add that the primary connective features are the access roads and the beach.

Applicants' submittal identifies other relevant factors, including existing adjacent uses; existing public facilities and services; parcel size and ownership patterns of the exception area and adjacent lands; neighborhood and regional characteristics; natural or man-made features or other impediments separating the exception area from adjacent resource land; physical development according to OAR 660-004-0025; and other relevant factors (Exhibit B).

The area is considered to be mixed use, consisting of single-family dwellings, multi-family dwellings, a recreational vehicle (RV) park, and a large recreational campground area (Camp Magrueder). The area east of the requested exception area is primarily older, residential development. The area is served by urban levels of existing public services including the Twin Rocks Sanitary District, Watseco Water District, Tillamook PUD, Garibaldi Volunteer Fire Department, and the Tillamook County Sheriff's Office. While the subject area is accessed via Oregon State Highway 101, the transportation system west of Highway 101 is part of the unincorporated Tillamook County road system and consists primarily of roads inventoried as County maintained roads.

Predominant zoning within the subject area is Community Medium Density Urban Residential (CR-2) and Recreation Management (RM) and are not considered to be resource (EFU or Forest zoned lands) (Exhibit A). Properties zoned CR-2, including the subject properties part of this exception request, are located within the Barview/Twin Rocks/Watseco Unincorporated Community (Exhibit A). The location of the proposed Areas zoned Recreation Management (RM) are part of Camp Magrueder. As depicted on the zoning map included in "Exhibit A", resource lands in the area are located east of Oregon State Highway 101 and east of the Barview/Twin Rocks/Watseco Unincorporated Community Boundary (Exhibit A).

Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. The above cited reference for a physical development exception states a local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal. Whether land has been physically developed with uses not allowed by an applicable goal will depend on the situation at the site of the exception.

The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. Findings of fact shall identify the extend and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

In response to an exception for physical development according to OAR 660-004-0025 under Goal 2, Part II(a) (ORS 197.732(2)(a)), Applicants state existing development allowed through zoning in this area, specifically properties zoned CR-2, demonstrates an irrevocable commitment of the exception are for the approved urban level of residential use (Exhibit B). Applicants reiterate that the properties where the exception is being requested is also served by urban public facilities and services. The footprint where the beachfront protective structure is proposed is residential zoned land o residential lots committed to residential development that is necessary for the approved residential development to continue (Exhibit B).

Further, Applicants emphasize that the issue is the specific language of Goal 18, IM 5 that establishes a specific date for when development had to have occurred (January 1, 1977) and the defining prohibition of constructing and installing a beachfront protective structure on any "development" that was not in existence on or before January 1, 1977. Applicants state it is necessary for the proposed protective structure to be approved so that existing developed residential uses may continue (Exhibit B).

Applicants outline additional relevant factors justifying a Goal 18, IM 5 exception (Exhibit B), reiterating the relevance of the historic background previously discussed throughout the Applicants' submittal. Factors stated include:

- The subject properties are committed to urban level development, have a recognized pattern of beachfront development and are irrevocably committed to residential uses.
- The Barview/Twin Rocks/Watseco Community Plan includes findings and acknowledges that the predominant land use in this unincorporated community will continue to be residential.

- While residential development was allowed on the younger stabilized dune allowed under Goal 18 and an exception was not required at the time of development, it was not expected or anticipated that the subject properties would become subject to shoreline encroachment.
- Expert analysis and evidence gathered through beach and dune and geologic investigations concluded that the subject properties were relatively safe from long-term net erosion and shoreline regression, and there was no evidence to suggest reversal of the progression trend that has continued for more than 70 years (Exhibit B).

3. OAR 660-004-0022: Reasons Necessary to Justify an Exception Under Goal 2, Part IIc

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

(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.

Findings: Applicants refer to the West Consultants Technical Memorandum ('Exhibit A' of the Applicants' submittal) and accompanying construction plans stating that the beachfront protective structure has been designed in a way to protect it from geologic hazards, wind erosion, undercutting ocean flooding and storm waves. Referencing evidence in the record, the Applicants state the proposal minimizes any adverse environmental effects from the proposed use adding that wave energy and erosion potential will be less as the proposed beachfront protective structure will be located further inland and will be at a higher elevation than the nearby Shorewood RV Resort beachfront protective structure (Exhibit B). Applicants conclude by stating that ultimately, the proposed beachfront protective structure will be a net benefit to the shoreline environment, minimizing and abating future landward shoreline erosion (Exhibit B).

Applicants state the County should approve the requested reasons exception to Statewide Planning Goal 18, IM 5 and approve the requested construction of a beachfront protective structure on the subject properties based upon the evidence and analysis provided in the record (Exhibit B).

An analysis of the statewide planning goals and Tillamook County Comprehensive Plan goal elements in relation to the proposed construction of a beachfront protective structure as requirement in (11)(c) above is included in "Exhibit B".

For purposes of this request directly related to Statewide Planning Goal 18 and the Goal 18 element of the Tillamook County Comprehensive Plan, findings provided by the Applicants regarding Goal 18 are provided below. As mentioned previously in this report, Statewide Planning Goal 18 consists of seven (7) implementation (requirement) measures. The Applicants provide detailed responses to each Implementation Measure (Exhibit B). To summarize:

- The proposal to construct a beachfront protective structure will protect the foredune.
- The proposal includes specific instructions for the maintenance of new and existing vegetation by the owners of the properties.
- The project design protects surrounding properties from the adverse impacts of development, including protection from direction of additional water to surrounding properties, increase in wave heights or wave runup, or impact to the natural littoral drift of sediment along the coast.
- As stated in the Technical Memorandum provided by West Consultants, the proposed revetment structure will reduce the risk of damage to life, property and the natural environment from beach erosion and coastal flooding resulting from large waves occurring during high tides (Exhibit B).
- West Consultants Technical Memorandum ('Exhibit F' of Applicants' submittal) explains that the structure is designed to address ocean flooding and storm waves and that its design will not cause an increase to FEMA total water levels near the structure (Exhibit B).
- The proposed beachfront protective structure will protect the natural environment from beach erosion and adverse impacts from coastal flooding (Exhibit B).
- Applicants state the design of the proposed beachfront protective structure is consistent with Goal 18, IM 3 and will provide protective measures where natural protective measures have failed including protection (not the destruction) of desirable vegetation.
- Applicants state the proposed beachfront protective structure does not use or affect groundwater as the structure does not reach down to the water table and will not lead to loss of water quality or the intrusion of salt water into water supplies (Exhibit B).
- Foredune breaching is not part of the proposed development (Exhibit B).
- Applicants state that while grading and sand movement will occur for the development of the proposed beachfront protective structure, these construction activities are not for the purposes of maintaining views or preventing sand inundation (Exhibit B).

D. TCLUO Section 9.030: Text Amendment Procedure and Criteria

1. TCLUO Article 9 and Article 10 Notice Procedure:

A text amendment may be requested by any person, subject to the requirements of a Type IV procedure and Article 10. The proponent shall arrange a pre-application conference with the Department, pursuant to Section 10.030. The applicant shall prepare an analysis of the proposed amendment, addressing such issues as the intent of the provisions being amended; the affect on land use patterns in the County; the affect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed text.

Findings: The requirements noted above have been satisfied as demonstrated in the record (Exhibit B). A preapplication meeting took place on July 30, 2019. The request exception to Goal 18, IM 5 for the construction of a beachfront protective structure is not on or adjacent to resource lands and will not affect the productivity of such lands. Applicants state there should be no continuing costs to the County following the cost of reviewing and approving this request, for which the Applicants have paid the appropriate fees. Applicants add that the benefit to the County is generally that the beachfront protective structure will also protect existing urban public facilities (Exhibit B).

Notice of hearing for the proposed Goal Exception was completed in accordance with the provisions outlined in Article 10 of the TCLUO and included notice to DLCDC as well as notification of hearings mailed to property owners and affected agencies on May 11, 2021. Notice of the proposal was also published in the Headlight-Herald. Comments received are included as "Exhibit C".

2. Section 9.030(3): Criteria

Commission review and recommendation, and Board approval, of an ordinance amending the Zoning Map, Development Code or Comprehensive Plan shall be based on all of the following criteria:

- (a) If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;*
- (b) The proposal must be consistent with the Comprehensive Plan. (The Comprehensive Plan may be amended concurrently with proposed changes in zoning);*
- (c) The Board must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or ordinance; and*
- (d) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.*

Findings: The Applicants' submittal includes an analysis of the proposal in relation to the Statewide Planning Goals and relevant Oregon Administrative Rules. Applicants also provide a detailed analysis arguing consistency with the Tillamook County Comprehensive Plan. Applicants state it is in the public interest to protect the subject properties, an area part of the larger urban residential area between Camp Magrueder and Rockaway beach, as well as to protect the water and sewer public facilities that serve the greater community and supporting street system. Applicants add that the proposed beachfront protective structure is in response to natural changes in the community that are contrary to the 70-year trend of shoreline prograding that existed at the time of residential development (Exhibit B).

- (e) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.*

Proposals to amend the Comprehensive Plan, Zoning Map or Ordinance shall be reviewed to determine whether they significantly affect a transportation facility pursuant with Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the County, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the County shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

Findings: Applicants state that the proposed construction of a beachfront protective structure will not generate any additional traffic other than during construction, when traffic will be minimal. Because the proposal will not significantly affect the existing transportation facility in this area, the proposal is consistent with the transportation planning rule (Exhibit B).

IV. REQUIREMENTS FOR ADDITIONAL REVIEW FOR APPROVAL OF A BEACHFRONT PROTECTIVE STRUCTURE

As mentioned previously in this report, the subject properties are located within the Beach and Dune Overlay Zone and the Flood Hazard Overlay Zone (Exhibit A). Should the County choose to approve the Goal 18, IM 5 Exception request, the development standards and criteria of the Beach and Dune Overlay Zone and the Flood Hazard Overlay Zone must also be met.

At the Applicants' request, review of the Development Permit for development within the Flood Hazard Overlay Zone in accordance with TCLUO Section 3.510 and TCLUO Section 3.530 has been consolidated with the Goal Exception request and is identified as Development Permit #851-21-000086-PLNG (Exhibit B). As per Article 10 of the TCLUO, consolidated applications shall be processed according to the highest numbered review type required for any part of the application.

TCLUO Section 3.530: Beach and Dune Overlay Zone outlines development standards that must be met for the placement of a beachfront protective structure. Findings and justification provided by the Applicants is included in "Exhibit B" of this report and further discussed in Section V below.

Development Permit #851-21-000086-PLNG is included in “Exhibit B” and is further discussed in Section VI of this report.

V. **BEACH & DUNE HAZARD REVIEW REQUIREMENTS FOR A BEACHFRONT PROTECTIVE STRUCTURE (STANDARDS MADE PART OF DEVELOPMENT PERMIT REQUEST #851-21-000086-PLNG)**

A. **TCLUO Section 3.530: Beach and Dune Overlay Zone**

PURPOSE: The purpose of the Beach and Dune Overlay Zone is to regulate development and other activities in a manner that conserves, protects and, where appropriate, restores the natural resources, benefits, and values of coastal beach and dune areas, and reduces the hazard to human life and property from natural events or human-induced actions associated with these areas. The Overlay Zone establishes guidelines and criteria for the assessment of hazards resulting from beach and dune processes and development activities in beach and dune areas.

APPLICABILITY: The BD zone applies to dune areas identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan and indicated on the Tillamook County Zoning Map. These areas were identified based on information contained in the inventory of beach and dune landforms of Tillamook County, prepared by the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) and published in their 1975 report, Beaches and Dunes of the Oregon Coast.

Findings: In review of the 1975 Beaches & Dunes of the Oregon Coast map for this area (Exhibit A), the map locates this unincorporated community in an area classified as a younger stabilized dune. Applicants are proposing the construction of a beachfront protective structure for reasons stated previously in this report that the Applicants feel are consistent with the purposes of the Beach and Dune Overlay (BD) zone- a development proposal to protect permitted development that also reestablishes natural shoreline vegetation- development that conserves the foredune and protects and reduces the hazard to human life and property from natural events or human-induced actions associated with these areas (Exhibit B).

B. **TCLUO Section 3.530(4)(A)(2) & (4): Permitted Uses**

2. *Accessory structures for beach access, oceanfront protection or stabilization, on-site sewage disposal systems, or other uses which the Department determines are consistent with the purpose of this zone, subject to the standards of Section 3.530 (5) and the following provisions:*
 - a. *The location of accessory structures will be determined in each case on the basis of site-specific information provided by a Dune Hazard Report, pursuant to the provisions of Section 3.530 (5) B.*
 - b. *Any accessory structure higher than three feet as measured from existing grade will be subject to the variance procedure and criteria set forth in Article VIII of the Tillamook County Land Use Ordinance.*

Findings: Applicants’ submittal (Exhibit B) includes the required information above, including a “Detailed Site Investigation” completed by West Consultants. The location of the beachfront protective structure has been determined on the basis of the analysis provided in Section 3.530(5)(B). The proposed beachfront protective structure is proposed to be no higher than three feet as measured from existing grade (Exhibit B).

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 1978 Oregon State Highway Ocean Shores aerial photographs on file in Tillamook County.*

- b. Beachfront protective structures (riprap and other revetments) shall be allowed only in Developed Beachfront Areas and Foredune Management Areas, where "development" existed as of January 1, 1977, or where beachfront protective structures are authorized by an Exception to Goal 18.
- c. Proposals for beachfront protective structures shall demonstrate that:
 - 1. The development is threatened by ocean erosion or flooding;
 - 2. Non-structural solutions cannot provide adequate protection;
 - 3. The beachfront protective structure is placed as far landward as possible;
 - 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;
- 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.
- 6. Existing public access is preserved; and
- 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).
 - b. The revetment slope is constructed at a slope that is between 1:1 to 2:1.
 - 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.
 - 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.
 - 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: Applicants have requested a committed and/or reasons exception to Goal 18, IM5 for the construction of a beachfront protective structure on the subject properties. Applicants' submittal provides justification as to why the exception should be granted by the County (Exhibit B). If granted, the properties would be able to move forward with construction of the beachfront protective structure, provided the applicable standards of the Beach and Dune Overlay Zone as outlined in TCLUO Section 3.530 are met.

Applicants' submittal includes construction drawings as well as a technical memorandum provided by West Consultants that includes the required detailed site investigation for the construction of a beachfront protective structure (Exhibit B). The location of the proposed beachfront protective structure is landward of the state beach zone line. Applicants claim that due to the location of the structure, review and approval by the Oregon State Parks and Recreational Department and the Oregon Department of State Lands is not required. Absent this requirement, Applicants demonstrate the construction methods proposed are consistent with the construction standards outlined above (Exhibit B).

C. TCLUO Section 3.530(5)(B)(3)(b): Site Development Requirements & Detailed Site Investigation

The purpose of a Detailed Site Investigation is to fully describe the extent and severity of identified hazards. Such investigation shall be required either where recommended in a Preliminary Site Report or when building plans, including grading plans for site preparation, were not available for review as part of the preliminary site investigation. The Detailed Site Report shall be based on site inspections or other available information and shall be prepared by a qualified person, such as a registered civil engineer or engineering geologist.

The report of a Detailed Site Investigation shall recommend development standards to assure that proposed alterations and structures are properly designed so as to avoid or recognize hazards described in the preliminary report or as a result of separate investigations. The report shall include standards for:

- a. Development density and design;
- b. Location and design of roads and driveways;
- c. Special foundation design (for example spread footings with post and piers), if required;
- d. Management of storm water runoff during and after construction.

Summary Findings and Conclusions. The Preliminary and Detailed Site Reports shall include the following summary findings and conclusion:

1. The proposed use and the hazards it might cause to life, property, and the natural environment;
2. The proposed use is reasonably protected from the described hazards for the lifetime of the structure.
3. Measures necessary to protect the surrounding area from any hazards that are a result of the proposed development;
4. Periodic monitoring necessary to ensure recommended development standards are implemented or that are necessary for the long-term success of the development.

Findings: The Technical Memorandum provided by West Consultants made part of the Applicants' submittal includes information in response to the requirements outlined above (Exhibit B).

VI. DEVELOPMENT PERMIT REQUEST #851-21-000086-PLNG (DEVELOPMENT CRITERIA FOR DEVELOPMENT WITHIN THE FLOOD HAZARD OVERLAY ZONE)

A. TCLUO Section 3.510: Flood Hazard Overlay (FH) Zone

PURPOSE: It is the purpose of the FH zone to promote the public health, safety and general welfare and to minimize public and private losses or damages due to flood conditions in specific areas of unincorporated Tillamook County by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;
- (f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (i) Maintain the functions and values associated with Special Flood Hazard Areas which reduce the risk of flooding.

Findings: Applicants are proposing to construction a beachfront protective structure on a series of properties located in the Barview/Twin Rocks/Watseco Unincorporated Community as shown in Exhibits A & B. FEMA Flood Insurance Rate Map (FIRM) #41057C0379F dated September 28, 2018 identifies the subject area and confirms the location of the Area of Special Flood Hazard (SFHA) boundary in relation to the improvements on the subject properties (Exhibit A). While the residential improvements of the subject properties are located outside of the SFHA and are within 'Zone X', the proposed beachfront protective structure will be constructed within the Velocity (VE) zone, also known as a Coastal High Hazard Area.

Staff finds that Development Permit review for compliance with the relevant development standards and criteria outlined in the Flood Hazard Overlay (FH) zone is required for the construction of a beachfront protective structure within a Coastal High Hazard Area.

B. TCLUO Section 3.510(5): General Standards

ANCHORING

- (b) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.*
- (c) All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (See FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for techniques). A certificate signed by a registered architect or engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval.*

CONSTRUCTION MATERIALS AND METHODS

- (d) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
- (e) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.*
- (f) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated to prevent water from entering or accumulating within the components during conditions of flooding. In Flood Zones A, A1-A30, AE, V, V1-V30 or VE, such facilities shall be elevated three feet above base flood elevation. In Flood Zone AO, such facilities shall be elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet above the highest adjacent grade if no depth number is specified).*

UTILITIES

- (g) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.*
- (h) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.*
- (i) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding, consistent with Oregon Department of Environmental Quality (DEQ) standards.*

Findings: Applicants' submittal and construction details provided by West Consultants demonstrate the beachfront protective structure has been designed so that the structure will be anchored to the ground and will be engineered to prevent flotation, collapse or lateral movement (Exhibit B). The structure has been engineered to resist flood damage through the use of large bounders or large, linear mesh bags filled with sand. Applicants state each of these are designed to withstand the pounding of waves and ocean flooding. Applicants reiterate that the beachfront protective structure will be overlain with sand, and will be planted with beach grasses and native vegetation resulting in anchoring of the structure into the shoreline (Exhibit B).

Applicants add that the calculations performed by West Consultants confirm the beachfront protective structure as constructed will be tall enough to account for the 10% chance that the "total water level" at the subject location will be 23.4 feet and that the height of the beachfront protective structure is set at 3-feet above ground elevation, which is also compliant with the maximum 3-foot height allowance for accessory beachfront protective structures as outlined in TCLUO Section 3.530: Beach and Dune Overlay Zone (Exhibit B).

The beachfront protective structure will not include any utilities, electrical, heating, ventilation equipment or any other service facilities (Exhibit B).

C. TCLUO Section 3.510(10): Specific Standards for Coastal High Hazard Areas

(10) SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD AREAS (V, VE or V1-V30 ZONES): Located within areas of special flood hazard established in Section 3.510(2) are Coastal High Hazard Areas. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this Section the following provisions shall apply to residential, non-residential, manufactured dwellings and other development in Coastal High Hazard Areas:

- (a) All new construction and substantial improvements in Zones V1-V30, VE and V shall be elevated on pilings and columns so that:
 - (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above one foot above the base flood level: and*
 - (2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).**
- (b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (a)(1) and (a)(2) above. A certificate shall be submitted, signed by the registered professional engineer or architect that the requirements of this Section will be met.*
- (c) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V and whether or not such structures contain a basement. The Community Development Director shall maintain a record of all such information.*
- (d) All new construction shall be located landward of the reach of mean high tide.*
- (e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this Section a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and*
 - (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).**
- (f) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.*
- (g) Prohibit the use of fill for structural support of buildings.*
- (h) Prohibit man-made alteration of sand dunes, including vegetation removal, which would increase potential flood damage.*

Findings: Applicants' submittal includes a technical memorandum and construction drawings provided by West Consultants (Exhibit B). The technical memorandum provides an analysis of flood risk and has determined that the construction of the proposed beachfront protective structure will not increase potential flood damage to the subject properties and surrounding area (Exhibit B). Applicants state that the outcome of this project will result in a stronger foredune that will continue to be maintained by the property owners through a long-term stabilization and maintenance plan (Exhibit B).

(13) DEVELOPMENT PERMIT PROCEDURES: A development permit shall be obtained before construction or development begins within any area of special flood hazard zone. The permit shall be for all structures including manufactured dwellings, and for all development including fill and other development activities, as set forth in the Definitions contained in this Section of the Land Use Ordinance.

(a) Application for a development permit shall be made on forms furnished by the Community Development Director and shall include but not necessarily be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information in 3.510(13)(a)(1)–(4) is required and Development Permits required under this Section are subject to the Review Criteria put forth in Section 3.510(13)(b):

- (1) Elevation in relation to a specific datum of the lowest floor, including basement, of all structures as documented on an Elevation Certificate;*
- (2) Elevation in relation to a specific datum to which any proposed structure will be floodproofed as documented on an Elevation Certificate;*
- (3) If applicable, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Subsection (6)(c)(3) of this Section; and*
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.*

Findings: The Applicants are proposing to construct a beachfront protective structure within the Velocity (VE) zone, also known as a Coastal High Hazard Area (Exhibit B). The proposal is not for a residential structure. Applicants have included responses to the applicable standards outlined above (Exhibit B).

(b) Development Permit Review Criteria

- (1) The fill is not within a floodway, Coastal High Hazard Area, wetland, riparian area or other sensitive area regulated by the Tillamook County Land Use Ordinance.*
- (2) The fill is necessary for an approved use on the property.*
- (3) The fill is the minimum amount necessary to achieve the approved use.*
- (4) No feasible alternative upland locations exist on the property.*
- (5) The fill does not impede or alter drainage or the flow of floodwaters.*

Findings: Applicants responses to the criteria outlined above are included in “Exhibit B”. Applicants provide the following justification to support approval of the requested Development Permit for the construction of a beachfront protective structure in the Velocity (VE) zone, a Coastal High Hazard Area:

- Applicants provide the definition of fill, and argue that the proposed structure the development, and is not filling land for the purposes of development, therefore the standard prohibiting fill in this are does not apply. Applicant adds that all excavated sand will be placed back over the proposed beachfront protective structure so there will be no loss or addition of sand from the foredune area (Exhibit B).
- The subject area is not within a floodway (Exhibits A & B).
- No fill is involved in the construction of the structure and the residential uses are an approved use on the properties. The proposed beachfront protective structure is an accessory and necessary use (Exhibit B).
- While no fill is involved in the construction of the beachfront protective structure, the elevation is 23.8 feet, 3-feet above the shore elevation and is the minimum amount necessary to achieve necessary protection for the existing structures and public infrastructure on the subject properties (Exhibit B).
- Applicants state no feasible upland locations exist on the subject properties as the structure is proposed to be placed at the most landward point possible given the locations of existing improvements the structure has been designed to protect (Exhibit B).
- The proposed beachfront protective structure is not a critical facility (Exhibit B).
- The proposed beachfront protective structure is not a new or modified Flood Refuge Platform (Exhibit B).

VII. ADDITIONAL STAFF COMMENTS:

The role of the County is to determine if there is adequate evidence provided by the Applicants to demonstrate the criteria for an Exception to Goal 18, Implementation Measure 5 have been met. Should the County determine the criteria for the Goal 18, IM 5 Exception have been met and grant the Exception request, the County would then also have to determine if the standards and criteria of the Beach and Dune Overlay Zone and the Flood Hazard Overlay Zone captured in Development Permit Request #851-21-000086-PLNG have also been met.

The Planning Commission will hear these matters first and ultimately make a recommendation to the Board of County Commissioners to Approve or Deny the Goal Exception and Development Permit requests, respectively.

Recommended Conditions of Approval for Development Permit request #851-21-000086-PLNG are not proposed at this time but can be provided should the Planning Commission choose to recommend approval of these requests to the Board of County Commissioners.

Limited public and agency testimony has been received to date, and what has been received is included in "Exhibit C" of this report. Comments from the Oregon Department of Land Conservation and Development (DLCD) are included and raise various issues in response to the Goal 18, IM 5 Exception request. DLCD has determined that development did not exist on the properties for the reasons stated in their letter dated May 19, 2021, that a "reasons" exception is necessary to authorize construction of a beachfront protective structure on the subject properties and argues that the Applicants' submittal does not adequately demonstrate the need for an exception (Exhibit C).

VIII. EXHIBITS:

All Exhibits referred to herein are, by this reference, made a part hereof:

- A. Location map, Assessor map, Zoning map, Aerial Photograph, Assessor's Summary Report, DOGAMI Hazard Map, FEMA FIRM
- B. Applicant's submittal
- C. Agency & Public Comments
- D. Additional Information

EXHIBIT A

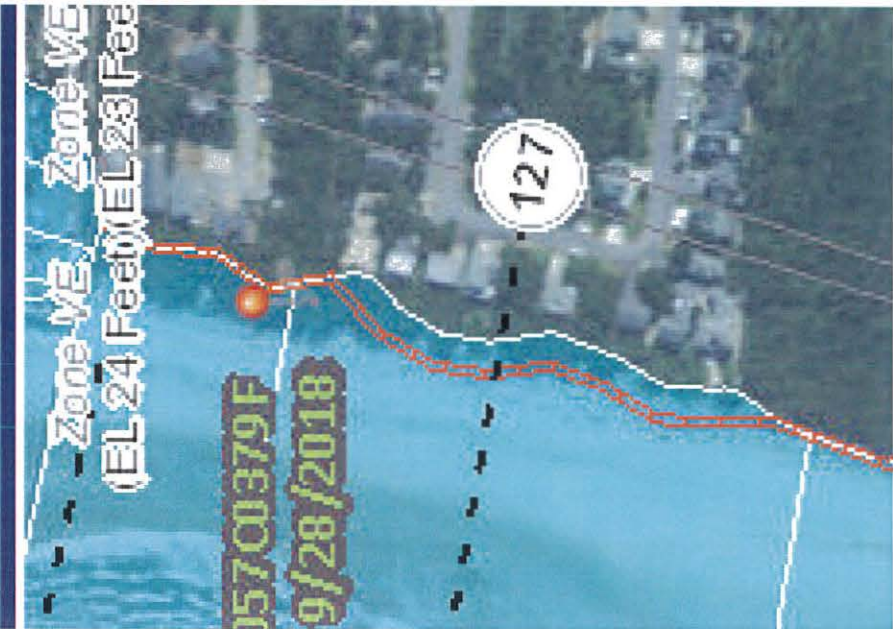
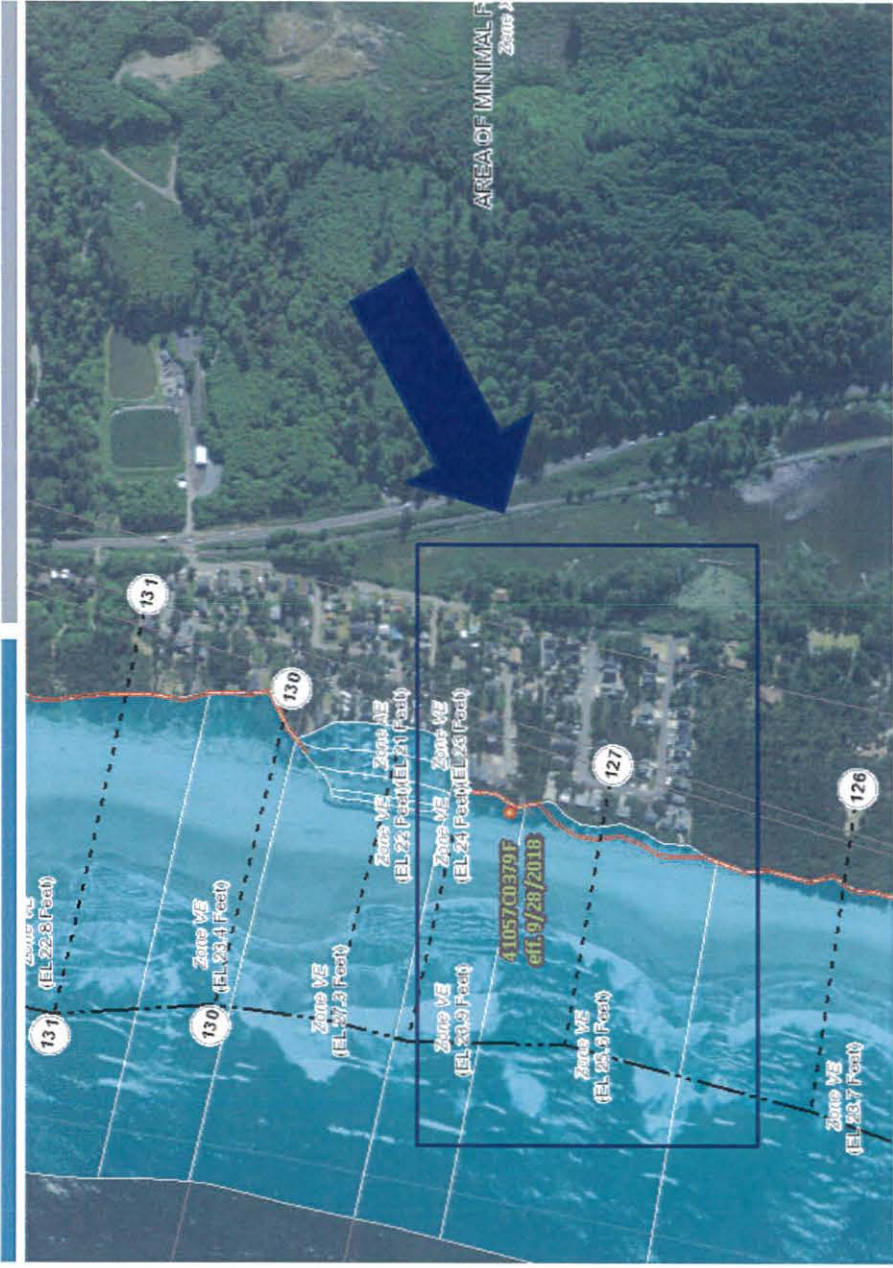


SUBJECT
AREA

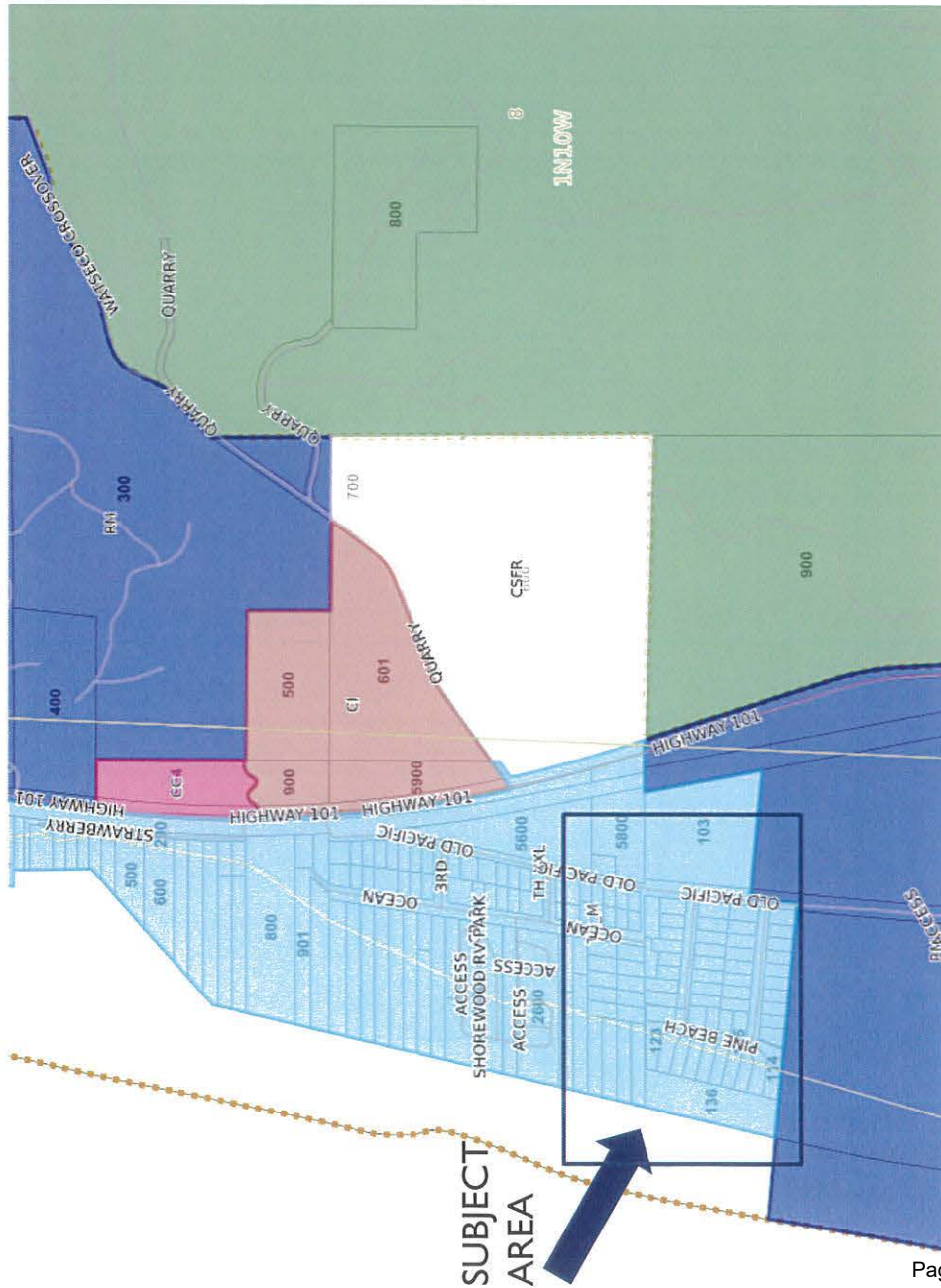
Barview

VICINITY MAP & SUBJECT AREA





ZONING MAP



Shoreline Armoring and Eligibility

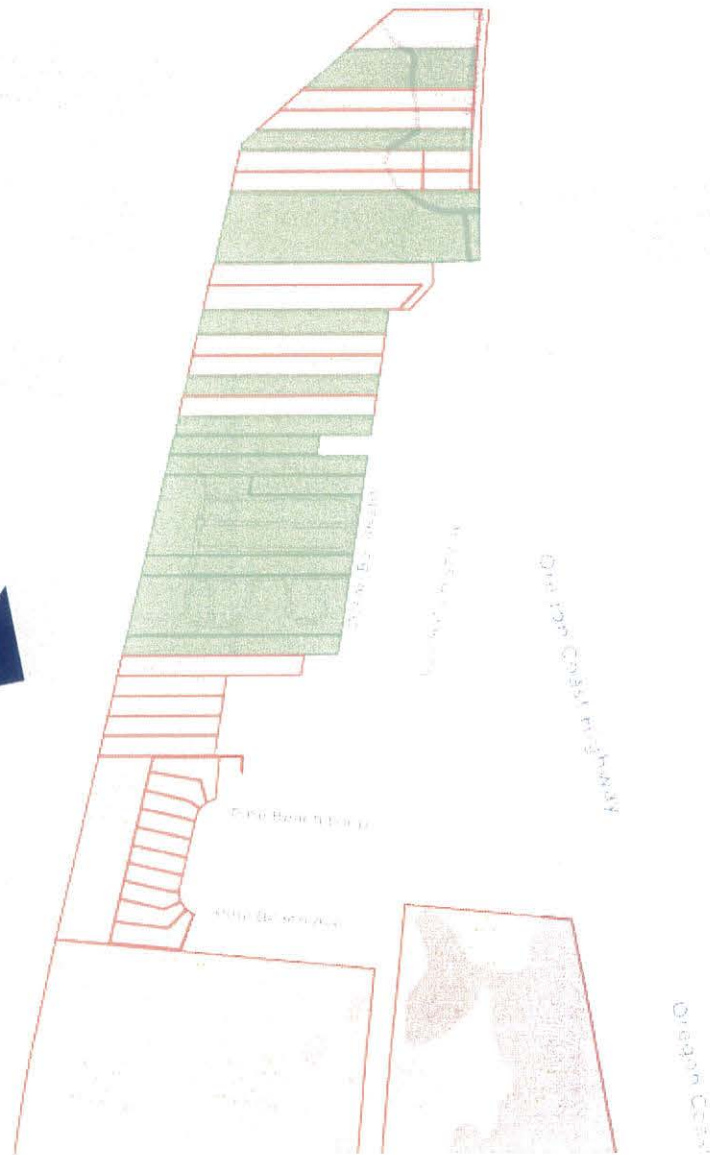
□ Beachfront Protective Structures, OPRD, 2011

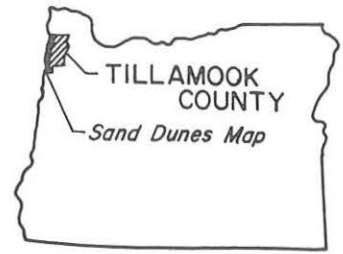
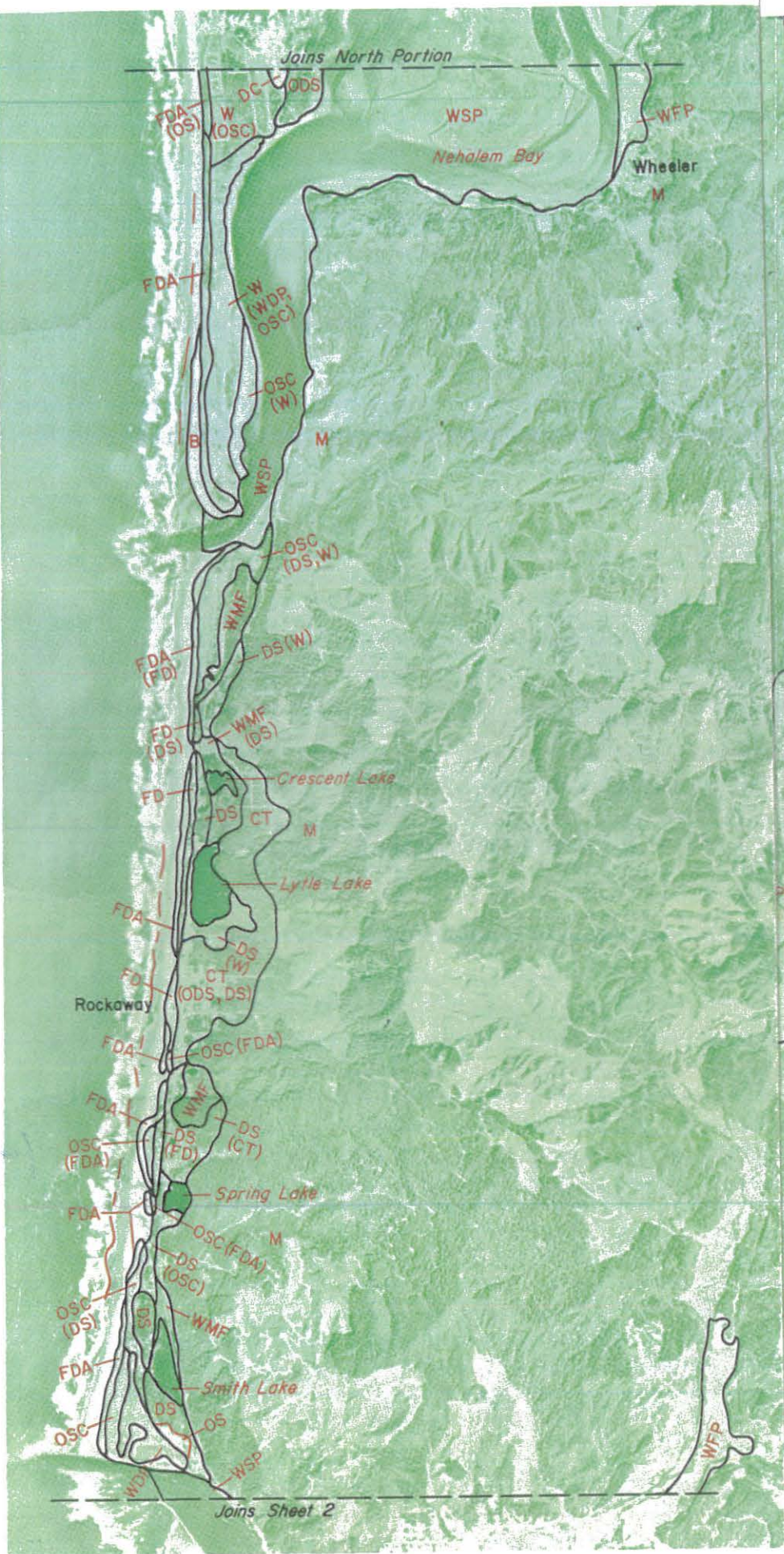
✓ Goal 18 Eligibility Inventory, OCMP, 2015

- Eligible for Protection
- Eligible due to Exception
- Not Eligible for Protection
- Rockaway Beach Only - See City Planner.
(Western extent of Goal 18 Exception is the ocean setback line.)

[HTTPS://WWW.COASTALATLAS.NET/OCEANSHORES/](https://www.coastalatlascity.com/ocmp/goal18/)

■ Coastal Atlas,
Goal 18 Eligibility
Inventory, OCMP,
2015









LOCATION MAP

DUNE LEGEND

- AID Active inland dune
- B Beach
- CT Coastal terrace
- DC Dune complex of OS, OSC,
- DS Younger stabilized dunes
- FD Recently stabilized foredune:
- FDA Active foredune
- H Active dune hummocks
- M Mountain scarp
- ODS Older stabilized dunes
- OS Open dune sand
- (OS) Designates items of secondary
- OSC Open dune sand conditionall
- W Wet interdune
- WDF Wet deflation plain
- WFP Wet flood plain
- WMF Wet mountain front
- WSP Wet surge plain

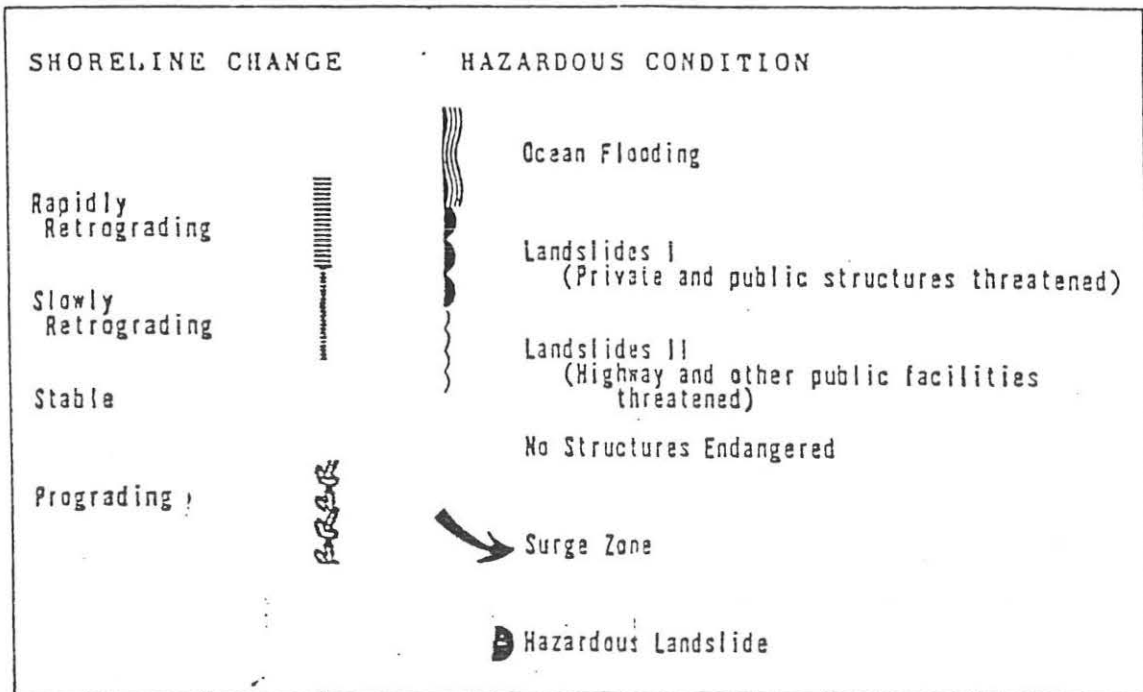
GENERAL LEGEND

-  Dune or interdune boundary
-  Dune movement threatening c
stable dune being wind erode
-  Ocean or river undercutting
-  Lakes or ponds

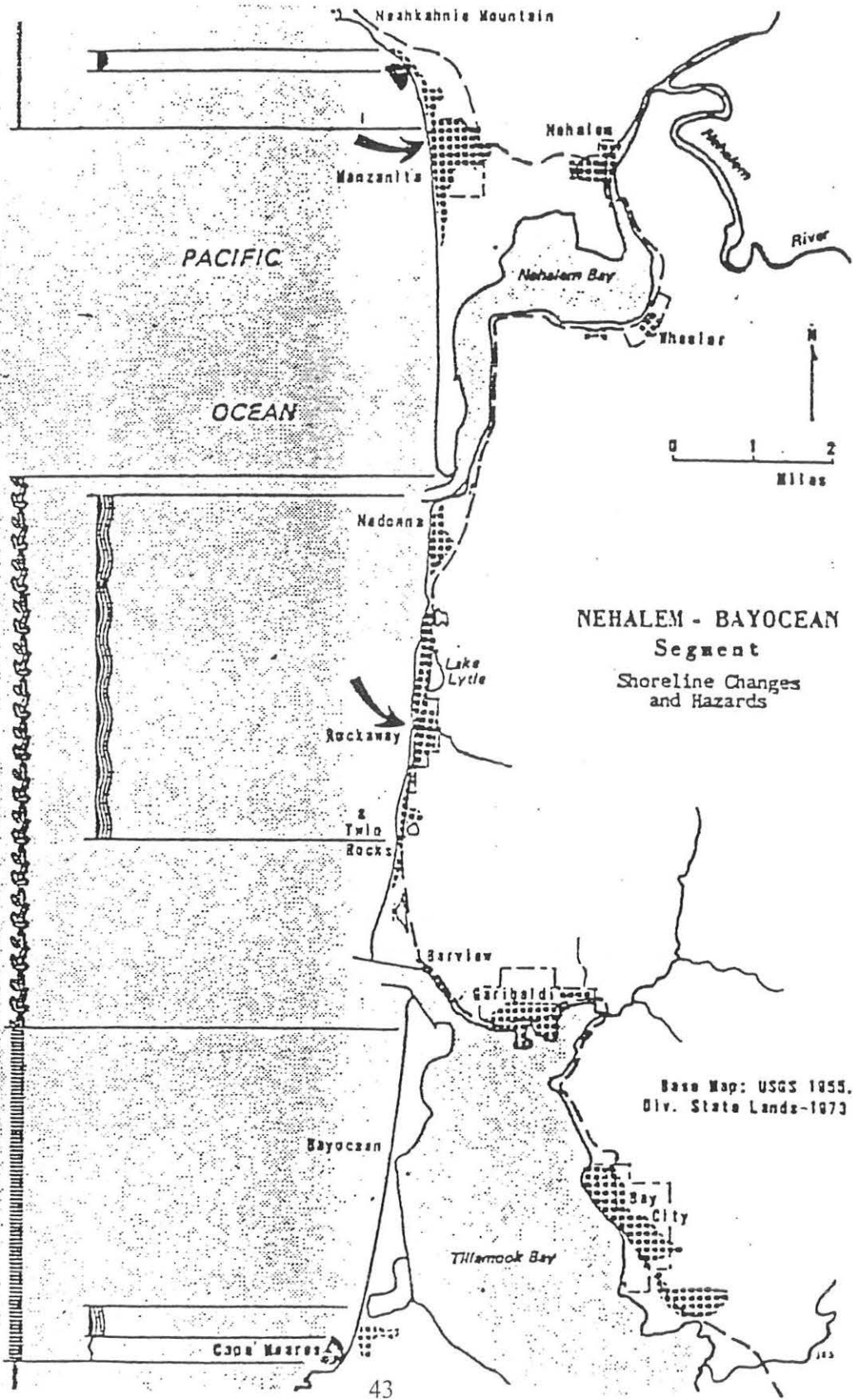
SAND DUNES MAP
TILLAMOOK COUNTY, OREGON

U.S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE
JUNE 1974





MAP 8



TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:35:32 pm

Account # 399441
 Map # 1N1007DD00114
 Code - Tax # 5624-399441

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr PINE BEACH REPLAT UNIT 1
 Lot - 11

Mailing Name COGDALL, JOHN WILLIAM IV & LYNDIA
 Agent
 In Care Of
 Mailing Address 39455 NW MURTAUGH RD
 NORTH PLAINS, OR 97133

Deed Reference # (SOURCE ID: 443-236)
 Sales Date/Price 01-13-2003 / \$0
 Appraiser RANDY WILSON

Prop Class 101 MA SA NH Unit
 RMV Class 101 05 OF 536 1461-1

Situs Address(s)	Situs City
ID# 1 17300 PINE BEACH WAY	COUNTY

Code Area		RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624	Land	336,830			Land	0
	Impr.	1,238,690			Impr.	0
Code Area Total		1,575,520	960,090	960,090		0
Grand Total		1,575,520	960,090	960,090		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Land Class	Trended RMV
						TD%	LS	Size		
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.36		320,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.36		336,830

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Total Sq. Ft.	Ex% MS Acct #	Trended RMV
					TD%					
5624	1	2004	162	One story with basement			112	4,614		1,238,690
Grand Total								4,614		1,238,690

Code Area	Type	Exemptions/Special Assessments/Potential Liability			
5624		SPECIAL ASSESSMENT:			
	■ SOLID WASTE	Amount	12.00	Acres	0 Year 2020

Comments: 3/4/05 house is complete. added osd. gb 2/13 Reappraised and tabled land. RCW

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:35:09 pm

Account # 399444	Tax Status ASSESSABLE
Map # 1N1007DD00115	Acct Status ACTIVE
Code - Tax # 5624-399444	Subtype NORMAL

Legal Descr PINE BEACH REPLAT UNIT 1
Lot - 12

Mailing Name ROGERS, MICHAEL TRUSTEE &

Deed Reference # 2020-8962

Agent

Sales Date/Price 12-07-2020 / \$0.00

In Care Of ROGERS, CHRISTINE TRUSTEE

Appraiser RANDY WILSON

Mailing Address 17231 NW DAIRY CREED RD
NORTH PLAINS, OR 97133

Prop Class 101	MA	SA	NH	Unit
RMV Class 101	05	OF	536	16663-1

Situs Address(s)	Situs City
ID# 1 17320 PINE BEACH WAY	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624 Land	336,830			Land	0
Impr.	321,130			Impr.	0
Code Area Total	657,960	542,760	542,760		0
Grand Total	657,960	542,760	542,760		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown TD% LS		Size	Land Class	Trended RMV
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.27		320,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.27		336,830

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown		Total	Ex% MS Acct #	Trended RMV
					TD%	Sq. Ft.			
5624	1	1997	145	Two story or more	112	2,198			321,130
Grand Total							2,198		321,130

Code Area	Type	Exemptions/Special Assessments/Potential Liability								
5624		SPECIAL ASSESSMENT:								
		<input checked="" type="checkbox"/>	SOLID WASTE	Amount	12.00	Acres	0	Year	2020	

Comments: Inventory update 8/16/04 vy 2/13 Reappraised and tabled land. RCW

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:34:46 pm

Account # 399447	Tax Status ASSESSABLE
Map # 1N1007DD00116	Acct Status ACTIVE
Code - Tax # 5624-399447	Subtype NORMAL

Legal Descr PINE BEACH REPLAT UNIT 1
Lot - 13

Mailing Name FARR, DAVID L & FRIEDA F

Deed Reference # (SOURCE ID: 394-82)

Agent

Sales Date/Price 02-24-1998 / \$0.00

In Care Of

Appraiser GARY BARGER

Mailing Address 17340 PINE BEACH WAY
ROCKAWAY BEACH, OR 97136

Prop Class 101	MA	SA	NH	Unit
RMV Class 101	05	OF	536	16664-1

Situs Address(s)	Situs City
ID# 1 17340 PINE BEACH WAY	COUNTY

		Value Summary				
Code Area	RMV	MAV	AV	RMV Exception	CPR %	
5624	Land	334,830		Land	0	
	Impr.	499,240		Impr.	0	
Code Area Total		834,070	610,790		0	
Grand Total		834,070	610,790		0	

		Land Breakdown								
Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.21		318,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.21		334,830

		Improvement Breakdown								
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex%	MS Acct #	Trended RMV	
5624	1	1998	155	Two story or more		112		2,584	499,240	
Grand Total								2,584	499,240	

Exemptions/Special Assessments/Potential Liability									
Code Area	Type								
5624		EXEMPTION:							
		■ VETERANS AND SPOUSES 307.250 SERVICE RELATED	Amount	27,228	Letter Year	2014	Year Qualified	1946	
		SPECIAL ASSESSMENT:							
		■ SOLID WASTE	Amount	12.00	Acres	0	Year	2020	

Comments: Inventory update 8/16/04 vy 2/13 Reappraised and tabled land. RCW 7/11/14 Reappraisal. Updated inventory. GB

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:34:21 pm

Account # 399450
 Map # 1N1007DD00117
 Code - Tax # 5624-399450

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr PINE BEACH REPLAT UNIT 1
 Lot - 14

Mailing Name CREEDON, JONATHAN C
 Agent
 In Care Of
 Mailing Address 7501 SE 17TH ST
 VANCOUVER, WA 98664

Deed Reference # (SOURCE ID: 381-544)
 Sales Date/Price 09-26-1996 / \$160,000.00
 Appraiser RANDY WILSON

Prop Class 100 MA SA NH Unit
 RMV Class 100 05 OF 536 1462-1

Situs Address(s) Situs City

Code Area		RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624	Land	316,730			Land	0
	Impr.	0			Impr.	0
Code Area Total		316,730	249,690	249,690		0
Grand Total		316,730	249,690	249,690		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV
						TD%	LS	Size	
5624	0	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.21	316,730
Grand Total								0.21	316,730

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Trended RMV
					TD%	Total Sq. Ft.	Ex% MS Acct #	
Grand Total						0		0

Comments: 2/13 Reappraised and tabled land. RCW

TILLAMOOK County Assessor's Summary Report
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2020

May 20, 2021 3:33:55 pm

Account # 399453	Tax Status ASSESSABLE
Map # 1N1007DD00118	Acct Status ACTIVE
Code - Tax # 5624-399453	Subtype NORMAL
Legal Descr PINE BEACH REPLAT UNIT 1 Lot - 15	
Mailing Name ROBERTS, DONALD W 1/2 TRUSTEE &	Deed Reference # 2006-3512
Agent	Sales Date/Price 04-25-2006 / \$0
In Care Of ROBERTS, BARBARA A TRUSTEE &	Appraiser RANDY WILSON
Mailing Address 503 RHODODENDRON DR VANCOUVER, WA 98661	
Prop Class 101 MA SA NH Unit	
RMV Class 101 05 OF 536 16665-1	

Situs Address(s)	Situs City
ID# 1 17380 PINE BEACH WAY	COUNTY

		Value Summary				
Code Area	RMV	MAV	AV	RMV Exception	CPR %	
5624	Land	334,830		Land	0	
	Impr.	375,470		Impr.	0	
Code Area Total		710,300	595,390		0	
Grand Total		710,300	595,390		0	

		Land Breakdown								
Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.21		318,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.21		334,830

						Improvement Breakdown				
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV		
5624	1	1997	145	Two story or more	112	2,474		375,470		
Grand Total						2,474		375,470		

		Exemptions/Special Assessments/Potential Liability					
Code Area	Type					Amount	Year
5624	SPECIAL ASSESSMENT:						
	■ SOLID WASTE				12.00	Acres	0 Year 2020

Comments: Inventory update 8/17/04 vy 2/13 Reappraised and tabled land. RCW

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:33:29 pm

Account # 399456 Map # 1N1007DD00119 Code - Tax # 5624-399456 Legal Descr PINE BEACH REPLAT UNIT 1 Lot - 16 Mailing Name MUNCH, MICHAEL T TRUSTEE Agent In Care Of Mailing Address 5012 DOGWOOD DR LAKE OSWEGO, OR 97035 Prop Class 100 MA SA NH Unit RMV Class 100 05 OF 536 1463-1	Tax Status ASSESSABLE Acct Status ACTIVE Subtype NORMAL Deed Reference # 2011-6168 Sales Date/Price 11-15-2011 / \$190,000.00 Appraiser RANDY WILSON
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Situs Address(s)	Situs City
-------------------------	-------------------

		Value Summary				
Code Area	RMV	MAV	AV	RMV Exception	CPR %	
5624	Land	316,730			Land	0
	Impr.	0			Impr.	0
Code Area Total		316,730	249,690	249,690		0
Grand Total		316,730	249,690	249,690		0

		Land Breakdown								
Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
5624	0	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.21		316,730
Grand Total								0.21		316,730

		Improvement Breakdown								
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex%	MS Acct #	Trended RMV	
Grand Total										0

Comments: 2/13 Reappraised and tabled land. RCW

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:33:04 pm

Account # 399459	Tax Status ASSESSABLE
Map # 1N1007DD00120	Acct Status ACTIVE
Code - Tax # 5624-399459	Subtype NORMAL

Legal Descr PINE BEACH REPLAT UNIT 1
Lot - 17

Mailing Name 17420 PINE BEACH WAY LLC

Deed Reference # 2005-403

Agent
In Care Of %MICHAEL T MUNCH

Sales Date/Price 12-21-2004 / \$0

Mailing Address 5012 DOGWOOD DR
LAKE OSWEGO, OR 97035

Appraiser RANDY WILSON

Prop Class 101	MA	SA	NH	Unit
RMV Class 101	05	OF	536	16666-1

Situs Address(s)	Situs City
ID# 1 17420 PINE BEACH WAY	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624 Land	334,830			Land	0
Impr.	370,290			Impr.	0
Code Area Total	705,120	561,360	561,360		0
Grand Total	705,120	561,360	561,360		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.21		318,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total										334,830

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV
5624	1	1997	149	Basement First Floor	112	2,421		370,290
Grand Total							2,421	370,290

Code Area	Type	Exemptions/Special Assessments/Potential Liability			
5624		SPECIAL ASSESSMENT:			
	■ SOLID WASTE	Amount	12.00	Acres	0 Year 2020

Comments: Inventory update 8/17/04 vy 2/13 Reappraised and tabled land. RCW

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:32:40 pm

Account # 399462	Tax Status ASSESSABLE
Map # 1N1007DD00121	Acct Status ACTIVE
Code - Tax # 5624-399462	Subtype NORMAL
Legal Descr PINE BEACH REPLAT UNIT 1 Lot - 18	
Mailing Name KLEIN, JEFFREY S & TERRY	Deed Reference # 2018-6375
Agent	Sales Date/Price 10-24-2018 / \$679,000.00
In Care Of	Appraiser RANDY WILSON
Mailing Address 12230 SW RIVERVIEW LN WILSONVILLE, OR 97070	
Prop Class 101 MA SA NH Unit	
RMV Class 101 05 OF 536 16667-1	

Situs Address(s)	Situs City
ID# 1 17440 PINE BEACH WAY	COUNTY

		Value Summary				
Code Area		RMV	MAV	AV	RMV Exception	CPR %
5624	Land	334,830			Land	0
	Impr.	345,810			Impr.	0
Code Area Total		680,640	582,980	582,980		0
Grand Total		680,640	582,980	582,980		0

		Land Breakdown								
Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.20		318,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.20		334,830

						Improvement Breakdown				
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV		
5624	1	1999	147	Split level	112	2,214		345,810		
Grand Total						2,214		345,810		

		Exemptions/Special Assessments/Potential Liability				
Code Area	Type					
5624	SPECIAL ASSESSMENT:					
	■ SOLID WASTE	Amount	12.00	Acres	0 Year 2020	

Comments: Inventory update 8/17/04 vy 2/13 Reappraised and tabled land. RCW

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:32:12 pm

Account # 399465 Map # 1N1007DD00122 Code - Tax # 5624-399465 Legal Descr PINE BEACH REPLAT UNIT 1 Lot - 19 Mailing Name HOLLAND, GLENNA M TRUSTEE & Agent In Care Of HOLLAND, RACHAEL M TRUSTEE Mailing Address 3136 NE 45TH AVE PORTLAND, OR 97213 Prop Class 101 MA SA NH Unit RMV Class 101 05 OF 536 16668-1	Tax Status ASSESSABLE Acct Status ACTIVE Subtype NORMAL Deed Reference # 2019-4673 Sales Date/Price 08-08-2019 / \$775,000.00 Appraiser EVA FLETCHER
--	---

Situs Address(s)	Situs City
ID# 1 17460 PINE BEACH WAY	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624	Land	336,830		Land	0
	Impr.	362,100		Impr.	0
Code Area Total		698,930	554,120		0
Grand Total		698,930	554,120		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV
						TD%	LS	Size	
5624					LANDSCAPE - FAIR	100			500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.24	320,730
5624					OSD TYPE A - AVERAGE	100			15,600
Grand Total								0.24	336,830

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Trended RMV
					TD%	Total Sq. Ft.	Ex% MS Acct #	
5624	1	1997	147	Split level		112	2,296	362,100
Grand Total							2,296	362,100

Code Area	Type	Exemptions/Special Assessments/Potential Liability			
5624		SPECIAL ASSESSMENT:			
	■ SOLID WASTE	Amount	12.00	Acres	0 Year 2020

Comments: Inventory update 8/17/04 vy 2/13 Reappraised and tabled land/Size chge. RCW 07/23/15 Added porch conversion to living, new porch, gas fireplace, and new decks - applied exception. Added concrete and asphalt and increased eff year for new siding and windows - RMV only.ef

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:31:48 pm

Account # 399468	Tax Status ASSESSABLE
Map # 1N1007DD00123	Acct Status ACTIVE
Code - Tax # 5624-399468	Subtype NORMAL

Legal Descr PINE BEACH REPLAT UNIT 1
Lot - 20

Mailing Name ELLIS, MICHAEL LEON TRUSTEE

Deed Reference # 2017-5655

Agent

Sales Date/Price 09-18-2017 / \$0.00

In Care Of

Appraiser EVA FLETCHER

Mailing Address 2614 Q ST
VANCOUVER, WA 98663

Prop Class 101	MA	SA	NH	Unit
RMV Class 101	05	OF	536	1464-1

Situs Address(s)	Situs City
ID# 17480 PINE BEACH WAY	COUNTY

Value Summary					
Code Area	RMV	MAV	AV	RMV Exception	CPR %
5624 Land	336,330			Land	0
Impr.	802,560			Impr.	0
Code Area Total	1,138,890	814,310	814,310		0
Grand Total	1,138,890	814,310	814,310		0

Land Breakdown										
Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
5624	0	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.33		320,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.33		336,330

Improvement Breakdown										
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV		
5624	1	2016	157	Split level	112	3,637		802,560		
Grand Total								802,560		

Exemptions/Special Assessments/Potential Liability										
Code Area	Type	Amount	Acres	Year						
5624	SPECIAL ASSESSMENT:									
	■ SOLID WASTE	12.00	0	2020						

Comments: 2/13 Reappraised and tabled land. RCW 04/11/17 Added new SFD at 63% complete and added new detached garage. Removed development adjustment. Added OSD and SW. ef 05/22/18 Home is now complete.ef

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:31:21 pm

Account # 62425
 Map # 1N1007DA03000
 Code - Tax # 5624-62425

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr See Record

Mailing Name DOWLING, DAVID A & ANGELA M

Deed Reference # 2020-6069

Agent

Sales Date/Price 09-03-2020 / \$695,000.00

In Care Of

Appraiser EVA FLETCHER

Mailing Address 20401 SOUTH END RD
 OREGON CITY, OR 97045

Prop Class 101 MA SA NH Unit
 RMV Class 101 05 OF 536 27131-1

Situs Address(s)	Situs City
ID# 17560 OCEAN BLVD	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624 Land	338,830			Land	0
Impr.	351,300			Impr.	0
Code Area Total	690,130	619,010	619,010		0
Grand Total	690,130	619,010	619,010		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown		Size	Land Class	Trended RMV
						TD%	LS			
5624					LANDSCAPE - FAIR	100				500
5624	0	<input checked="" type="checkbox"/>		CR-2	Market	97	A	0.67		322,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.67		338,830

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown		Total Sq. Ft.	Ex% MS Acct #	Trended RMV
					TD%				
5624	1	1989	145	Two story or more		112	2,816		351,300
Grand Total							2,816		351,300

Code Area	Type	Exemptions/Special Assessments/Potential Liability			
5624		SPECIAL ASSESSMENT:			
	■ SOLID WASTE	Amount	12.00	Acres	0 Year 2020

Comments: 02/07/13 Reappraised land. Tabled values. RBB 08/29/17 Corrected mapping error that occurred during conversion to GIS. Size change only.ef

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:30:06 pm

Account # 322822
 Map # 1N1007DA03204
 Code - Tax # 5624-322822

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr See Record

Mailing Name VON SEGGERN, HEATHER STECK

Deed Reference # 2020-39

Agent

Sales Date/Price 01-02-2020 / \$175,000.00

In Care Of

Appraiser ROBERT BUCKINGHAM

Mailing Address 337 SOMERSET AVE
 SARASOTA, FL 34243

Prop Class 100 MA SA NH Unit
 RMV Class 100 05 OF 536 4366-1

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

Code Area		RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624	Land	312,720			Land	0
	Impr.	0			Impr.	0
Code Area Total		312,720	283,800	283,800		0
Grand Total		312,720	283,800	283,800		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV
						TD%	LS	Size	
5624	0	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.12	312,720
Grand Total								0.12	312,720

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Total Sq. Ft.	Ex% MS Acct #	Trended RMV
					TD%					
Grand Total									0	

Comments: 02/07/13 Reappraised land. Tabled values. RBB

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:29:41 pm

Account # 62719
 Map # 1N1007DA03203
 Code - Tax # 5624-62719

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr See Record

Mailing Name BERG, MEGAN

Deed Reference # 2020-29

Agent

Sales Date/Price 01-02-2020 / \$180,000.00

In Care Of

Appraiser ROBERT BUCKINGHAM

Mailing Address 1734 W YAMPA ST
 COLORADO SPRINGS, CO 80904

Prop Class 100 MA SA NH Unit
 RMV Class 100 05 OF 536 13540-1

Situs Address(s) Situs City

Code Area		RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624	Land	312,720			Land	0
	Impr.	0			Impr.	0
Code Area Total		312,720	283,800	283,800		0
Grand Total		312,720	283,800	283,800		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV
						TD%	LS	Size	
5624	0	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.15	312,720
Grand Total								0.15	312,720

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Trended RMV
					TD%	Total Sq. Ft.	Ex% MS Acct #	
Grand Total						0		0

Comments: 02/07/13 Reappraised land. Tabled values. RBB

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:29:13 pm

Account # 355715 Map # 1N1007DA03104 Code - Tax # 5624-355715 Legal Descr See Record Mailing Name LOCKWOOD, MARY ANN CO-TRUSTEE & Agent In Care Of KEMBALL, T. MARK CO-TRUSTEE Mailing Address 2355 SW SCENIC DR PORTLAND, OR 97225 Prop Class 101 MA SA NH Unit RMV Class 101 05 OF 536 17770-1	Tax Status ASSESSABLE Acct Status ACTIVE Subtype NORMAL Deed Reference # 2019-6887 Sales Date/Price 07-03-2019 / \$0.00 Appraiser ROBERT BUCKINGHAM
---	--

Situs Address(s)	Situs City
ID# 1 17488 OCEAN BLVD	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
5624	Land	334,830		Land	0
	Impr.	301,390		Impr.	0
Code Area Total		636,220	562,670		0
Grand Total		636,220	562,670		0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown		Size	Land Class	Trended RMV
						TD%	LS			
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.17		318,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.17		334,830

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown		Total Sq. Ft.	Ex% MS Acct #	Trended RMV
					TD%				
5624	1	1997	143	One and 1/2 story			1,940		301,390
Grand Total							1,940		301,390

Code Area	Type	Exemptions/Special Assessments/Potential Liability								
5624		SPECIAL ASSESSMENT:								
		■ SOLID WASTE	Amount	12.00	Acres	0	Year	2020		

Comments: 02/07/13 Reappraised land. Tabled values. RBB

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2020

May 20, 2021 3:28:24 pm

Account # 62611
 Map # 1N1007DA03100
 Code - Tax # 5624-62611

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr See Record

Mailing Name DANNO, EVAN F TRUSTEE

Deed Reference # 2020-5674

Agent

Sales Date/Price 08-25-2020 / \$626,000.00

In Care Of

Appraiser ROBERT BUCKINGHAM

Mailing Address 144 HIGHLAND RIDGE RD
 KALISPELL, MT 59901

Prop Class 101 MA SA NH Unit
 RMV Class 101 05 OF 536 27142-1

Situs Address(s)	Situs City
ID# 1 17490 OCEAN BLVD	COUNTY

		Value Summary				
Code Area	RMV	MAV	AV	RMV Exception	CPR %	
5624	Land	334,830		Land	0	
	Impr.	363,480		Impr.	0	
Code Area Total		698,310	579,650		0	
Grand Total		698,310	579,650		0	

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown		Size	Land Class	Trended RMV
						TD%	LS			
5624					LANDSCAPE - FAIR	100				500
5624	1	<input checked="" type="checkbox"/>		RK-R-2	Market	97	A	0.22		318,730
5624					OSD TYPE A - AVERAGE	100				15,600
Grand Total								0.22		334,830

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown		Total Sq. Ft.	Ex% MS Acct #	Trended RMV
					TD%				
5624	1	1997	149	Basement First Floor			2,544		363,480
Grand Total							2,544		363,480

Code Area	Type	Exemptions/Special Assessments/Potential Liability							
5624									
SPECIAL ASSESSMENT:									
	■ SOLID WASTE	Amount	12.00	Acres	0	Year	2020		

Comments: 09/15/09 Phase one review - updated inventory.ef 02/07/13 Reappraised land. Tabled values. RBB

EXHIBIT B

Pine Beach Combined Application for Shoreline Protection

Tillamook County Planning Commission
May 27, 2021

Presented by:

Wendie L. Kellington, Kellington Law Group, PC
P.O. Box 159, Lake Oswego, Or 97034



1

Presentation organization

- Explain the subject properties;
- Explain why this request is unique;
- Explain the legal framework and why the requested exception is precautionary;
- Explain the proposed shoreline protection;
- Explain the dangers the properties face without the BPS;
- Explain how the exception standards are met.

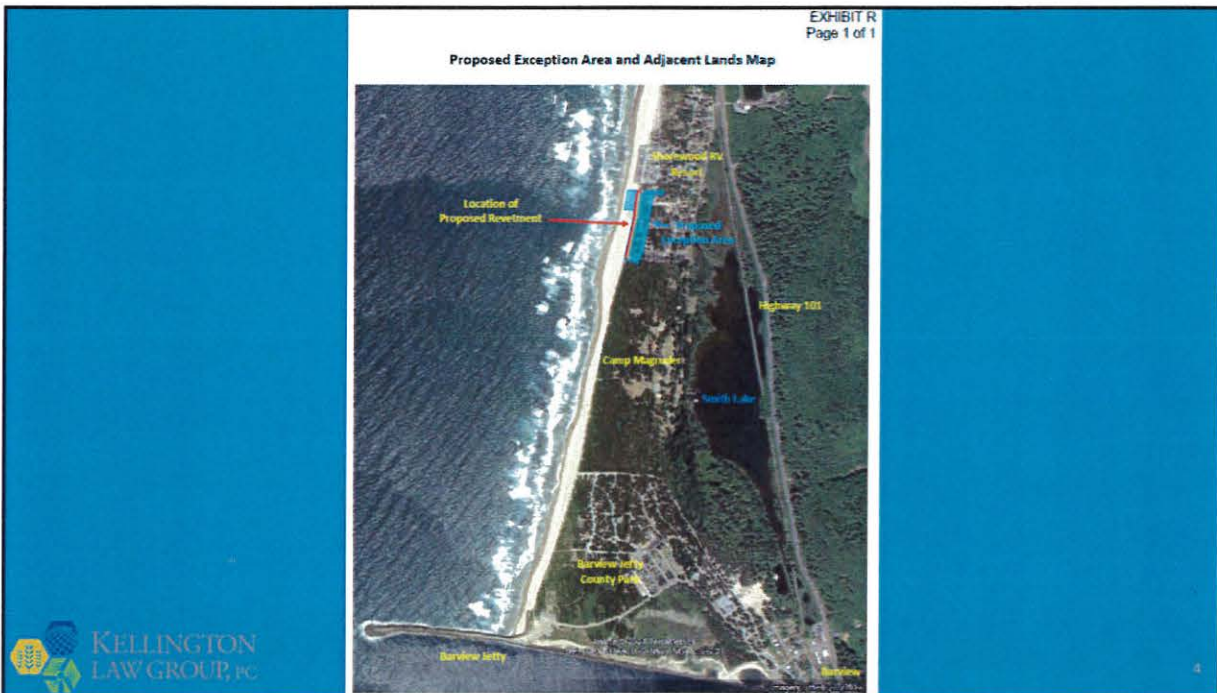
2

Subject Properties

- For efficiency and avoid piecemeal approach, owners of 15 properties working together seek shoreline protection.
- Proposal is supported by the Pine Beach HOA
- Pine Beach Loop (Pine Beach Subdivision – first platted 1932; replatted 1994) and Ocean Blvd. (George Shand tracts platted 1950).
- South of Rockaway Beach (directly south of Shorewood RV Resort).
- North of Camp Magruder and Barview Jetty.
- Zoned CR-2 (Community Medium Density Residential) with Beach and Dune Overlay (BD) and Flood Hazard Overlay (FH); in Barview/Watseco/Twin Rocks unincorporated community.
- TL 2900 between the RV Park and other George Shand Tracts is supportive but not participating because they have an undisputed right to BPS - their house was built in 1974.
- Engineering analysis - proposed BPS does not adversely affect the TL 2900 property; ocean will continue to approach as now.



3



4

Subject Properties

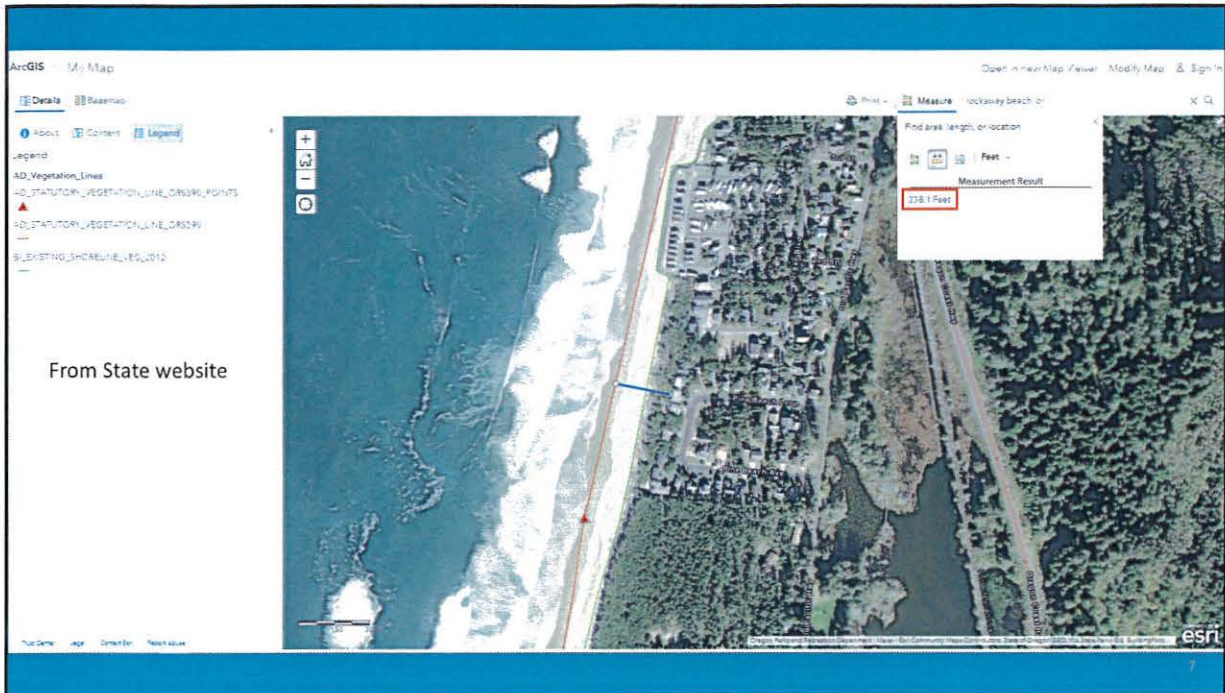


5

General Principles to Keep in Mind –Proposal is Unique

- The proposed beachfront protective structure (“BPS”) is entirely east of the line of established vegetation; Oregon Parks and Recreation Department (OPRD) has jurisdiction only up to the line of established vegetation.
- The BPS will be east of that. Therefore, OPRD is not involved.

6



7

Goal 18 Exception Framework

- Goal 18, Implementation Measure (5):

“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 Measure 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. The criteria for review of all shore and beachfront protective structures shall provide that:

- “(a) visual impacts are minimized;*
- “(b) necessary access to the beach is maintained;*
- “(c) negative impacts on adjacent property are minimized; and*
- “(d) long-term or recurring costs to the public are avoided.”*

8

The “(2) Above”

- Goal 18, “(2) above” says:

“Local governments *** shall prohibit residential developments *** on beaches, active foredunes, on other 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.”

- The requested exception will allow the existing residential development to be where it is, on a beach or dune subject to ocean undercutting and wave overtopping.
- Goal 18(5) says that residential development that is allowed to be on dunes subject to ocean overtopping/undercutting under an exception, is entitled to shoreline protection.

9

9

Why this Exception Request is Precautionary

- The residential development is already allowed to be on the dunes they are on, under an existing “built and committed” exception.
- The dunes they are on are now subject to ocean overtopping/undercutting.
- Therefore, it seems like these residences are entitled to shoreline protection under the express terms of Goal 18, because they have an exception allowing them to be where they are – on a dune subject to overtopping/undercutting.
- The odd thing is that when the subdivisions were established, and when the houses were built, there was no danger of ocean flooding or wave overtopping. The “(2) above” requirement did not apply.
- Now, that has changed (probably due to climate change and perhaps jetty changes also have a role). Now, the dunes are subject to ocean flooding and wave overtopping. So “(2) above” now applies.
- Query: Since all of the houses to be protected are allowed under existing built and committed exceptions allowing them to be exactly where they are - in fact they are on land zoned and planned for medium density residential use - doesn't that mean they already have an exception to Goal 18's “(2) above” that says without an exception no houses “shall” be allowed on dunes subject to ocean overtopping/undercutting?
- That should mean that the properties are in fact eligible for shoreline protection under Goal 18(5) because an “exception to (2) above has been approved.”

10

10

- That is the main reason why the requested Goal 18 exception is precautionary
 - In case the existing exception that allows the residential development to be where it is, is not good enough.
- The Applicants do not have the luxury of time for an academic debate on the fine points of Goal 18.
- Their homes are in significant danger.

11

11

Other Reasons why this Exception is Precautionary

- If the existing exception is not good enough under Goal 18, “(2) above” then the homes would be lawful nonconforming uses that are allowed to be continued and maintained in good repair (ORS 215.130(5)) and the proposed BPS should be allowed without a goal exception on that basis. But the homes are not nonconforming uses since they are consistent with their zoning. However, it may be the niceties of Goal 18 could drive that result.
- Property is already committed to residential development and the owners have the right to maintain their homes.

12

12

Final Reasons why a Goal 18 Exception seems Unnecessary

- The Goal 18 version in effect when the subdivisions were platted (until 1984) said shoreline protection was allowed on property “developed” on January 1, 1977;
- “developed” just meant the property had to be in a platted subdivision lot or partition parcel.
- All the properties were “developed” – platted subdivisions - under that rule:

13

13

Until 1984, the Goal 18 term “develop”, meant the following:

“Develop” - To bring about growth or availability to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access. (State Planning Goals and Guidelines)

“Development” - The act, process, or result of developing. (State Planning Goals and Guidelines)

Pine Beach and Ocean Blvd. properties were “developed” – divided into subdivision lots to “bring about growth or availability to construct a structure” on January 1, 1977.

14

14

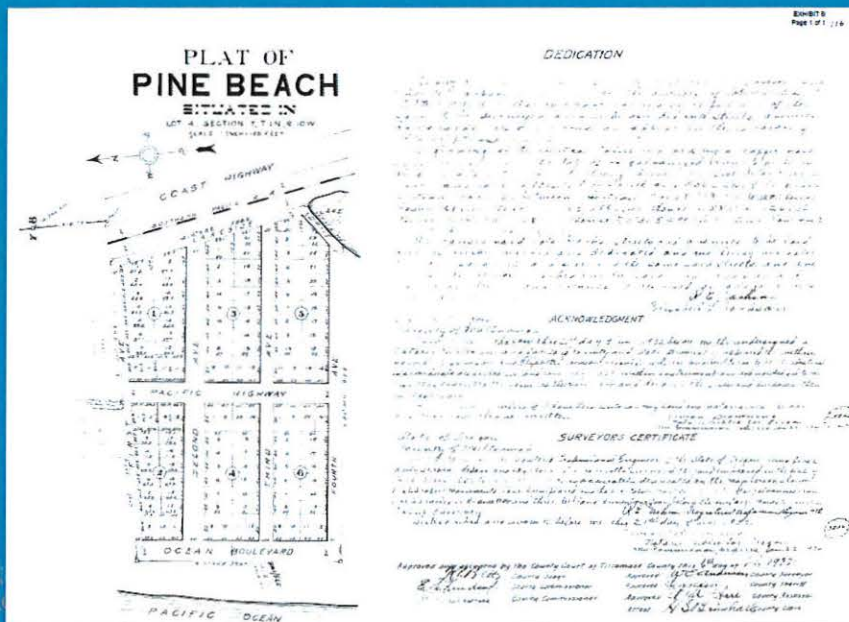
Last reason that a new Goal 18 exception may be unnecessary

- The version of Goal 18 now in effect says shoreline protection is allowed for property that was “developed” on January 1, 1977 “means houses *** and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot ***.”
- George Shand Tracts and Pine Beach subdivision meet this definition - water from the Watseco Water District predecessor was available and streets ran by GS tracts and Pine Beach subdivision lots, as you can see:

15

15

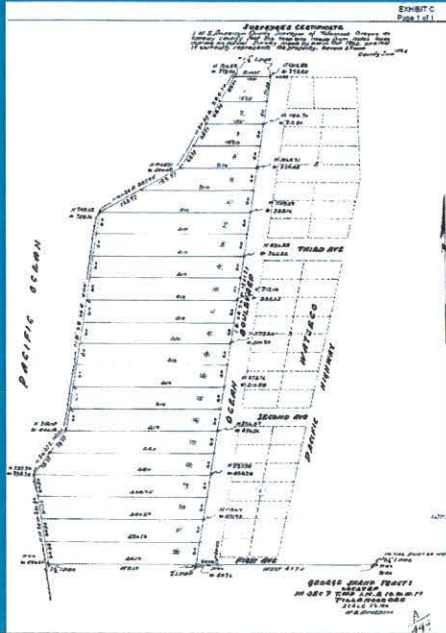
1932 Pine Beach Subdivision



16

16

1950 George Shand Tracts (Ocean Blvd. properties)



17

Potential Planning Commission Actions

- The Planning Commission can recommend approval of the Goal 18 exception
- AND
- The Planning Commission can find in the alternative that no Goal 18 exception is required because:
 - ✓ The existing built and committed exception is an adequate exception to Goal 18 “2 above”
 - ✓ The properties were subdivisions that met the definition of “developed” under Goal 18 in effect until 1984;
 - ✓ The properties meet the current definition of developed in the current Goal 18 rule;
 - ✓ The houses are allowed to be maintained under their existing built and committed exception;
 - ✓ The houses have at least a nonconforming use right under ORS 215.130(5) to continue and be maintained with shoreline protection.

18

Test in Two Recent Coos County and City of Coos Bay LUBA Cases About Goal Exceptions Needing to be based on Exceptional Circumstances, is Met

- Approving the requested exception does not set a precedent for BPS's everywhere else.
- There is a unique situation here - when the subdivisions were platted and the houses were built the ocean had for 70 years or more been PROGRADING. No one was rolling the dice.



19

19

This Request is Unique

- At the time that the Pine Beach subdivision was replatted (1994) and the George Shand tracts were initially platted (1950) and at the time when **all the houses** were built, the ocean was PROGRADING – depositing sand, not taking it away.
- Instead, the homes were more than 237 feet away from the surveyed statutory vegetation line and further still from the ocean.
- Now the statutory vegetation line is at the ocean.
- A large **vegetated** “common area” was platted oceanward of the Pine Beach lots.
- That “common area” is now entirely a dry sand beach.
- Shoreline protection is only necessary because the ocean has dramatically shifted course from where it had been for more than 70 years.



20

20

Subject properties' developers did everything right

- George Shand Tracts (Ocean Blvd. properties) platted in 1950.
- Pine Beach replatted in 1994.
- Homes seeking BPS here were constructed beginning in 1989.
- When constructed, there had been a 70-year period of ocean progradation – depositing of sand and adding land.

21

EXHIBIT 11
Page 2 of 19

ON: the PINE BEACH REPLAT - June 1, 1994

map inclusion areas of OHC, that are east of the setback line at 100 feet." Mr. Reckendorf states further "no active foredune occurs in the reach today, and erosion has removed essentially all of any prior conditionally stable foredune." Mr. Reckendorf concludes that the westerly portion of the property where development is proposed is classified as open dune sand conditionally stable (OCS). Mr. Reckendorf further concludes that the portion of the property where development is proposed is within a younger stabilized dune zone according to the OHC classification system. The map classification of

HISTORY OF ACCRETION AND EROSION


A review of CoE and OSHD aerial photos for this area dated 1939, 1945, 1953, 1960, 1967, 1970, 1973, 1978, 1980 and 1984 show a steady increase in vegetation over the entire property. Copies of those aerial photos are included in the accompanying flood hazard study by David Simpson. These maps have also been previously submitted to Tillamook County and are available in the PINE BEACH REPLAT file. Also previously submitted are clear mylar overlays at the scales of 1"=100' for the 1967 photo and 1"=200' for the other OSHD photos. The most Westerly line of vegetation has moved Westward since at least 1939 as described by Frank Reckendorf (1/29/93), David Simpson (9/93) and Paul See (6/2/94). The original plat of PINE BEACH, dated 1932, shows the ocean beach to be located at least 320 feet East of where it is today. A copy of the original plat map for PINE BEACH have been previously submitted to Tillamook County and is available in the PINE BEACH REPLAT file.

Evidence of relatively active beach erosion is presented and discussed by John Marra (12/92), by David Simpson (9/93), by Frank Reckendorf (1/29/93) and by Paul See (6/2/94). Each of these individuals describes the erosion process as being cyclical with an overall net accretionary trend in this area. The winter of 1993-94 showed a net buildup in the sand on the beach which accumulated at the foreslope of the remnant of the foredune.

DISCUSSION OF FLOOD HAZARDS

Potential hazards due to ocean flooding have recently been studied, calculated and identified by a new flood hazard study by David Simpson, Coastal Engineer, dated September 1993. This new study was made at the request of the

22

 KELLINGTON
LAW GROUP, PC

22

EXHIBIT H
Page 11 of 19

PAUL D. SEE AND ASSOCIATES, Inc.
830 SLURP PINES ROAD
SEASIDE, OREGON 97138
738-9869

#1064 ref 8022

June 1, 1994

Ronald G. Larson
Hansforth Larson and Barrett, Inc.
P. O. Box 219
Manasota, OR 97130

RE: Geologic inspection, Pine Beach Development, Watsco area. (Ferr)
T1N, R10W, Sec 10A


Notwithstanding the periodic erosion by storm surf, records confirm that this segment of shoreline has been prograding since at least 1939. Because of the transient and unpredictable episodes of regression, no consistent rate of accretion can be applied. However, between 1917 and this date, the shoreline has accreted westerly at least 1000 feet. Cooper (1) depicts an average of 300 meters of post-jetty accretion between 1917 and 1939. Stenbridge (2) notes that the least prograding between the Nehalem River and Tillamook Bay totals more than 30 feet between 1939 and 1975.

apparently fresh local field of scattered drift logs over a 200+/- foot wide strip in 1967. Pine, willow, and beach grass vegetation had gradually obscured these logs from aerial view by 1964, but field inspection confirms their presence to this date. Periodic erosion, particularly during and following the 1962-63 El Niño event, removed several tons of feet of the dune frontage, exposing a dense tangle of logs weathered from the dune front. All present storm-tossed logs on the vegetated surface are old and decayed, however, having apparently been deposited prior to 1967.

Notwithstanding the periodic erosion by storm surf, records confirm that this segment of shoreline has been prograding since at least 1939. Because of the transient and unpredictable episodes of regression, no consistent rate of accretion can be applied. However, between 1917 and this date, the shoreline has accreted westerly at least 1000 feet. Cooper (1) depicts an average of 300 meters of post-jetty accretion between 1917 and 1939. Stenbridge (2) notes that the least prograding between the Nehalem River and Tillamook Bay totals more than 30 feet between 1939 and 1975.

The surface profile in this area includes a relatively low foredune, only

1



23

23

EXHIBIT H
Page 12 of 19

See/NLBI
6/1/94

slightly higher than the hummocky, vegetated plain to its east. The area has obviously not experienced a net regression in the past 50 years, although the presence of fresh appearing logs in 1967 is evidence of storm wash-over at some point prior to that date.

The property is well vegetated with beach pines and willow and other upland shrubs and grasses. This cover has obviously developed in a few decades, and the shoreline remains at some risk from severe episodic storm wave overtopping due to its elevation. However, revised Velocity (storm wave) flooding limits have been modelled by Simpson (3), indicating an easterly limit of Velocity flooding at 200 feet from the beach, or well short (70 to 130 feet west) of the proposed construction setback, established at 237 feet east of the State Coastal Zone line.

In conclusion, the property appears to be relatively safe from long-term net erosion and shoreline regression. Current modelling of Velocity flooding will not impact the area proposed for development. The Tillamook Bay north jetty will continue to present a barrier to southerly offshore sand transport, causing a continued net accretion along this beach. No evidence exists to suggest reversal of a trend that has continued for more than 70 years.


the foreseeable future. The most recent event seems to have occurred about the year 1690. Current projections estimate a 20 to 30 percent chance of a magnitude 8 or greater regional quake in the next 50 years.

Coastal dunefields such as this are at risk from liquefaction of saturated sands at depth which can cause differential foundation settlement during strong seismic tremors, as well as impact from an accompanying tsunami. Whitmore (4) has calculated an initial tsunami wave height of 11.63 feet along the Rockaway Beach area for an 8.0 magnitude Cascadia earthquake, with an additional 18.17 feet allowance for error, diurnal tide maximum, and 1.2 feet of cosmogenic subsidence, for an overall runup potential of 30.8 feet under worst-case conditions.

Risks associated with great Cascadia earthquakes must naturally be considered in light of the long and varied intervals between events. While our understanding of Northwest seismicity is expanding rapidly, the timing or magnitude of future events can only be broadly estimated.

Observations and recommendations incorporated herein are the result of

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EXHIBIT M
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LB & Associates
INCORPORATED

Surveying, Consulting & Engineering
1000 NE Oregon Street, Suite 210
Portland, OR 97232

August 23, 1995

RECEIVED
AUG 9 1995

Mr. and Mrs. Don Linder
13917 SE Anson Drive
Milwaukie, OR 97127

RE: Addendum #1 to Beach and Dune Hazard Report, The Lots 1100 and 1104, 1N 10 70s,
Wasco, Oregon.

Dear Mr. and Mrs. Linder:

C. History of Erosion and Accretion:
The dunes on the subject property have shown a net accretion of sand over the past 70 years as evidenced shown by aerial photographs over that time frame. There has also been a corresponding increase in natural vegetation cover in that time. There were fresh logs deposited in the photographs from 1967 which indicate that there was an extreme wash-over just prior to that date. In the five years since the original report, there has been a net accretion of approximately 0.6 feet.

The Western portion of the property is classified as an Active Beach. The crest of the dune is approximately 240' West of the boundary property line with an elevation of approximately 23.1'. The Eastern portion of the property is classified as an Older Submerged Dune.

B. History of Dune Stabilization:
There is no history of any dune stabilization projects.

C. History of Erosion and Accretion:
The dunes on the subject property have shown a net accretion of sand over the past 70 years as evidenced shown by aerial photographs over that time frame. There has also been a corresponding increase in natural vegetation cover in that time. There were fresh logs deposited in the photographs from 1967 which indicate that there was an extreme wash-over just prior to that date. In the five years since the original report, there has been a net accretion of approximately 0.6 feet.

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HLR, Inc. for Linder August 23, 1995

FINDINGS AND HAZARDS ANALYSIS

The primary concern based on this site is the movement of sand, both accretion and erosion. In addition to this hazard there is the hazard of flooding and earthquakes. Mitigation of these hazards is discussed herein.

Erosion and Accretion: The dunes in this area has been accumulating sand at least since 1939 and shows no indication of changing that pattern soon. There have been isolated incidents of winter storm erosion. There is no guarantee that the accretion patterns will continue as is so it is important to the property owner to monitor the condition of the dunes to detect any changes. In order to monitor and document the movement of sand on the subject property, the owner, and all future owners, should photograph the property from the ocean side at least once every six months. These photographs can be compared to determine the extent of sand movement and to determine if any additional mitigation measures are necessary.

Earthquake: No one comments in the original report of the potential regional hazard of severe earthquakes. The most serious such earthquake, for which evidence goes back almost 7700 years, is estimated to have been a magnitude of about 8 or greater on the Richter scale. Current projections estimate a 50 percent chance of a magnitude 8 or greater regional earthquake in the next 50 years. Building code requirements for the State of Oregon do not presently address earthquakes of this magnitude, but there are recognized construction methods that can be used by contractors for masonry retaining a degree of added protection to limit their maximum earthquake. In addition, strong seismic accretion can be expected to result in liquefaction of weak saturated sediments, allowing for abrupt settlement of foundations. A pile foundation would not necessarily protect against damage by liquefaction of saturated ground in severe quakes.

The State of Oregon Department of Geology and Mineral Industries projects the maximum tsunami run-up from various possible earthquake events. The worst case scenario would involve a M8.8 Cascadia Earthquake and could result in a wave 18 feet high with a total run-up of 29 feet. The practical engineering measures could protect a home residence against this type of event.

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The Details of the Proposed BPS –
the proposed BPS will be directly south of Shorewood RV Resort that is
protected with rip rap.



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Photo 1. Looking south at the rock revetment at the Shoreline RV Park located about 900 feet north of the Pine Beach subdivision.



Photo 2. Close-up of rock revetment at the Shoreline RV Park located about 900 feet north of the Pine Beach subdivision.

Pine Beach
Field Reconnaissance

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Pine Beach's BPS will blend into the natural coastal landscape

- Pine Beach BPS is in owners' backyards.
- Will not be on the beach.
- The BPS will be covered in excavated sand and replanted with native beach grasses, shrubs and trees.
- Will be maintained annually by owners.
- Will be periodically replenished with sand and replanted with native vegetation because the owners want to look at a beautiful seascape.



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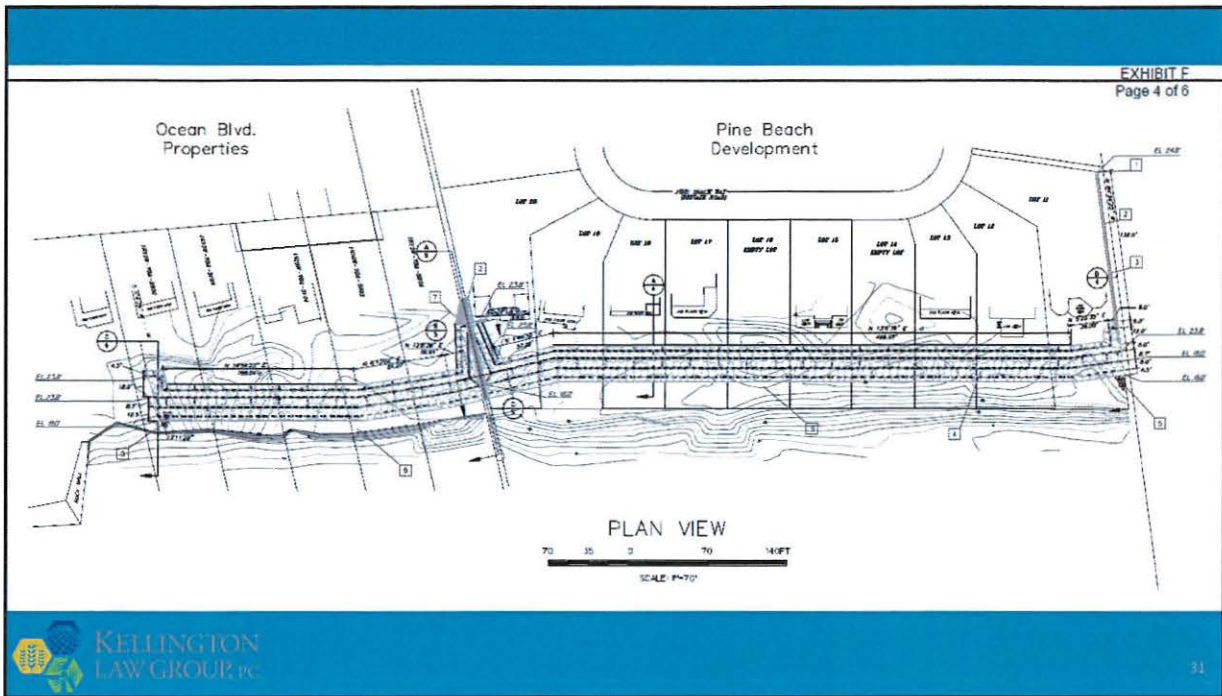
Revetment Details

- BPS will be entirely on private property → backyards of Pine Beach and Ocean Blvd. homes
- 10' landward of existing vegetation line
- 185' landward of Oregon Ocean Shore Line (aka statutory vegetation line ("SVL"))
- Approx. size: 6' thick 30' wide rock revetment; maximum height 3' above ground level
- Covered in excavated sand, replanted with native beach grasses
- Maintains existing beach accesses



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Why the BPS is Sought: the properties and infrastructure are in imminent peril

- Retrograding beach since 1994
- King Tides in 2020 and 2021 reached oceanfront homes
- Continued threat of flooding
- At risk is not only the homes, but also the water and sewer infrastructure that serves them.
- BPS protects the public and private investments in the area and avoids significant environmental hard from the potential for ocean broken and claimed sewer and water pipes.
- Water and sewer district costs of repair may be beyond the capacity of the districts to repair or at least would cause significant strain those district's resources.

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Properties and infrastructure are now in imminent peril

- Between 1994-2021, the shoreline has receded 142 feet.

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Table 1. Summary of Loss of Property from 1994 to 2021

Year	Distance from Western Edge of Oceanfront Homes along Pine Beach Development and Ocean Boulevard Properties (ft)	Loss of Property since 1994 (ft)
1994	221	0
2000	138	-83
2005	138	-83
2012	86	-135
2021	79	-142



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The problem explained by graphics



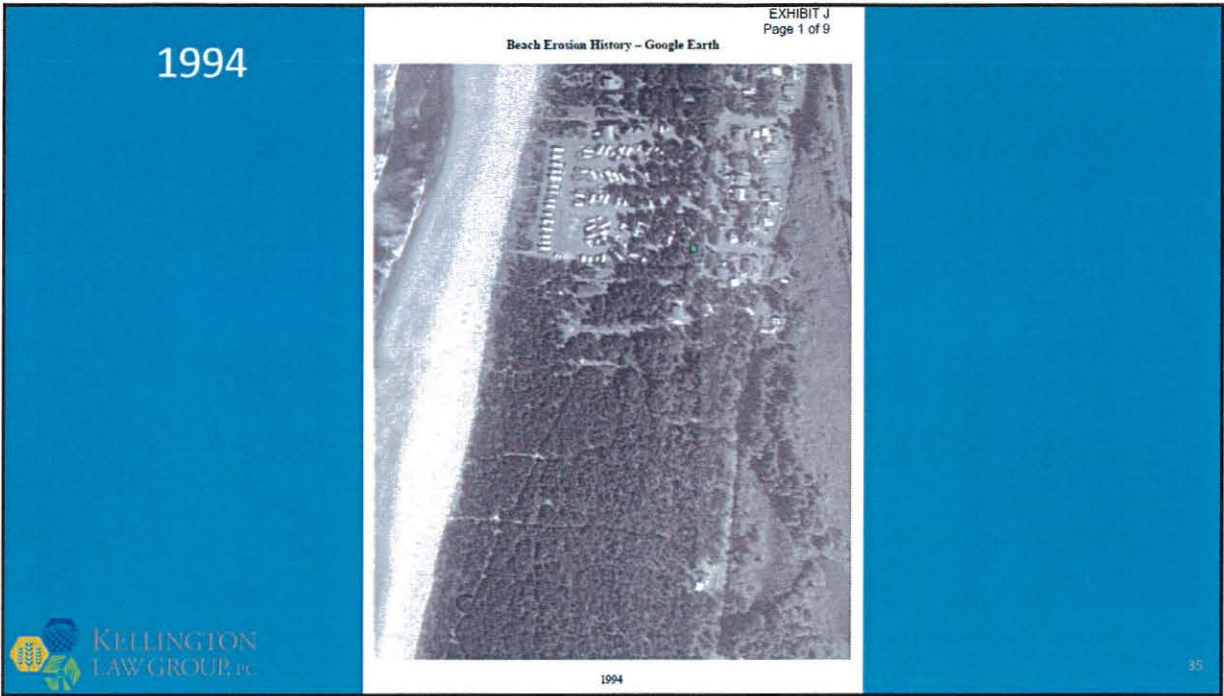
EXHIBIT F
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Figure 2. Top of shoreline for the period between 1994 and 2021

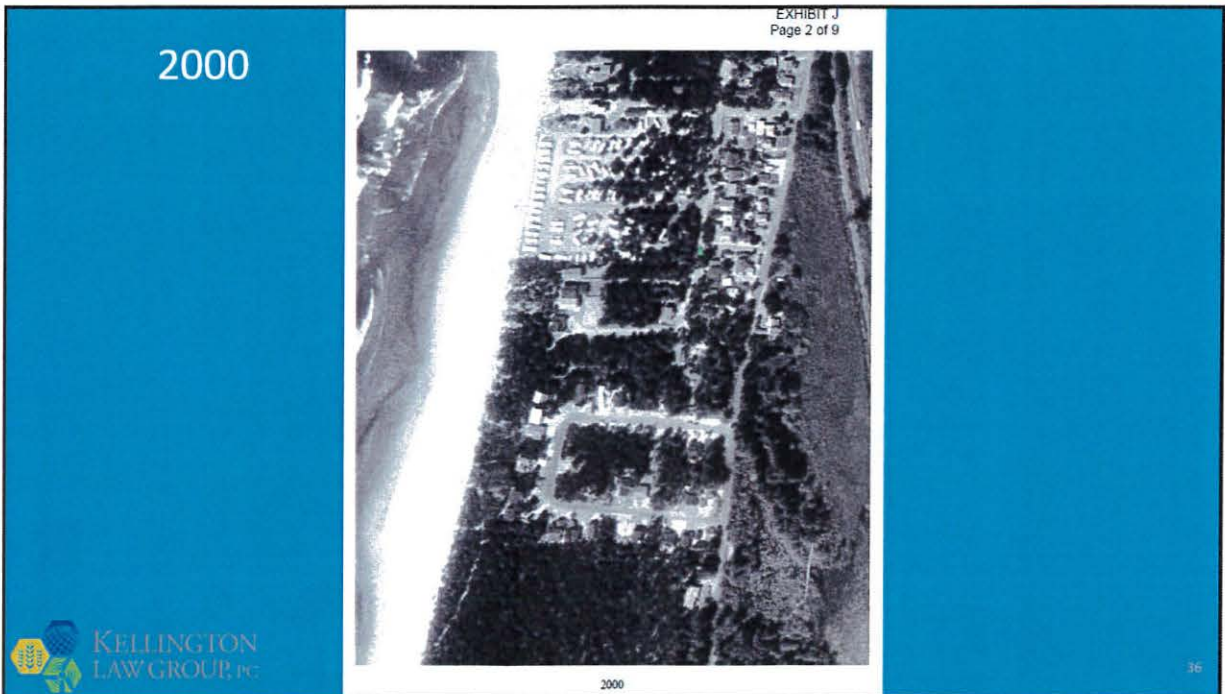


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8/2005

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August 2005



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2011

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2011



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2014

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2014

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2016

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2016

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2017

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2017



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2020

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2020



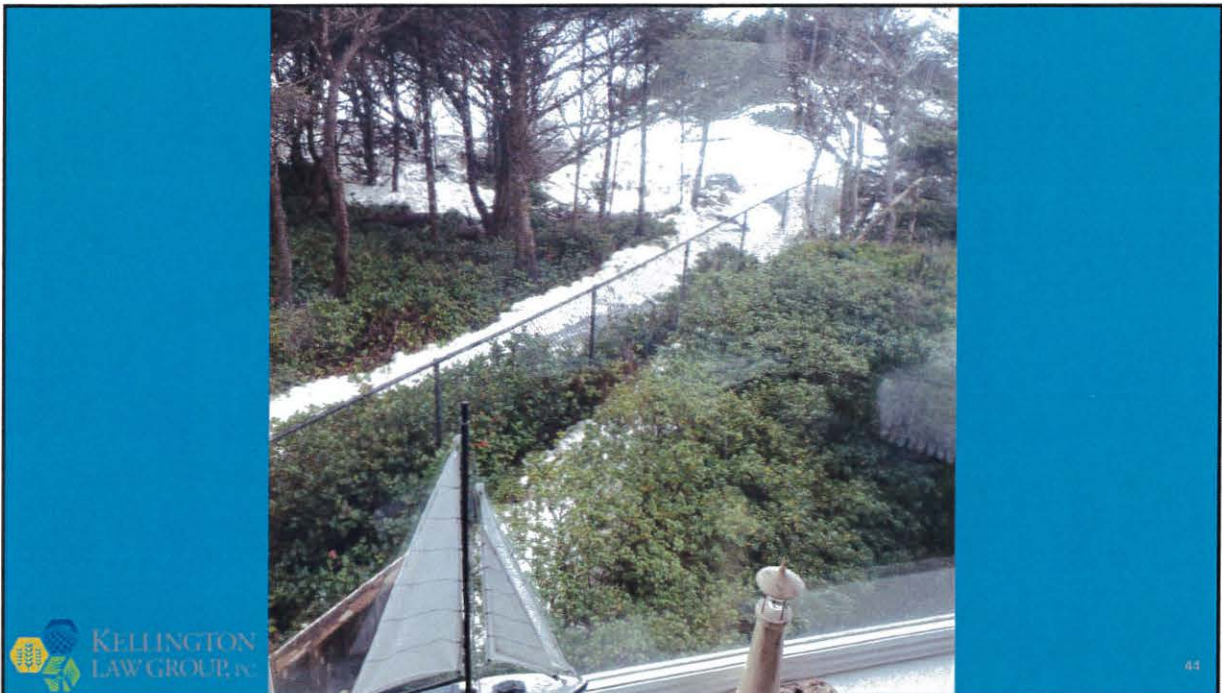
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January 12, 2021 Tides Flooding Pine Beach Properties



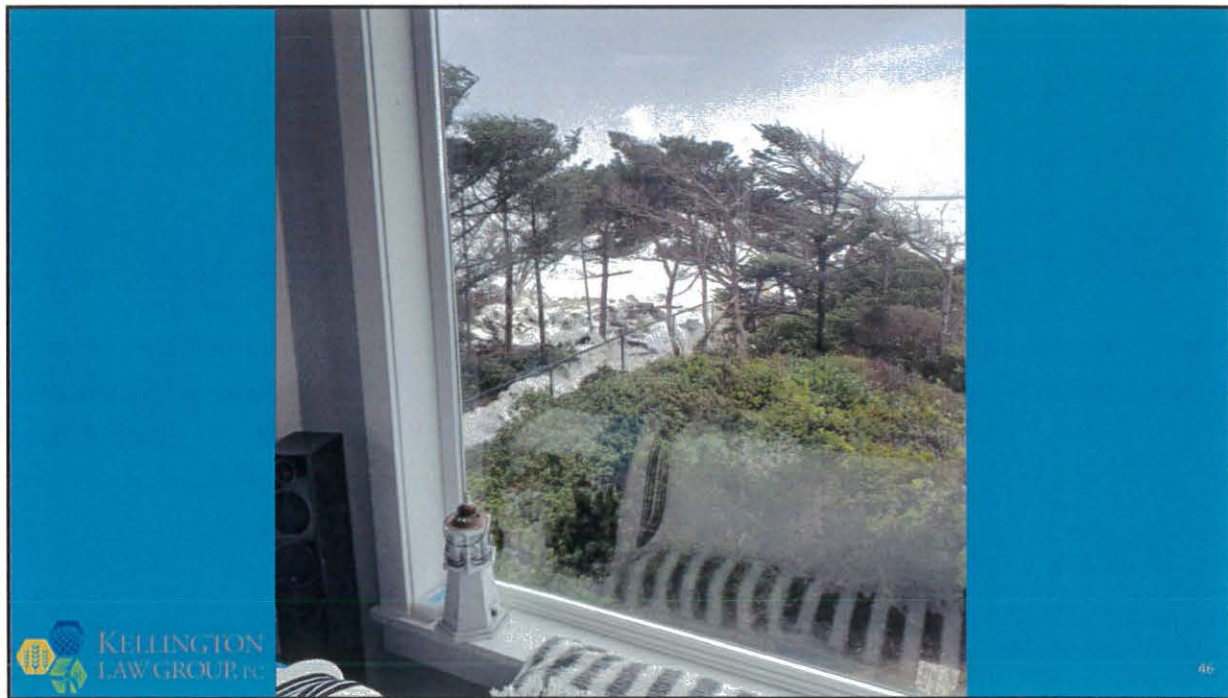
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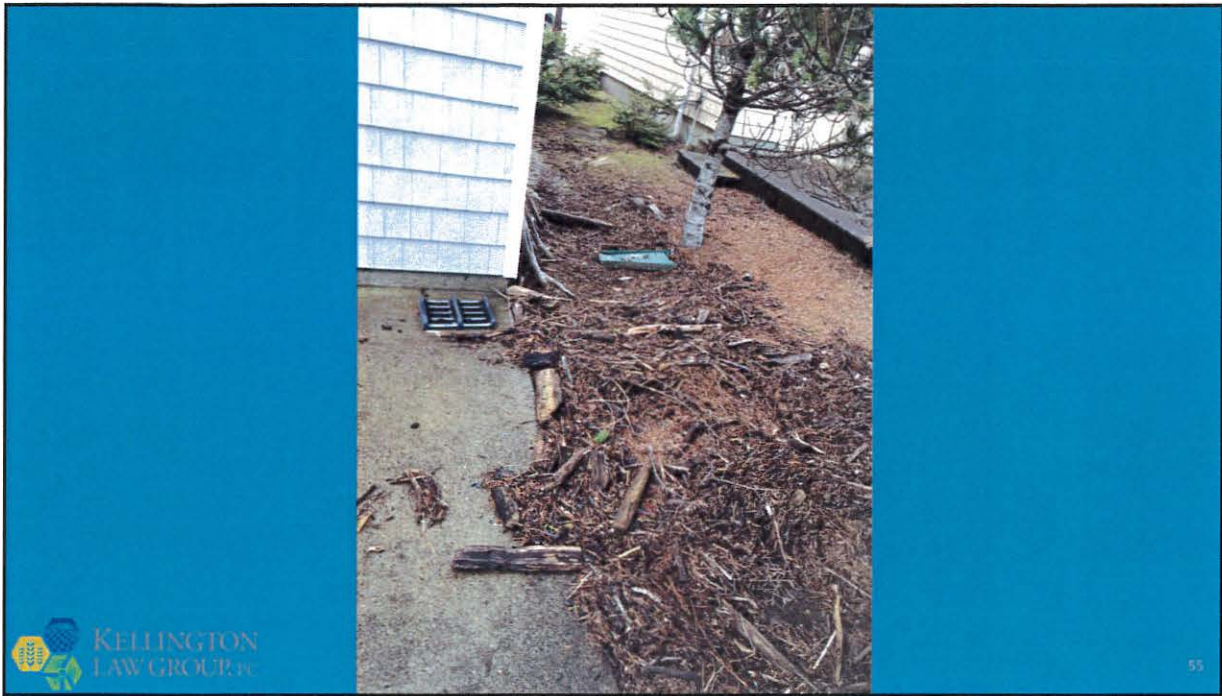
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Properties and infrastructure are now in imminent peril

- More than \$10 million in property value at risk of being lost.
- In addition to infrastructure (public water and sewer, roads, utilities)

Real Market Value Based on 2020 County Tax Assessment Reports

Account #	Map #	RMV
399441	1N1007D000114	\$1,575,520
399444	1N1007D000115	\$657,960
399447	1N1007D000116	\$834,070
399450	1N1007D000117	\$316,730
399453	1N1007D000118	\$710,300
399456	1N1007D000119	\$316,730
399459	1N1007D000120	\$705,130
399462	1N1007D000121	\$650,640
399465	1N1007D000122	\$598,830
399468	1N1007D000123	\$1,138,890
62425	1N1007DA01000	\$690,130
62611	1N1007DA01100	\$688,310
355715	1N1007DA01104	\$638,220
62719	1N1007DA01203	\$312,720
322822	1N1007DA01204	\$312,720
TOTAL:		\$10,284,990

TOTAL: \$10,284,990



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The Goal 18 Exception Request

- Applicants seek a “Committed” Exception (ORS 197.732(2)(b); OAR 660-004-0028)
 - The proposal meets all relevant state standards and criteria for a “committed” exception and seeks a
- A “Reasons” Exception (ORS 197.732(2)(c); OAR 660-004-0020–22)
 - The proposal meets all relevant state standards and criteria for a “committed” exception “reasons” exception.
 - NOTE: Not seeking a “catch all” reasons exception at issue in the two new Coos County LUBA cases.



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- 2019 DLCD Goal 18 Focus Group recognized that Goal 18 exception process exists and that anyone can pursue this option.

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State of the 2017 Transportation Focus Group - Final Report
© The Oregon Department of Transportation & Transportation

Goal 18: Public infrastructure protection throughout the hearing process doesn't vary substantially, and the Department will work with conservation and transportation commissions. This slide

Policy Options Discussed

2.1 Status Quo: Goal exceptions are completed on a project-by-project basis, with the decision made by the local government as a plan amendment. These decisions go to a hearing in front of the planning commission and then final hearing by the governing body. Decisions can be appealed to LUBA (Land Use Board of Appeals). The focus group talked at length about existing approaches that have been underutilized. ODOT has used exceptions for other goals.

Benefits: This approach already exists and would require no changes to rules or the goal. Goal exceptions process might work best for local public infrastructure protection due to the localized nature of the process (project-by-project approach). Any entity can pursue this option now.



A governmental approach to hearing with the impact of local government.

Feasibility: The local goal exceptions process is feasible for local jurisdiction public infrastructure protection and resource for ODOT. The time and resources for ODOT to support the effort are minimal on a state-wide scale.

Goal steps that are in the appropriate set of legal entitlements to legal exceptions and is the risk to all public infrastructure goals subject to Goal 18. Local jurisdiction help from

Committed Exception

- “Committed” Exception (ORS 197.732(2)(b)):
 - “(2) A local government may adopt an exception to a goal if:
 - “(b) The land subject to the exception is **irrevocably committed** as described by Land Conservation and Development 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**.”



Committed Exception Standards

- (OAR 660-004-0028):

*“(2) Whether land is **irrevocably committed** depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:*

“(a) The characteristics of the exception area;

“(b) The characteristics of the adjacent lands;

“(c) The relationship between the exception area and the lands adjacent to it; and

“(d) The other relevant factors set forth in OAR 660-004-0028(6).”



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Standards for Committed Exception

- Standards for “Committed” Exception (OAR 660-004-0028):

*“(3) Whether uses or activities allowed by an applicable goal are **impracticable** * * * shall be determined through consideration of factors set forth in this rule[.] * * * It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide **flexibility** in the application of broad resource protection goals. It shall **not** be required that local governments demonstrate that every use allowed by the applicable goal is **impossible**.”*



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Standards for Committed Exception

- Standards for “Committed” Exception (OAR 660-004-0028):

“(6) Findings of fact for a committed exception shall address the following factors:

“(a) Existing adjacent uses;

“(b) Existing public facilities and services (water and sewer lines, etc.);

“(c) Parcel size and ownership patterns of the exception area and adjacent lands:

“ * **

“(d) Neighborhood and regional characteristics;

*“(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. * * *;*

“(f) Physical development according to OAR 660-004-0025; and

“(g) Other relevant factors.



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BPS meets Exception Standards

- Subject properties are **irrevocably committed** to urban levels of residential use.
- Area proposed for exception can be put to no other practical use than residential use and to protect the existing homes and infrastructure – to include public sewer and water facilities.
- The properties and area are zoned for residential use, in unacknowledged unincorporated community. It is not “practical” to demand the area – homes and infrastructure - be wiped out by ocean action.



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BPS Meets Committed Exception Standards

"(a) Existing adjacent uses; – residential – in peril without exception

"(b) Existing public facilities and services (water and sewer lines, etc.) – existing public infrastructure investment in peril, without requested exception.

"(c) Parcel size and ownership patterns of the exception area and adjacent lands:

" * * Lot size and ownership patterns are consistent with their existing built and committed exception zoning.*

"(d) Neighborhood and regional characteristics; – the community is Barview/Watseco/Twin Rocks and its character is outlined in the county plan as a vibrant unincorporated community to be protected and preserved.

*"(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. * * *; – existing goal exceptions already decided the land is not suitable for resource use.*

"(f) Physical development according to OAR 660-004-0025; and – The properties are physically developed or are entitled to be physically developed at urban levels, under their existing zoning.

"(g) Other relevant factors. – The developer did everything right – at the time of development, the land was prograding for 70+ years.



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Reasons Exception Standards

- “Reasons” Exception (ORS 197.732(2)(c)):

"(2) A local government may adopt an exception to a goal if:

"(c) The following standards are met:

"(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 of 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; and

"(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.”



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Reasons Exception Standards – Specific to Goal 18

- Goal 18-Specific Standards for “Reasons” Exception (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.”



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BPS Meets Reasons Exception Standards

“(A) Reasons justify why the state policy embodied in the applicable goals should not apply; – property is subject to existing exception that already allows the homes; property owners did not roll the dice. Significant public and private investment at stake. No harm to public interest, BPS not on the beach. Goal 18 purposes met. Goal 18 would only prohibit the BPS in the first place without an exception if the property were not already developed. Property developed in an acknowledged unincorporated community. Small Goal 18 variation if at all.

“(B) Areas that do not require a new exception cannot reasonably accommodate the use; – BPS must be located where it is proposed in order to protect the threatened homes and infrastructure it’s designed to protect; no other location can serve this site-specific purpose.

“(C) The long term environmental, economic, social and energy consequences resulting from the use of 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; and – EESE impacts will not be more adverse than if locating BPS elsewhere; BPS will reduce adverse environmental impact of coastal erosion/destruction of native vegetation; will provide economic benefit – protecting investment in properties/homes/infrastructure; will provide social benefit – protect human life and property from natural hazards; will maintain/improve beach accesses and enjoyment of beach. Avoids environmental devastation of broken sewer and water infrastructure if not protected.

“(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.” – uses of property will remain residential, consistent with adjacent uses and residential zoning; will blend into shoreline; will not deflect wave energy onto or cause flooding on adjacent properties.



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BPS Meets Reasons Exception Standards

“(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; - BPS designed to protect it from geologic hazards, wind erosion, undercutting ocean flooding and storm waves; launchable toe to prevent undermining by ocean scour; ecology blocks ensure that wave runup does not flow around structure and flood homes; replating with native vegetation will minimize erosion and increase stability.

“(b) The use is designed to minimize adverse environmental effects; and – BPS will have no impact on adjacent shorelines; covered in sand and replanted with native vegetation for natural appearance; will be monitored and periodically resanded/replanted; will have environmental benefit – prevent coastal erosion and protect native coastal vegetation/habitat.

“(c) The exceptions requirements of OAR 660-004-0020 are met.” – meets requirements of OAR 660-004-0020 (previous slide).



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Goal 18 Standards for BPS

- (a) visual impacts are minimized; BPS to be covered in sand and replanted and maintained.
- (b) necessary access to the beach is maintained; Existing beach access is maintained and improved
- (c) negative impacts on adjacent property are minimized; Engineering report establishes that the BPS will not cause negative impacts on adjacent property; BPS avoids harm to adjacent property if their needed infrastructure destroyed by wave action attacking beachfront.
- (d) long-term or recurring costs to the public are avoided. BPS avoids long term or recurring costs to the public associated with FEMA losses; public infrastructure losses; losses of needed access to highway.



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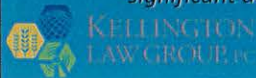
72

Comprehensive Plan Amendment

- Proposal is consistent with Statewide Planning Goals.

- *Key Goals:*

- Goal 7 (Hazards): *“To protect people and property from natural hazards. - BPS will protect existing development and persons from natural hazards that did not exist and were not anticipated at time of development which had seen trend of 70+ years of beach progradation.*
- Goal 17 (Coastal Shorelands): *“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water dependent uses, economic resources and recreation and aesthetics. * * * and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.” - Pine Beach and surrounding area has an approved exception to Goal 17. Regardless, the proposal complies w/Goal 17. Goal 17, (5) says that where shown to be necessary, structural solutions to erosion and flooding problems shall be designed to minimize adverse impacts on water currents, erosion and accretion patterns. Proposed BPS is a necessary structural solution to erosion and flooding that is designed to minimize adverse impacts (if any) to water currents, erosion and accretion patterns and will have no significant adverse impact on surrounding properties.*



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Consistent with Statewide Planning Goals Continued

- Goal 11 Public Facilities and Services: *“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” BPS protects existing framework of public facilities in Barview/Watseco/Twin Rocks unincorporated community*
- Goal 18: *“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and
“To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.” Proposal protects approved development including public infrastructure, on coastal dune area. It reduces hazards to human life and property.*



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Comprehensive Plan Policies

- Proposal is consistent with Tillamook County Comprehensive Plan.
- **Key Points:**
 - County Goal 7 (Hazards Element) – Policy 2.4(a) Erosion - *Specifically allows riprap to stabilize shorelines as preventative or remedial action.*
 - County Goal 18 (Beaches and Dunes Element) – Policy 2.4(a):

“All decisions on land use actions in beach and dune areas other than older stabilized dunes shall be based on the following specific findings unless they have been made in the comprehensive plan:

“(a) The type of use proposed and the adverse effects it might have on the site and adjacent areas; - BPS is use proposed and will not have adverse effects on site or adjacent areas.

“(b) The temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation; - BPS is a permanent stabilization program; will be overlain with sand, replanted with native vegetation, will be regularly inspected and maintained by property owners and resanded/replanted when necessary.

“(c) Methods for protecting the surrounding area from any adverse effects of the development; and, - Proposed BPS is designed not to cause adverse effects to surrounding properties; launchable toe; natural appearance; will not cause increase in FEMA total water levels near the BPS.

“(d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.” – Purpose of BPS is to protect life, public and private property and the natural environment from continued coastal erosion hazard.



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Comprehensive Plan

- County Goal 18, Policy 2.4(b): *“Development in beach and dune areas shall comply with the requirements of the Flood Hazard Overlay zone.” – BPS complies with requirements of FH zone.*
- County Goal 18, Policy 2.4(c): *“Grading and vegetation removal shall be the minimum necessary to accommodate the development proposed. Removal should not occur more than 30 days prior to the start of construction. Open sand areas shall be temporarily stabilized during construction and all new and pre-existing open sand areas shall be permanently stabilized with appropriate vegetation.” – Grading and vegetation removal will be conducted in accordance with engineer’s technical memo; sand will be retained during construction and overlain atop the BPS; BPS will be immediately revegetated and monitored.*
- County Goal 18, Section 4.2 recognizes: *“In cases of severe erosion, it may be necessary to use some means of structural shoreline stabilization such as a revement or seawall. These structures, when properly designed, can withstand the force of ocean waves and protect the shoreline behind them. * * * Revetments, especially riprap revetments, have the least potential for visual disruption because they may be covered by summer sand build-up.” – Proposed BPS is rip rap, which will be covered in sand and replanted with native vegetation – least potential for visual disruption.*



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Comprehensive Plan Barview/Watseco/Twin Rocks Community Plan

- **Goal 1** - Barview/Watseco/Twin Rocks will be an attractive, safe and clean small town. The proposed BPS is designed to address a significant safety threat for this community.
- **Goal 2:** Barview/Watseco/Twin Rocks will have safe drinking water and sanitation. The proposed BPS is designed to protect the drinking water and sanitation infrastructure from destruction due to wave action.
- **Buildable Lands Inventory** "the Buildable Lands Inventory determined that 798 potential residential lots could be developed in Barview/Watseco/Twin Rocks." The proposed BPS helps to ensure that the area is able to deliver the anticipated safe residential uses as the community plan and BLI anticipate.
- **Community Plan zoning** "SECTION 3.011: COMMUNITY SINGLE FAMILY RESIDENTIAL ZONE (CSFR)
 - (1) **PURPOSE:** The purpose of the CSFR zone is to provide for the creation and use of
 - small-acreage residential homesites. Land that is suitable for Community Single Family
 - Residential use is located within an unincorporated community boundary and is
 - physically capable of having homesites. The proposed BPS helps to ensure this policy is realized.



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Tillamook County Land Use Ordinance

- **Community Medium Density Urban Residential Zone (CR-2) (TCLUO 3.014):**
 - **USES PERMITTED OUTRIGHT:**
 - "(a) One or two-family dwelling."
 - The proposal is accessory to permitted residential uses and essential for their survival.
 - No prohibitions on BPS in CR-2 zone.
 - See page 77 of applicants' narrative.



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Tillamook County Land Use Ordinance

- Flood Hazard Overlay (FH) (TCLUO 3.510):
 - The proposal meets all development standards in FH zone.
 - See pages 78-87 of applicants' narrative.



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Tillamook County Land Use Ordinance

- Beach and Dune Overlay (BD) (TCLUO 3.530):
 - The proposal meets all development standards in BD zone.
 - See pages 87-93 of applicants' narrative.



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Summary

- Applicants respectfully request that you approve the proposed BPS under a Goal 18 exception;
- and
- Applicants respectfully request that you also approve the requested BPS in the alternative as allowed under Goal 18 without any need for a further goal exception.
- Thank you and staff for your time and consideration.



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PLANNING APPLICATION

OFFICE USE ONLY	
Date Stamp	
3/29/21	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by: <i>SS</i>	
Receipt #:	
Fees: <i>5326.00</i>	
Permit No: <i>851-21-00086-PLNG-01</i>	

Applicant (Check Box if Same as Property Owner)

Name: _____ Phone: _____

Address: _____

City: _____

Email: _____

Property Owner

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email: _____

Please see attached table
for applicant/property
owner contact info.

Request: Precautionary approval of an exception to Statewide Planning Goal 18, Implementation Measure (IM) 5;
precautionary approval of a comprehensive plan amendment for a "committed" exception and/or a "reasons"
 exception to Goal 18, IM 5.

- | Type II | Type III | Type IV |
|--|--|---|
| <input type="checkbox"/> Farm/Forest Review | <input type="checkbox"/> Appeal of Director's Decision | <input type="checkbox"/> Appeal of Planning Commission Decision |
| <input type="checkbox"/> Conditional Use Review | <input type="checkbox"/> Extension of Time | <input type="checkbox"/> Ordinance Amendment |
| <input type="checkbox"/> Variance | <input type="checkbox"/> Detailed Hazard Report | <input type="checkbox"/> Ordinance Amendment |
| <input type="checkbox"/> Exception to Resource or Riparian Setback | <input type="checkbox"/> Conditional Use (As deemed by Director) | <input type="checkbox"/> Large-Scale Zoning Map Amendment |
| <input type="checkbox"/> Nonconforming Review (Major or Minor) | <input checked="" type="checkbox"/> Ordinance Amendment | <input type="checkbox"/> Plan and/or Code Text Amendment |
| <input type="checkbox"/> Development Permit Review for Estuary Development | <input type="checkbox"/> Map Amendment | |
| <input type="checkbox"/> Non-farm dwelling in Farm Zone | <input checked="" type="checkbox"/> Goal Exception | |
| <input type="checkbox"/> Fore-dune Grading Permit Review | | |
| <input type="checkbox"/> Neskowin Coastal Hazards Area | | |

Location:

Site Address: _____ Please see attached table for site descriptions.

Map Number: _____

Township Range Section Tax Lot(s)

Clerk's Instrument #: _____

Authorization

This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

Property Owner Signature (Required) _____ Please see attached applicant/property owner signatures.

Applicant Signature _____ Date _____

List of Applicant/Property Owner Contact Info and Site Descriptions

Applicant/Property Owner Name	Mailing Address	Phone	Email	Site Address	Site Description
Bill and Lynda Cogdall	39455 NW Murtaugh Rd. North Plains, OR 97133	(503) 789-5770	lcogdall@aol.com	17300 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 114
Michael and Christine Rogers	17231 NW Dairy Creek Rd. North Plains, OR 97133	(503) 314-2758	mir2153@aol.com	17320 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 115
David and Frieda Farr	17340 Pine Beach Way Rockaway Beach, OR 97136	(503) 703-1044	dfarrwestproperties@gmail.com	17340 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 116
Jon Creedon	7501 SE 17th St. Vancouver, WA 98664	(503) 253-0345	jcc@pacifier.com	No situs address	T1N, R10W, Section 07DD, TL 117
Don and Barbara Roberts; David Hayes	503 Rhododendron Dr. Vancouver, WA 98661; 600 Rhododendron Dr. Vancouver, WA 98661	(360) 921-9187	donrobertsemail@gmail.com ; robertsfm6@gmail.com ; tdavidh1@comcast.net	17380 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 118
Michael Munch (Applicant/Trustee); 17420 Pine Beach Way LLC (Owner)	5012 Dogwood Dr. Lake Oswego, OR 97035	(503) 430-7860	michaelmunch@comcast.net	No situs address	T1N, R10W, Section 07DD, TL 119
				17420 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 120
Jeffrey and Terry Klein	12230 SW Riverview Ln Wilsonville, OR 97070	(503) 682-8998	jeffklein@wvmeat.com	17440 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 121
Rachael Holland	3136 NE 45th Ave. Portland, OR 97213	(503) 750-1543	rachael@pacificopportunities.com	17460 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 122
Michael Ellis	2614 Q St. Vancouver, WA 98663	(503) 577-2760	mikeellispx@gmail.com	17480 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 123
Angela and David Dowling	19712 Bennington Ct. West Linn, OR 97068	(406) 459-5361	adowling521@gmail.com	17560 Ocean Blvd. Rockaway Beach, OR 97136	T1N, R10W, Section 07DA, TL 3000
Evan Danno	144 Highland Ridge Dr. Kalispell, MT 59901	n/a	evandanno@hotmail.com	17490 Ocean Blvd. Rockaway Beach, OR 97136	T1N, R10W, Section 07DA, TL 3100
Mark and Alice Kemball (Applicants/Trustees); Mary Ann Lockwood Family Trust (Owner)	3515 SW 86th Ave. Portland, OR 97885	(503) 853-4367	kemball@easystreet.net	17488 Ocean Blvd. Rockaway Beach, OR 97136	T1N, R10W, Section 07DA, TL 3104
Megan Steck Berg	337 Somerset Ave. Sarasota, FL 34243	n/a	meganberglaw@aol.com	No situs address	T1N, R10W, Section 07DA, TL 3203
Heather Steck VonSeggern	337 Somerset Ave. Sarasota, FL 34243	n/a	heather.vonseggern@img.education	No situs address	T1N, R10W, Section 07DA, TL 3204

Site Description(s)

17300 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 114

Signature(s)

 3-20-21
Applicant/Property Owner Date

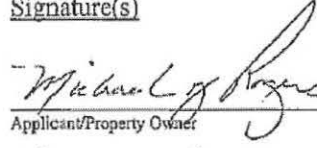
Jenna Caydall 3-20-21
Applicant/Property Owner Date

Site Description(s)

17320 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 115

Signature(s)

 3-21-21
Applicant/Property Owner Date

Christina M Rogers 3-21-21
Applicant/Property Owner Date

Site Description(s)

17340 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 116

Signature(s)

 3/19/21
Applicant/Property Owner Date

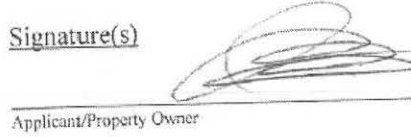
Frieda Van 03/19/2021
Applicant/Property Owner Date

Site Description(s)

No situs address

T1N, R10W, Section 07DD, TL 117

Signature(s)

 3-19-21
Applicant/Property Owner Date

Site Description(s):

17380 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 118

Signature(s):

Property Owner Signature (if required)

[Signature] 3/26/21
Applicant Signature Date

Barbara Roberts 3/20/21
Applicant Signature Date

Site Description(s)

17380 Pine Beach Way
Rockaway Beach, OR 97136

Signature(s)

[Signature] 3/19/21
Applicant/Property Owner Date

T1N, R10W, Section 07DD, TL 118

Site Description(s)

17420 Pine Beach Way
Rockaway Beach, OR 97136

Signature(s)

[Signature] 3-21-21
Applicant/Property Owner Date

T1N, R10W, Section 07DD, TL 119 & 120

Site Description(s)

17440 Pine Beach Way
Rockaway Beach, OR 97136

Signature(s)

[Signature] 3-19-2021
Applicant/Property Owner Date

T1N, R10W, Section 07DD, TL 121

[Signature] 3-19-2021
Applicant/Property Owner Date

Site Description(s)

17460 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 122

Signature(s)

Rachael Holland

Applicant/Property Owner

3/19/2021

Date

Site Description(s)

17480 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 123

Signature(s)

Michael J. Elc

Applicant/Property Owner

3/22/21

Date

Site Description(s)

17560 Ocean Blvd.
Rockaway Beach, OR 97136

T1N, R10W, Section 07DA, TL 3000

Signature(s)

David A. ...

Applicant/Property Owner

3/21/2021

Date

[Signature]

Applicant/Property Owner

3/21/2021

Date

Site Description(s)

17490 Ocean Blvd.
Rockaway Beach, OR 97136

T1N, R10W, Section 07DA, TL 3100

Signature(s)

Evan F. Danno, Trustee
Evan Danno

Applicant/Property Owner

March 20, 2021

Date

Site Description(s)

17488 Ocean Blvd.
Rockaway Beach, OR 97136

T1N, R10W, Section 07DA, TL 3104

Signature(s)

N. Kendall, T.E.

Applicant/Property Owner

3/22/21

Date

Allia P. Kendall

Applicant/Property Owner

3/23/21

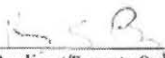
Date

Site Description(s)

No situs address

T1N, R10W, Section 07DA, TL 3203

Signature(s)


Applicant/Property Owner

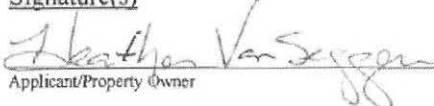
3/22/2021
Date

Site Description(s)

No situs address

T1N, R10W, Section 07DA, TL 3204

Signature(s)


Applicant/Property Owner

3/22/20
Date



DEVELOPMENT PERMIT

OFFICE USE ONLY	
Date Stamp	
3/29/21	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by: <i>SS</i>	
Receipt #:	
Fees: <i>615.00</i>	
Permit No: 851- <i>21</i> - <i>00084</i> PLNG	

Applicant (Check Box if Same as Property Owner)

Name: _____ Phone: _____

Address: _____

City: _____

Email: _____

Property Owner

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email: _____

Please see attached table for applicant/property owner contact info.

Description of Work: Installation of a beachfront protective structure (rip rap revetment) within an active eroding foredune east of line of established vegetation line in VE zone.

Location:

Site Address: _____

Map Number: _____

Please see attached table for site descriptions.

Township

Range

Section

Tax Lot(s)

Complete all applicable fields:

Regulatory Floodway: Estuary: Floodplain:

New: Addition: Replacement: Remodel: Demolish:

Dwelling: _____ Accessory Structure: BPS

Culvert Diameter: _____ Bridge Length: _____

Length: _____ Width: _____

Fence Height: _____ Retaining Wall Height: _____

Streambank Stabilization: _____ Other: _____

Fill/Removal/Grading: CY Vegetation Removal: CY

See Technical Memorandum (Exhibit F) and narrative.

Structure/Damage \$: _____ 5 Year Construction \$: _____

Substantial improvement/damage threshold 50% cost vs. value

Flood Insurance Rate Map (FIRM) Panel Info

Tillamook County Panel Number: 410196_379

Effective Date: 9/28/2018 Property Flood Zone(s): VE west portions none east portions

Floodway: Y N Project Flood Zone(s): VE

Stream/Waterbody Name: Pacific Ocean

Elevation Data (NAVD 88)

Base Flood Elevation: 25.6 First Habitable Floor: _____

Lowest Floor/Horizontal Member: _____

Enclosed Area: _____ Flood Vent Area: _____

Other Required Permits

Authorization

This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

Property Owner Signature (Required) _____ Date _____

Please see attached applicant/property owner signatures

Applicant Signature _____ Date _____

Conditions of Approval

- The applicant shall obtain all applicable Federal, State, and Local permits prior to the start of any development.
- The property owner shall comply with all submitted plans and descriptions of the project.
- The property owner shall comply with all 'Zone ___' flood hazard construction standards per FEMA requirements. All construction shall adhere to the standards for residential structure in the '___' flood zone per TCLUO Section '_____'. This shall be reviewed and verified by this Department during the Building Permit process.
- The dwelling shall comply with all of the Building Code requirements for Anchoring, Construction Materials and Methods, and Utilities for residential structure located in the '_____ ' flood zone.
- The property owner shall submit a Flood 'Pre-Elevation' certificate at the time of Building Permit application. A 'Post-Elevation' certificate shall be submitted during the construction process. Both shall be completed by a registered surveyor and shall be provided on the current FEMA form.
- This approval becomes null and void two years post approval date unless all conditions are met, or an extension is requested from and approved by this Department.

Additional Staff Comments and Conditions

Planner Signature

Date

List of Applicant/Property Owner Contact Info and Site Descriptions

Applicant/Property Owner Name	Mailing Address	Phone	Email	Site Address	Site Description
Bill and Lynda Cogdall	39455 NW Murtaugh Rd. North Plains, OR 97133	(503) 789-5770	lcogdall@aol.com	17300 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 114
Michael and Christine Rogers	17231 NW Dairy Creek Rd. North Plains, OR 97133	(503) 314-2758	mjr2153@aol.com	17320 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 115
David and Frieda Farr	17340 Pine Beach Way Rockaway Beach, OR 97136	(503) 703-1044	dfarrwestproperties@gmail.com	17340 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 116
Jon Creedon	7501 SE 17th St. Vancouver, WA 98664	(503) 253-0345	jcc@pacifier.com	No situs address	T1N, R10W, Section 07DD, TL 117
Don and Barbara Roberts; David Hayes	503 Rhododendron Dr. Vancouver, WA 98661; 600 Rhododendron Dr. Vancouver, WA 98661	(360) 921-9187	donrobertsemail@gmail.com ; robertsfm6@gmail.com ; tdavidh1@comcast.net	17380 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 118
Michael Munch (Applicant/Trustee); 17420 Pine Beach Way LLC (Owner)	5012 Dogwood Dr. Lake Oswego, OR 97035	(503) 430-7860	michaelmunch@comcast.net	No situs address	T1N, R10W, Section 07DD, TL 119
				17420 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 120
Jeffrey and Terry Klein	12230 SW Riverview Ln Wilsonville, OR 97070	(503) 682-8998	jeffklein@wvmeat.com	17440 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 121
Rachael Holland	3136 NE 45th Ave. Portland, OR 97213	(503) 750-1543	rachael@pacificopportunities.com	17460 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 122
Michael Ellis	2614 Q St. Vancouver, WA 98663	(503) 577-2760	mikeellisidx@gmail.com	17480 Pine Beach Way Rockaway Beach, OR 97136	T1N, R10W, Section 07DD, TL 123
Angela and David Dowling	19712 Bennington Ct. West Linn, OR 97068	(406) 459-5361	adowling521@gmail.com	17560 Ocean Blvd. Rockaway Beach, OR 97136	T1N, R10W, Section 07DA, TL 3000
Evan Danno	144 Highland Ridge Dr. Kalispell, MT 59901	n/a	evandanno@hotmail.com	17490 Ocean Blvd. Rockaway Beach, OR 97136	T1N, R10W, Section 07DA, TL 3100
Mark and Alice Kemball (Applicants/Trustees); Mary Ann Lockwood Family Trust (Owner)	3515 SW 86th Ave. Portland, OR 97885	(503) 853-4367	kemball@easystreet.net	17488 Ocean Blvd. Rockaway Beach, OR 97136	T1N, R10W, Section 07DA, TL 3104
Megan Steck Berg	337 Somerset Ave. Sarasota, FL 34243	n/a	meganberglaw@aol.com	No situs address	T1N, R10W, Section 07DA, TL 3203
Heather Steck VonSeggern	337 Somerset Ave. Sarasota, FL 34243	n/a	heather.vonseggern@img.education	No situs address	T1N, R10W, Section 07DA, TL 3204


Site Description(s)

17300 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 114

Signature(s)

 3-20-21
Applicant/Property Owner Date

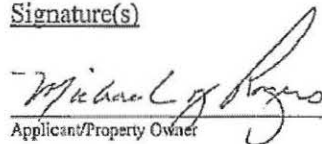
 3-20-21
Applicant/Property Owner Date

Site Description(s)

17320 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 115

Signature(s)

 3-21-21
Applicant/Property Owner Date

 3-21-21
Applicant/Property Owner Date

Site Description(s)

17340 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 116

Signature(s)

 3/19/21
Applicant/Property Owner Date

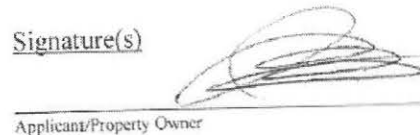
 03/19/2021
Applicant/Property Owner Date

Site Description(s)

No situs address

T1N, R10W, Section 07DD, TL 117

Signature(s)

 3-19-21
Applicant/Property Owner Date

Site Description(s):

17380 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 118

Signature(s):

property owner signature (required)
[Signature] 3/20/21
Applicant Signature Date

Barbara Roberts 3/20/21
Applicant Signature Date

Site Description(s)

17380 Pine Beach Way
Rockaway Beach, OR 97136

Signature(s)

[Signature] 3/19/21
Applicant Property Owner Date

T1N, R10W, Section 07DD, TL 118

Site Description(s)

17420 Pine Beach Way
Rockaway Beach, OR 97136

Signature(s)

[Signature] 3-21-21
Applicant Property Owner Date

T1N, R10W, Section 07DD, TL 119 & 120

Site Description(s)

17440 Pine Beach Way
Rockaway Beach, OR 97136

Signature(s)

[Signature] 3-19-2021
Applicant Property Owner Date

T1N, R10W, Section 07DD, TL 121

[Signature] 3-19-2021
Applicant Property Owner Date

Site Description(s)

17460 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 122

Signature(s)

Rachael Holland

Applicant/Property Owner

3/19/2021

Date

Site Description(s)

17480 Pine Beach Way
Rockaway Beach, OR 97136

T1N, R10W, Section 07DD, TL 123

Signature(s)

Michael J. Gille

Applicant/Property Owner

3/22/21

Date

Site Description(s)

17560 Ocean Blvd.
Rockaway Beach, OR 97136

T1N, R10W, Section 07DA, TL 3000

Signature(s)

David A. Pauling

Applicant/Property Owner

3/21/2021

Date

[Signature]

Applicant/Property Owner

3/21/2021

Date

Site Description(s)

17490 Ocean Blvd.
Rockaway Beach, OR 97136

T1N, R10W, Section 07DA, TL 3100

Signature(s)

Evan F. Danno, Trustee

Evan Danno

Applicant/Property Owner

March 20, 2021

Date

Site Description(s)

17488 Ocean Blvd.
Rockaway Beach, OR 97136

T1N, R10W, Section 07DA, TL 3104

Signature(s)

M. Kendall, Tre

Applicant/Property Owner

3/22/21

Date

Alisa P. Kendall

Applicant/Property Owner

3/23/21

Date

Site Description(s)

No situs address

T1N, R10W, Section 07DA, TL 3203

Signature(s)

[Signature]
Applicant/Property Owner

3/22/2021
Date

Site Description(s)

No situs address

T1N, R10W, Section 07DA, TL 3204

Signature(s)

[Signature]
Applicant/Property Owner

3/22/20
Date

Pine Beach
Combined Application for
Shoreline Protection

Narrative

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I. APPLICATION INFORMATION

DATE: March 26, 2021

REQUEST: Approval of a Floodplain Development and Zoning Permit to allow placement of a beachfront protective structure within an active eroding foredune approximately 10' landward of the existing vegetation line and within the rear yards of lots 11-20 of the Pine Beach Subdivision. (Pine Beach Way; Tax Lots 114-123, Map 1N10W07DD (adjacent and north of Camp Magruder)) and within the rear yards of Tax Lots 3000, 3100, 3104, 3203 and 3204 ("George Shand Tract"/"Ocean Boulevard properties") of Assessor's Map 1N10W07DA. The Applicants' properties were "developed" platted subdivision lots on January 1, 1977 and so are entitled to shoreline protection. As a precaution, this application also seeks a Goal 18 exception to approve the requested shoreline protection. In this regard, TCLUO Section 3.530(4)(A)(4)(b) requires Applicants to also obtain an exception to Statewide Planning Goal 18, Implementation Measure (IM) 5. Consequently, as a precaution to the extent necessary and to the extent the existing committed exception for the area is not viewed as being enough, then the Applicants also request approval of a comprehensive plan amendment for a "Committed" Exception and/or a "Reasons" Exception to Goal 18 Implementation Measure 5. Because the proposed protective structure is east of the statutory vegetation line and east of the line of established vegetation, OPRD's authority is not invoked.

APPLICANTS: Mike and Chris Rogers, Bill and Linda Cogdall, Dave and Frieda Farr, Jon Creedon, Don and Barbara Roberts, David Hayes, Michael Munch, Jeff and Terry Klein, Mike Ellis, Rachael Holland, Heather Steck VonSeggern, Megan Steck Berg, Mark and Alice Kemball, Evan Danno, and Angela and David Dowling

OWNERS: Owners of lots 11-20 of the Pine Beach Replat Unit #1, (Tax Lots 114-123 of T1N, R10W, Section 07DD)
Owners of Tax Lots 3000, 3100, 3104, 3203 and 3204 of R10W Section 07DA

REPRESENTATIVE: Wendie L. Kellington
Kellington Law Group PC
P.O. Box 159
Lake Oswego, OR 97034

LEGAL DESCRIPTION: Lots 11-23 of the Pine Beach Replat Unit #1, (Tax Lots 114-123 of T1N, R10W, Section 07DD)

Tax Lots 3000, 3100, 3104, 3203, and 3204 of T1N, R10W
Section 07DA.

LOCATION: Pine Beach Loop and Ocean Boulevard, approximately two miles south of Rockaway Beach, OR and north of Camp Magruder

ZONING: CR-2 (Community Medium Density Residential) with Beach and Dune Overlay (BD) and Flood Hazard Overlay (FH)

II. COMBINED APPLICATION FOR SHORELINE PROTECTION

This is a combined application for shoreline protection for 15 lots in the Barview-Watseco-Twin Rocks Community Growth Boundary, an unincorporated community, in Tillamook County. The subject properties are in the Pine Beach Replat Unit 1 and George Shand Tracts. All of the proposed shoreline protection is east of the statutory vegetation line and east of the “line of established vegetation.” That means that this application does not implicate the authority of the Oregon Parks and Recreation Department (OPRD). An image of the subject properties is Exhibit A.

This application seeks shoreline protection as of right and also seeks a precautionary application for a Goal 18 exception to allow the requested shoreline protection. Findings addressing the Goal 18 exception are provided in Section VIII.B. below. Findings addressing the County’s requirements for beachfront protective structures are provided in Sections VIII.C. and D. below.

The homes on the subject properties are now in harm’s way; although they were not in danger at the time their underlying subdivisions were approved, or when the homes were established. King Tides in 2020 and 2021 saw ocean water reaching these homes and indeed snaking around them, gunning for the street system and homes located further landward. Here, the subdivision developers did everything right – all of the homes in the Pine Beach Replat and all of the Ocean Boulevard properties are setback at least 237.6’ east of the statutory vegetation line. While at the time the subject properties were developed the ocean was literally hundreds of feet away, now the statutory vegetation line itself is fully in the ocean and the ocean is getting perilously close. Moreover, at the time the subdivisions and homes on the subject properties were approved, the ocean was depositing sand – adding land – not taking it away, and certainly did not reach landward as far as now. This fact makes this application significantly different from others that may seek a Goal 18 exception. To repeat it, when developed, the subject properties had seen a 70-year period of ocean progradation – depositing sand and adding land - not taking it away as has occurred more recently.

Approving this application will immediately save 11 homes, the public water and sewer infrastructure that serves them *and* this area, and the supporting road system.

III. SUBJECT PROPERTIES ARE ENTITLED TO SHORELINE PROTECTION AS OF RIGHT – AS DEVELOPED SUBDIVISION LOTS.

The subject properties should be entitled to shoreline protection as of right. On January 1, 1977, all of the properties were in platted subdivisions which were served by streets and had “provision of utilities,” depending upon how the latter term is interpreted. Specifically, the properties within the Pine Beach Replat were within the Pine Beach Subdivision platted in 1934. Exhibit B. The Ocean Avenue properties were within the “George Shand Tracts” platted in October 1950. Exhibit C. The George Shand Tracts abutted the town of Watseco and were served by Ocean Boulevard and, by January 1, 1977, water was provided via the predecessor to the Watseco-Barview Water District and individual septic systems. Similarly, the Pine Beach subdivision was served by Old Pacific Highway, and the predecessor to Watseco-Barview Water District’s infrastructure in Watseco abutted and was certainly available to serve the Pine Beach subdivision as were individual septic systems. An example of this is Exhibit D, which is the building permit approval for the house just north of the subject properties on TL 2900, the building permit for which was approved in 1974 and indicated “Watsesco Water” would be used and a “septic tank.”

Moreover, the version of Goal 18 in effect on January 1, 1977 did not require subdivision lots to be served by roads or utilities at all. Rather, until 1984, Goal 18 simply required that land be “developed” and provided the following definition of “development” and “developed”:

**“Develop” - To bring about growth or availability to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access.
(State Planning Goals and Guidelines)**

**“Development” - The act, process, or result of developing.
(State Planning Goals and Guidelines)**

Under the standards that applied to the two subdivisions in 1977, both the Pine Beach and Ocean Boulevard properties were “developed” – divided to bring about growth or availability to construct a structure – on January 1, 1977, and therefore should be entitled to shoreline protection under that original Goal 18 standard. It was only in 1984, that Goal 18 was amended to define development to mean subdivision lots with roads and the “provision of utilities.” But, by then the subject properties existed as subdivision lots and reasonably should be entitled to shoreline protection. The new Goal 18 regulations about lots entitled to shoreline protection should not be applied to lots, like the subject properties, that were established before the effective date of the new (1984) Goal 18 definition of “developed.”

IV. SUBJECT PROPERTIES ARE ENTITLED TO SHORELINE PROTECTION BECAUSE THEY ARE SUBJECT TO A COMMITTED EXCEPTION THAT ALLOWS RESIDENTIAL DEVELOPMENT ON A DUNE THAT IS NOW SUBJECT TO OCEAN UNDERCUTTING AND OVERTOPPING.

The subject properties, and the public water and sewer lines and road system that serve them and others, are all urban development on a dune. The subject properties are subject to an existing statewide planning goal exception that allows that residential development outside of an UGB, on that dune. At the time the subject properties were approved, those dunes were not subject to ocean undercutting or wave overtopping. Now they are. And their existing committed exception protects them. This is because it is a goal exception that allows residential development on dunes subject to such wave action.

In this regard, Goal 18, Implementation Measure (IM) 5 expressly allows shoreline protection to be established on property if a goal exception allows residential development on a dune with such characteristics. Therefore, it is tautological that the existing exception that applies to the subject properties is an exception to the prohibition that otherwise applies (viz.) the prohibition on housing on a dune subject to ocean undercutting or wave overtopping. Accordingly, since the subject properties already have a Goal 18 exception that allows their residential development on a dune subject to overtopping and undercutting, they have a right to shoreline protection. That is the reason why this Goal 18 exception is precautionary only. We appreciate that their existing goal exception does not expressly reference Goal 18. But it need not do so. Nothing says that an exception allowing residential development on a dune with overtopping and undercutting characteristics as here, can only be deemed an exception to Goal 18's prohibition on such development if it uses magic words specifically identifying each goal to which it applies. What is legally significant is the substance, not the title, of the particular exception. *See South of Sunnyside Neigh. League v. Clackamas County*, 280 Or 3, 21 (1977) (“No particular form is required, and no magic words need be employed” for findings supporting plan amendments.) And what is legally significant here is that the County's exception that applies to the subject properties allows residential development on the dune on which they are situated which is now subject to ocean undercutting and wave overtopping.

V. DLCD CLAIMS GOAL 18 EXCEPTIONS AS PROPOSED HERE ARE APPROPRIATE.

In 2019, DLCD established a so-called Goal 18 focus group to discuss whether the current Goal 18, Implementation Measure 5 prohibition on protective structures made any sense. The final report of that group did not answer that question. However, the final report does flag that DLCD thinks that the existing Goal 18 exception process “already exists” and anyone “can pursue this option now”. Exhibit E (Goal 18 Report), p. 11. The report opines that the Goal 18 exception process is “underutilized” (p. 11) and that “there is no evidence” that Goal 18 process would not “work” to allow protective structures where needed. Exhibit E, p. 18. The report also explains that applications to protect more than one property (“batch exceptions”) are allowed. Exhibit E, p. 18. Accordingly, this application that establishes compliance with all requirements to take a precautionary exception to Goal 18, Implementation Measure 5, to protect residentially developed property on a dune, subject to ocean undercutting and wave overtopping, in an area committed to residential development, and it should easily be approved.

VI. APPLICABLE EXCEPTION STANDARDS

A. Applicable Oregon Statewide Planning Goals, State Law & Administrative Rules

1. Oregon Statewide Planning Goal 18 (OAR 660-015-0010(3))
2. ORS 197.732(2)(b) (aka, "committed exception") (*see also* OAR 660-004-0028)
3. ORS 197.732(2)(c) (aka, "reasons exception") (*see also* OAR 660-004-0020 through 660-004-0022) and OAR 660-004-0022(11) Goal 18 Fore-dune Development Reasons Exception Requirements)
4. Statewide Planning Goals 1 through 19

B. Applicable County Comprehensive Plan and Land Use Ordinance Regulations

1. **Tillamook County Comprehensive Plan.** Relevant Elements include provisions from:

Goal 7 Hazards Element
Goal 16 Estuarine Resources Element
Goal 18 Beaches and Dunes Element

2. **Tillamook County Land Use Ordinance**

Section 3.014 Community Medium Density Urban Residential Zone (CR-2)
Section 3.510 Floodway Hazard Overlay Zone
Section 3.510(5) General Standards
Section 3.510(10) Specific Standards for Coastal High Hazard Areas (V, VE, or VI-V30 Zones)
Section 3.510(14) Development Permit Procedures
Section 3.530 Beach and Dune, (BD) Overlay Zone
Section 3.530(2) Applicability
Section 3.530(3) Categories
Section 3.530(4)(A)(2)(a) & (b) Accessory Structures
Section 3.530(4)(A)(4)(b) & (c), (5)-(7) Beachfront Protective Structures
Section 3.530(5)(B) Dune Hazard and Modified Dune Hazard Reports
Section 9.030 Text Amendment Procedure
Section 9.040 Transportation Planning Rule Compliance

VII. AFFECTED JURISDICTIONS

Tillamook County Sheriff
Tillamook People's Utility District
Watseco/Barview Water District
Twin Rocks Sanitary District
Garibaldi Fire District

VIII. FINDINGS

A. General Information

1. The Applicants have submitted a development permit application to construct and install a revetment structure, (i.e., a beachfront protective structure (“BPS”)), on private property located on what has become an active eroding foredune. Tillamook County Land Use Ordinance (“TCLUO”) Section 3.530(4)(A)(4)(b) requires the subject properties to take an exception to Statewide Planning Goal 18 (“Goal 18”) Implementation Measure 5 if the structures to be protected were not in “developed” on January 1, 1977. As explained above, the Applicants do not believe that a Goal 18 exception is required here, either because their property was “developed” on January 1, 1977 or because it is subject to an existing goal exception that allows residential development on the dune on which they are situated. Hence, what follows is precautionary only.

Applicants request alternatively, or in combination, a “Committed” Exception and/or a “Reasons” Exception to Goal 18 Implementation Measure 5.¹

The location of the primary beachfront protective structure is approximately 10 feet landward of the existing vegetation line and within the rear yards of Tax Lots 114-123, the western-most lots, of the Pine Beach subdivision and within the rear yards of Tax Lots 3000, 3100, 3104, 3203 and 3204, the “Ocean Boulevard properties”. Exhibit F, Attachment 2, Sheet 3. The structure will be located approximately 185 feet landward of the “Oregon Ocean Shore Line.” The beachfront protective structure will run the width of the Pine Beach subdivision properties and adjacent Ocean Boulevard properties, with a maximum elevation of 3 feet above ground level (23.8 feet elevation) and a bottom elevation of 12.0 feet, which is underground. The structure consists of a 6-foot thick rock revetment with an 18-inch rock filter base and will be backfilled with sand at no greater than a 1 to 1.5 slope. The area will be revegetated, monitored and revegetated if needed. The primary revetment material will consist of large rocks, 3- to 4-feet in diameter (granular filter option). The total width of the underground structure will be approximately 30 feet. The eastern edge of the beachfront protective structure will be mere feet from the existing houses. *See, e.g.,* Exhibit F (West Consultants Technical Memorandum), Attachment 2, Sheet 3. The proposal also includes ecology block walls that extend from the main revetment structure along the northern-most and southern-most boundaries of Tax Lots 3000 and 114, respectively – the “end caps” of the revetment. (*See* Exhibit F, Attachment 2, sheet 3).

The subject Tax Lots consist of 15 lots, with homes on 11 lots, and 4 undeveloped lots, all of which have ocean-front rear yards facing a rapidly eroding vegetation line. *See* Exhibit F, Figure 2. It is critical to stop this rapidly advancing coastal

¹ As noted in the introduction, the subject properties already have a committed exception to residential development on their dune and this application is precautionary only, without waiving it is unnecessary.

erosion because, in recent years, these properties have been threatened by coastal flooding during high tides, combined with high wave run-up during winter King Tides, such as those that occurred on February 8-12, 2020. During that event, the maximum still water level reached the oceanfront homes and went past the southern-most home for a distance of about 45 feet. As stated by West Consultants' Chris Bahner, PE, in his Technical Memorandum, there is a high level of risk for future damage to the subject 11 structures in the Pine Beach subdivision and on Ocean Boulevard. Furthermore, an additional 40 or more homes are also threatened by coastal flooding. In addition, the Pine Beach and Ocean Boulevard properties' water and sewer infrastructure, and Pine Beach Way and Ocean Boulevard are also at risk if no action is taken to stop future erosion should it continue.

Tillamook County approved a subdivision replat for the Pine Beach subdivision in 1994. The staff report for the replat states that Element 14 of the County Comprehensive Plan established a Twin Rocks/Watesco/Barview Community Growth Boundary that includes the Pine Beach subdivision replat properties. Exhibit G, p. 3. It also explained that it did so because the County had concluded that the area met the Goal 14 definition of an "urban area" and the County recognized it as a "functionally urban area" that has developed infrastructure and residential densities at urban levels. Exhibit G, p. 4. The staff report also indicated that the Goal 18 element of the Comprehensive Plan recognized that residential development is appropriate on younger and older stabilized dunes and will not create any adverse effects or hazards on the site or in surrounding areas. Exhibit G, p. 4. The staff report also explained that an exception for Goal 17 (Shorelands) had already been taken. Exhibit G, p. 3. The staff report said that no specific Goal 18 exception had been taken. Exhibit G, p. 3.² However, the County did not need to take a specific Goal 18 exception for the Pine Beach Replat, at that time. The subdivision was located where Goal 18 said it should be, well away from the shoreline and with a broad expanse of foredune between permitted development and the beach, on a dune not subject to ocean undercutting or wave overtopping. Exhibit G, p. 5.

The dune hazard report ("DHR") prepared for the 1994 Pine Beach Replat application describes the dune and shoreline history and the conditions at the time of the approval. (See Exhibit H). Ronald Larson, PE, PLS with Handforth Larson & Barrett, Inc., explained that in 1973, a study identified the area as younger stabilized dunes with some inclusions of open dune sand conditionally stable ("OSC"). Exhibit H, p. 1. A subsequent study by the same evaluator in 1993 explained: "Since the time of dune mapping (1973) the shrub and tree species have essentially filled in the map inclusion areas of OSC, that are east of the setback line at 180 feet." Exhibit H, p. 1-2. That latter report went on to explain: "No active

² As explained above, for a Goal 18, Implementation Measure 2 exception to be taken, it is unnecessary that the exception recite any particular magic words. They key is whether the exception authorizes residential development on dunes subject to its terms. There is an exception that covers the subject properties that allows residential development on the dunes described in Goal 18, Implementation 2. That means under Goal 18, Implementation Measure 5, that the subject property is already entitled to shoreline protection under that existing exception. Hence, this exception is precautionary only and without waiving it is wholly unnecessary.

foredune occurs in the reach today[.]” Exhibit H, p. 2. At the time of the Pine Beach Replat subdivision application, no development was proposed for areas identified as open dune sand conditionally stable – that was where the subdivision’s common area (Tract “A”) was located – and all development was proposed within a younger stabilized dune classified area that was not subject to undercutting or overtopping. Exhibit G, p. 2, 5.

The DHR also evaluated the history of accretion and erosion of the beach at the location of the Pine Beach Replat property. Exhibit H, p. 2-3. The DHR explained that a review of U.S. Army Corps of Engineers (“CoE”) and Oregon State Highway Department (“OSHD”) aerial photos from 1939 through 1984 “show a steady increase in vegetation over the entire property. Exhibit H, p. 2. They showed that the most westerly line of vegetation had moved westward during that period. Exhibit H, p. 2. The DHR also noted other studies by individuals that described the erosion process at that location “as being cyclical with an overall net accretionary trend in this area.” Exhibit H, p. 2.

The DHR also incorporated analysis by Paul D. See and Associates, Inc. Exhibit H, p. 2, 11-13. Paul See, a registered professional geologist, explained that the beach “has experienced a net accretion over the past 70 years” despite periodic severe storms that had eroded the dune front. Mr. See explained:

“Notwithstanding the periodic erosion by storm surf, records confirm that this segment of shoreline has been prograding since at least 1939. Because of the trans[.]ient and unpredictable episodes of regression, no consistent rate of accretion can be applied. However, between 1917 and this date, the shoreline has accreted westerly at least 1000 feet. Cooper (1) depicts an average of 300 meters of post-jetty accretion between 1917 and 1939. Stenbridge (2) notes that the least prograding between the Nehalem River and Tillamook Bay totals more than 30 feet between 1939 and 1975.” (Exhibit H, p. 11).

Mr. See’s analysis also addressed velocity (storm wave) limits. He noted that, in 1994, the shoreline remains at risk from severe episodic storm wave overtopping due to its elevation, but that recent modelling indicated that the limit of velocity flooding would fall well short of the proposed construction setback by 70 to 130 feet. Exhibit H, p. 12. Mr. See concluded:

“In conclusion, the property appears to be relatively safe from long-term net erosion and shoreline regression. Current modelling of Velocity flooding will not impact the area proposed for development. The Tillamook Bay north jetty will continue to present a barrier to southerly offshore sand transport, causing a continued net accretion along this beach. No evidence exists to suggest reversal of a trend that has continued for more than 70 years.” Exhibit H, p. 12.

The Dune Hazard Reports for the George Shand Tract/Ocean Boulevard properties

concluded similarly. See Exhibit L (TL 3000), p. 10 (Dune Hazard Study by Paul D. for Tax Lot 3000, dated September 15, 1988); Exhibit M, p. 17-18 (TL 3100); Exhibit N, p. 18 (TL 3104); Exhibit O, p. 8 (TL 3203); and Exhibit P, p. 8 (TL 3204). The development of these properties pre-dates the Pine Beach Replat approval. See, e.g. Exhibit J, p. 1 (1994 Photograph showing the Ocean Boulevard properties' streets laid before development of Pine Beach Subdivision). To summarize, the 70-year period of beach prograding that predated the subdivision approvals also existed for the Ocean Boulevard properties, and as Paul D. See explained, as early as September 1988, there was no evidence in any record to indicate that there would be any reversal in the prograding trend that had continued for over 70 years. Exhibit L, p. 10. Like the Pine Beach Replat subdivision lots, the George Shand Tract/Ocean Boulevard development was approved and located precisely where Goal 18 said they should be and for which Goal 18 anticipated no beachfront protection measures should ever be necessary.

The historical analyses conducted as part of the various dune hazard reports is entirely consistent with the Tillamook County Comprehensive Goal 18 maps 7 and 8, which show the shoreline along the Pine Beach Subdivision and George Shand Tracts/Ocean Boulevard developments as a "Prograding" shoreline change area. See Exhibit I.

West Consultants estimate that in 1994, the vegetation line was approximately 221 feet from the western edge of the oceanfront homes along the Pine Beach development and Ocean Blvd. properties, well away from the younger stabilized dune where the dwellings on the subject properties are located and on the western edge of the Common Area for the subdivision. Exhibit F, p. 3.

2. TCLUO Section 3.530(4)(A)(4)(b), which implements Goal 18 Implementation Measure 5, allows beachfront protective structures in Developed Beachfront Areas where development existed as of January 1, 1977, or where beachfront protective structures are authorized by an Exception to Goal 18. Here, a precautionary Exception to Goal 18 Implementation Measure 5 is sought in the event the County decides that the proposed beachfront protective structure requires it. The current version of Goal 18's IM 5 limits the issuance of permits for beachfront protective structures ("BPS") like rip rap only to areas where development existed on January 1, 1977, stating:

"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 Measure 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. The criteria for review of all shore and beachfront protective structures shall provide that:

- “(a) visual impacts are minimized;*
- “(b) necessary access to the beach is maintained;*
- “(c) negative impacts on adjacent property are minimized; and*
- “(d) long-term or recurring costs to the public are avoided.”*

Applicants seek an exception only from the January 1, 1977 limitation contained in Implementation Measure 5; the proposal complies with the other Goal 18 criteria. An exception would exempt the subject properties from the 1977 date requirement of Goal 18, IM 5, to the extent that their committed exception does not already do so.

3. OAR 660-004-0005 defines an “Exception” as a comprehensive plan provision, to include an amendment to an acknowledged comprehensive plan. Consequently, the taking of an exception to Goal 18 Implementation Measure 5 is a quasi-judicial amendment to the comprehensive plan because the exception must become part of the plan. The application should be processed under Type III procedures (*see* TCLUO Table 10.1) and the standards for a site-specific plan amendment.
4. According to TCLUO Section 3.510(5) and (10), all new construction, (such as the proposed protective structure), must provide evidence from a professional engineer (PE) or other suitable professional demonstrating that the proposed structure encroachment into the floodway shall be anchored to prevent flotation and/or lateral movement, and not result in an increase in flood levels during a base flood discharge event. The subject site is in a “VE” zone, which FEMA defines as coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. To that end, the applicant has provided evidence from Chris Bahner, PE, West Consultants, Inc. demonstrating that the proposal complies with Section 3.510(5) and (10). *See* Exhibit F.
5. According to TCLUO 3.530(4)(A)(2), accessory structures for ocean front protection or stabilization, (such as the proposed beach front protective structure), must provide a Dune Hazard Report pursuant to Section 3.530(5)(B). All proposed beach front protection structures must be designed in substantial conformance with TCLUO 3.530(4)(A)(4). To that end, the Applicants have provided evidence from Chris Bahner, PE, West Consultants, Inc. demonstrating that the proposal complies TCLUO Sections 3.530(4)(A)(2), 3.530(4)(A)(4) and 3.530(5)(B). *See* Exhibit F.
6. Access to the lots subject to this Goal 18 Exception is either via Pine Beach Loop or Ocean Boulevard. Each in turn provides access to Old Highway 101 and Highway 101. There are two beach accesses in the exception area. One beach access runs between Tax Lots 123 and 3204 to the beach. *See* Exhibit Q, p. 2. The other beach access runs from Pine Beach Loop between Tax Lots 113 and 114, and then along the southern boundary of Tax Lot 114 to the subdivision’s common area and the beach. The subject parcels are served with public water and sewer services.

B. Applicable Oregon Statewide Planning Goals, State Law & Administrative Rules

1. Oregon Statewide Planning Goal 18 (OAR 660-015-0010(3)), and Implementation Measure 5.
2. Committed Exception: ORS 197.732(2)(b) (*see also*, OAR 660-004-0028 (implementing regulations))
3. Reasons Exception: ORS 197.732(2)(c) (*see also*, OAR 660-004-0020 through 660-004-0022; and OAR 660-004-0022(11), Goal 18 Foredune Development (implementing regulations))
4. Statewide Planning Goals 1 through 19

Applicants address below under Section B the various state standards (statutes, administrative rules and Statewide Planning Goals) necessary for taking an exception and for demonstrating state-level consistency for a comprehensive plan amendment. Subsection 1 below provides background information about the exceptions process and Goal 18, Implementation Measure 5. Subsections 2 and 3 address the requested committed exception standards and reasons exception standards, respectively. Subsection 4 addresses the proposal's consistency with each of the Statewide Planning Goals.

Section C below demonstrates consistency with the relevant local Comprehensive Plan provisions, and Section D below demonstrates compliance with all applicable Land Use Ordinance standards.

1. Oregon Statewide Planning Goal 18

INTRODUCTION:

Because the most significant issue is whether the proposed shoreline protection satisfies the requirements for an exception to Goal 18, Implementation Measure 5, this application narrative begins with a summary and analysis of the statutory and administrative rule requirements for a goal exception.

The following paragraphs demonstrate how the subject proposal to construct a beachfront protective structure meets all of the relevant and applicable state standards and criteria for both a Goal 18 "committed" exception and a "reasons" exception. If successful, the Applicants will be permitted to construct a shoreline revetment to stem the tide of the ocean's onward march eastward towards the rear yards of the 15 lots along the west side of Pine Beach Way and Ocean Boulevard. But first, it is important to focus on the preamble of Goal 18, which sets forth its overarching policies, and, secondly, to demonstrate how the subject proposal directly supports those overarching policies.

Oregon Statewide Planning Goal 18 (OAR 660-015-0010(3)) applies to coastal beach and dune areas and stipulates where development and other uses can occur

in those areas. Goal 18 provides the following purpose statements:

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

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

APPLICANTS COMMENT:

As shown in Exhibit F, West Consultants proposes to install a revetment that will allow for the planting of beach grasses and native vegetation on the structure itself, and by so doing, allow native vegetation to flourish, thereby restoring the natural resource that has been rapidly eroding away. Therefore, based on the above-stated evidence, the proposed revetment will *“conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas[.]”*

As also shown on Exhibit F, West Consultants states on page 1 of its February 5, 2021 Technical Memorandum that:

“The landowners along the oceanfront have been losing portions of their property from coastal erosion, and experience coastal flooding during high tides combined with high wave run-up as was the case with the King Tides on February 8-12, 2020. During this event, the maximum stillwater level reached the ocean front homes, and went past the southernmost home for a distance of about 45 feet. There is a high level of risk for future damage to structures in the Pine Beach subdivision and the area to the north, which will be referred to as the ‘Ocean Boulevard properties’ in this memorandum.”

On page 7 of the report, under Section 5.1, Purpose, West Consultants goes on to state that:

“There is a high level of risk for future damage to structures, lots and infrastructure in the Pine Beach subdivision and Ocean Boulevard properties. There are 15 lots and 11 homes (4 lots are undeveloped) that are significantly threatened by coastal erosion and flooding, and an additional thirty-two homes threatened by coastal flooding. Coastal flooding will also have an adverse impact on the water and sewer systems that Pine Beach subdivision and the Ocean Boulevard properties. Furthermore, if erosion is allowed to continue unchecked by the recommended revetment, the Pine Beach and Ocean Boulevard properties’ water and sewer infrastructure is at risk as is Pine Beach

Loop, which is the vehicular access to the Pine Beach subdivision development.”

Therefore, based on the above-stated evidence, it is evident that the subject 15 lots and 11 structures, as well as an additional 40 or so homes inland from the oceanfront Pine Beach and George Shand Tracts/Ocean Blvd. properties, have been, and are now, subject to “*hazard to human life and property from natural or man-induced actions associated with those areas.*” The proposed revetment, (beachfront protective structure), if approved, will “*reduce the hazard to human life and property from natural or man-induced actions associated with those areas*”, which directly complies with this portion of the above-cited Goal 18 “preamble”. In summary, this proposal to protect the Pine Beach Subdivision and Ocean Boulevard’s beachfront lots and homes and related infrastructure to conserve, protect and restore the existing resources, is exactly in line with the purposes for which Goal 18 set out to accomplish.

EXCEPTIONS PROCESS:

In terms of process and effect, an exception to a statewide planning goal is essentially a variance. That is, an exception is a comprehensive plan provision which will allow a local government to waive compliance with a Statewide Planning Goal for specific properties or situations.

Statewide Planning Goal 2 gives some guidance on the Exceptions process. Goal 2, Part II defines an “exception” as a comprehensive plan provision, including an amendment to a comprehensive plan, that:

“(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

“(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

“(c) Complies with standards for an exception.” See also, ORS 197.732(1)(b) (containing identical definition of “exception”).

Goal 2, Part II, describes three types of exceptions – built, committed and reasons – to statewide land use goals that a local government may adopt. This application requests a “committed” exception and/or a “reasons” exception. Exceptions are implemented through a combination of state statutory provisions and LCDC administrative rules. The analysis below address standards set forth under both statutes and rules.

Goal 2, Part II(b) describes a “committed exception” (*see also* ORS 197.732(2)(b) and OAR 660-004-0028) and provides:

“(b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development 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;”

Goal 2, Part II(c) describes a “reasons exception” (*see also* ORS 197.732(2)(c) and OAR 660-004-0020 through 660-004-0022) and provides:

“(c) The following standards are met:

“(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 of 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; and

“(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.”

APPLICANTS COMMENT:

As discussed in the findings above, Goal 18 Implementation Measure 5 and its local implementing regulation at TCLUO 3.530(4)(A)(4)(b) prohibit beachfront protective structures for development that did not exist on January 1, 1977 or that do not have a goal exception to allow residential development. We explain previously that the subject properties should qualify for shoreline protection being “developed” on January 1, 1977 under the original terms of Goal 18 and also being subject to an existing goal exception that allows residential development exactly where their residential development is situated. However, if the County disagrees (or does not wish to reach that issue) then this exception is justified and should be approved.

The Applicants believe that taking a “committed” exception and/or a “reasons” exception to Goal 18, IM 5’s January 1, 1977 requirement is consistent with the second purpose of Goal 18 discussed above. That purpose is to reduce the hazard to human life and property from natural actions associated with coastal beach and dune areas, (i.e., to reduce the hazard to beachfront homes, and to human life that occupies those homes, from natural erosive and destructive wave action by allowing beachfront protective structures to be installed). As the record demonstrates and as discussed herein, the Pine Beach Subdivision and the Ocean Boulevard properties were lawfully approved and developed based upon evidence that the shoreline was

prograding and that “no evidence exists to suggest reversal of a trend that has continued for more than 70 years”, as the dunes hazard report for the application concluded. *See* Exhibit H. Approval of this precautionary exception is entirely consistent with the purpose and intent of Goal 18.

In subsections 2 and 3 below, the Applicants provide analysis and evidence to demonstrate that the proposal to install the subject beachfront protective structure, complies with the above-cited “committed” and “reasons” exceptions statutory and administrative rule requirements. The subsequent Sections C and D address Tillamook County Comprehensive Plan Policies and Land Use Ordinance requirements, respectively.

Before turning to the exception standards, Applicants address the other Goal 18, IM 5 provisions for which an exception is not requested. The demonstration of Goal 18’s other Implementation Measures (other than IM 5) is provided in the subsection that addresses the Statewide Planning Goals.

GOAL 18 IMPLEMENTATION MEASURE 5:

Applicants are requesting an exception to the January 1, 1977 date limitation set forth in Goal 18, Implementation Measure 5, which provides:

“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 Measure 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. The criteria for review of all shore and beachfront protective structures shall provide that:

“(a) visual impacts are minimized;

“(b) necessary access to the beach is maintained;

“(c) negative impacts on adjacent property are minimized; and

“(d) long-term or recurring costs to the public are avoided.”

APPLICANTS COMMENT:

As noted above, the “committed” and the “reasons” exceptions analysis to the January 1, 1977 requirement is provided under subsections 2 and 3 below. Also, as explained above, the Applicants seek exception only for the January 1, 1977 limitation provided for under Goal 18, IM 5. As the analysis immediately below demonstrates, the proposal is consistent with the other requirements, (a) through (d) contained in Goal 18, IM 5.

(a) “Visual impacts are minimized.” The proposal minimizes visual impacts by locating the beachfront protective structure within the existing foredune and then re-covering it with the sand excavated for the construction. The structure’s crest will be at an elevation of 23.8 feet, three feet above the existing foredune crest, the maximum permissible elevation of accessory uses in the zone. The BPS will be re-covered with sand and replanted with native beach grasses and shrubs and will appear, for all intents and purposes, as a natural foredune. The structure and its vegetation will be monitored annually to determine if additional replanting is necessary.

(b) “Necessary access to the beach is maintained.” There are two beach accesses in the exception area. One beach access runs between Tax Lots 123 and 3204 to the beach (the “northern beach access”). *See* Exhibit Q, p. 2. The other beach access runs from Pine Beach Loop between Tax Lots 113 and 114, and then along the southern boundary of Tax Lot 114 to the subdivision’s common area and the beach (the “southern beach access”). The proposal maintains the northern beach access and improves it with a gravel path and ramp that goes over the rock revetment and allows access to the beach. Exhibit F, p. 9; Exhibit F, Attachment 2, Sheet 3, 5. The southern beach access runs from Pine Beach Loop between Tax Lots 113 and 114 to the southern boundary of the subdivision, and then along Tax Lot 114 to the beach. *See* Exhibit Q, p. 2. The proposal maintains that beach access as well and does not interfere with it.

(c) “Negative impacts on adjacent property are minimized.” The proposed beachfront protective structure is designed to minimize the impact to adjacent property. It is designed not to direct additional water to the surrounding properties, will not increase wave heights, wave runup, or total flood water levels, or impact the natural littoral drift of sediment along the coast. Exhibit F, p. 8-9. As the historic Google Earth imagery shows, the Shorewood RV Resort’s beachfront protective structure has not had an adverse impact to the surrounding properties due to its proper design. Given that the proposed structure is located farther away from the shoreline and at a higher elevation, the effects should be even less than the RV resort’s revetment. Exhibit J (Google Earth Historic Imagery); Exhibit F, p. 8. The West Consultants’ Technical Memorandum concludes that the proposed BPS will not have any adverse impacts to surrounding properties. (Exhibit F, p. 9).

(d) “Long-term or recurring costs to the public are avoided.” The cost of installing and maintaining the BPS will be borne by the property owners. There will be no long-term or recurring costs to the public, consistent with this requirement.

With the exception of the 1977 date restriction, the proposal is consistent with Goal 18 Implementation Measure 5.

2. Committed Exception

Goal 2, Part II(b) “committed exception” (see also ORS 197.732(2)(b) and OAR 660-004-0028):

As stated above, ORS 197.732(2)(b) requires that the applicant provide substantial evidence to support a conclusion that: *“The land subject to the exception is irrevocably committed as described by Land Conservation and Development 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[.]”*

Based on the above-cited statute, the applicant must next look to the how “irrevocably committed” is “described by Land Conservation and Development rule”. The relevant and applicable LCDC rule is OAR 660-004-0028, with which, in the following paragraphs, the Applicants will provide evidence to demonstrate compliance. OAR 660-004-0028 sets forth LCDC’s interpretation of the requirements for an “irrevocably committed exception” under Goal 2, Part II(b) (ORS 197.732(2)(b)). OAR 660-004-0028 provides, in relevant part:

“(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:”

APPLICANTS COMMENT:

As discussed in the findings section above, the Pine Beach Replat Subdivision and associated residential development was lawfully approved in 1994 on a younger stabilized dune along a portion of the coast that had seen steady progression for 70 years and where a licensed geologist concluded that there was no evidence to suggest that the continued net accretion along the beach would not continue. The Ocean Boulevard properties had similar findings even prior to that.

With that approval and historic background, the Pine Beach and Ocean Boulevard properties were developed. Not only were residences built on 11 of the 15 oceanfront lots and on the majority of the other lots in the Pine Beach Subdivision and George Shand Tracts/Ocean Boulevard, public water and sewer lines were extended to each lot consistent with the urban residential uses for which the properties were planned.

However, given the entirely unexpected changes in the historic accretion and erosion patterns over the past several years, those lawfully established residential uses are now located on an active foredune that, while conditionally stable, is threatened by ocean undercutting or wave overtopping. Residential development is forbidden on such land under Goal 18, Implementation Measure 2 (“IM 2”),

which provides in relevant part:

“Local governments and state and federal agencies shall prohibit residential developments and commercial and industrial buildings on beaches, active foredunes, on other 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.”

The subject properties have an existing exception that they are irrevocably committed to urban levels of residential use, and that those lawfully established uses, approved when consistent with Goal 18’s strict requirements, now merit the protections afforded by the proposal. The area proposed for placement of the BPS can be put to no other practical use other than to protect the existing residential structures and public facilities – to include public sewer and water facilities – in a manner not proscribed by Goal 18.

“(a) A ‘committed exception’ is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).”

APPLICANTS COMMENT:

The evidence in the record and the analysis presented here and in other sections of this application narrative demonstrate that the proposal complies with the requirements for a committed exception as provided by ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule. No other rules apply as described in OAR 660-004-0000(1).

“(b) For the purposes of this rule, an ‘exception area’ is that area of land for which a ‘committed exception’ is taken.”

APPLICANTS COMMENT:

The committed “exception area,” as is defined throughout this application narrative, are the western-most lots (subdivision lots 11 through 20) of the Pine Beach Subdivision, (*i.e.* Tax Lots 114-123 of Assessor’s Map 1N10W07DD) as well as Tax Lots 3000, 3100, 3104, 3203 and 3204 of Assessor’s Map 1N10W07DA (“George Shand Tracts”/“Ocean Boulevard properties”), and the development area for which the exception is needed is on the western, undeveloped portions (the back yards) of the subject tax lots. *See* Exhibit F, Attachment 2, Sheet 3. That is the only area subject to the requested “committed exception” area.

“(c) An ‘applicable goal,’ as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.”

APPLICANTS COMMENT:

The subject properties have an existing committed exception. This requested committed exception, if required, is specific to Goal 18. As applied to this “committed” exception, Statewide Planning Goal 18, (Beaches and Dunes), and, in particular, the January 1, 1977 existing development cut-off date for which a permit for a beachfront protective structure may be issued under Implementation Measure 5, is the “applicable goal” that would apply to the exception area if an exception were not taken.

“(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

“(a) The characteristics of the exception area;”

APPLICANTS COMMENT:

The characteristics of the exception area, which is defined here as Tax Lots 114-123 of Assessor’s Map 1N10W07DD (*i.e.*, lots 11 through 20 of the Pine Beach Replat Unit 1) (Exhibit Q, p. 2), and Tax Lots 3000, 3100, 3104, 3203 and 3204 of Assessor’s Map 1N10W07DA (George Shand Tract/Ocean Blvd. properties) (Exhibit Q, p. 1), is entirely residential in character. All of the lots within the exception area are zoned Community Medium Density Urban Residential (CR-2) (5,000 square foot minimum lot size). Exhibit K.

The exception area includes a total of 15 beachfront lots, 11 of which are built out with residences (single-family homes) and 4 of which are vacant. *See* Exhibit A. The lot sizes are between 0.21 acres and 0.67 acres, with the average lot size being 0.33 acres (appx. 14,375 sq. ft.). *See* Exhibit Q. The western portions of the beachfront lots (rear yards of the beachfront dwellings) are characterized by sandy, dry beach and a wooded/vegetative shoreline. *See* Exhibit A.

Therefore, based on the above, the characteristics of the Exception Area is one of largely built-out beachfront residential lots.

Because the area has been identified for urban levels of residential development, with a specific Goal 14 exception having been taken for the properties and a committed exception taken before that, the subject parcels are provided with urban levels of public facilities and services. Most relevant are public water and sewer lines that could be adversely impacted by increased ocean encroachment, which

could affect the overall public water and sewer systems. The public roads could also be adversely impacted if an exception is not taken.

Also note that you can see the rapid erosion of the shoreline adjacent to the beachfront Pine Beach subdivision lots when comparing the County Assessment and Taxation Map (Exhibit Q) and Figures 1 and 2 in the West Consultants' Technical Memorandum. (Exhibit F). *See also* Exhibit J (Google Earth Historic Aerial Imagery of beach erosion). That is, the western-most boundary of the subdivision (the western edge of the Common Area, Tract "A" for the Pine Beach Replat Subdivision) on Exhibit Q, p. 2 represents approximately what the August 1994 shoreline was on Figures 1 and 2 in the attached West Consultants' Technical Memorandum (Exhibit F). Furthermore, the western edge of Tax Lots 114-123 is approximately the August 2019 shoreline shown on Figures 1 and 2 in Exhibit A. All residential structures on Tax Lots 114-123 are to the east of the dotted line shown on Exhibit Q, p. 2 (labeled "Setback Line" highlighted in green) and the main portion of the proposed BPS will be located between the western property line and the dotted setback line on Tax Lots 114-123. The Ocean Boulevard properties have already lost extensive portions of their rear yards to erosion. *See* Exhibit A (*compare* rear lot lines of Ocean Blvd. with Exhibit F, Figure 2). Like the Pine Beach Subdivision lots to the south, the Ocean Boulevard lots have houses constructed on the eastern-most portions of the lots, roughly in line with those of the Pine Beach Subdivision. *See* Exhibit A.

Historically, the subject properties were on an established younger stabilized dune with well-established beach grasses, shrubs and trees. *See* Exhibit F, Attachment 1 (field photos showing trees, grasses, shrub and beach area); Exhibit J, (Historical Aerial Images). At the time the Pine Beach Subdivision was built, the common area was an open sand dune conditionally stable area. *See* Exhibit H, p. 14. Due to the estimated 142-foot beach encroachment over the years, the common area is now a dry sand beach. Likewise, the subject properties, while still a well-vegetated younger stabilized dune, are increasingly subject to ocean undercutting and periodic wave overtopping. The same holds true to the adjacent Ocean Boulevard properties.

"(b) The characteristics of the adjacent lands;"

APPLICANTS COMMENT:

The Applicants' representative reviewed Google Earth mapping and County tax maps in evaluating the lands adjacent to the exception area and evaluated the topographic features and land use development patterns of those adjacent lands. *See* Exhibit R, Proposed Exception Area and Adjacent Lands Map.

To the north, and up the northern border of Tax Map IN1007DA, (which is adjacent to the north border of the Pine Beach Subdivision) (Exhibit Q, p. 1), the topographic features are essentially the same combination of sandy, dry, beach, wooded/vegetative shoreline rear yards of beachfront dwellings, with additional

dwellings eastward of those beachfront dwellings, found with the Pine Beach Subdivision. *See* Exhibit R. The one exception to that landscape and development pattern is the Shorewood RV Resort located approximately 900 feet north of the Pine Beach Subdivision and 60 feet north of Tax Lot 3000. *See* Exhibit R. Although it is an RV park, and presumably “seasonal” in nature, it is still essentially residential in character, because many of the RV spots are occupied with long-term residents, and many of the oceanfront spaces are not occupied with RVs, but with mobile homes, which are more “permanent” than “seasonal”. Shorewood RV Resort currently only rents its spaces on an annual lease basis. The RV park also has two permanent condo buildings that are rented as vacation units. The other exceptional feature of the Shorewood RV Resort is a rip-rapped beachfront protective structure along the 15 westernmost, beachfront spots. *See* Exhibit R.

Beyond the northern border of Tax Map 1N1007DA, the topographic features transition to narrower beaches and short, shoreline drainage and streams that flow into the ocean are present. From a land use perspective, the number of residences decreases significantly north of the Shorewood RV Resort. Properties transition into broader swaths of open area, a sewage treatment plant, and the Twin Rocks Friends Conference Center and Camp. The lots within this area are zoned Commercial Medium Density Residential (CR-2) (5,000 square foot minimum lot size) and are part of the Goal 14 exception for the general area that allows urban levels of residential use as well as urban water and sewer services. The land within the above-described area consists of the following built lots and vacant lots:

1. Built Lots: 52
2. Vacant Lots: 15
3. Shorewood RV Resort: 2 permanent condo buildings, 105 RV spaces mostly occupied. *See* Exhibit R.

The calculation of built, vacant, and common area acreage are based on a comparison of the Proposed Exception Area and Adjacent Lands Map (Exhibit R) and County Assessment and Taxation Map 1N10W07DA (Exhibit Q, p. 1). Based on the above-stated facts, the northern border of Tax Map 1N10W07DA set the northern, “adjacent lands” border.

To summarize the above, the characteristics of land uses north of the proposed exception area is one of mostly built-out beachfront residential lots and a nearly fully-occupied 105-space RV park that also has two permanent condo buildings. Landward of the northern adjacent lands’ beachfront lots, are lots which are mostly developed with some vacant, platted lots. The RV park contains a beachfront protective structure that was apparently eligible under Goal 18 for protection.

To the south of the southern border of Tax Map 1N10W07DD (Exhibit Q, p. 2), the topographic features are essentially the same combination of sandy, dry beach and wooded/vegetative shoreline of a younger stabilized dune. *See* Exhibit R. Beyond the southern limit of the Pine Beach Subdivision lie a few inland residences and the

northern limit of Camp Magruder. Although the topographic features are essentially the same, there is an obvious change in land use pattern from single-family residential beachfront lots to a United Methodist camp, with scattered lodges and cabins, a camp store and other camp features. All of Camp Magruder is zoned Recreation Management (RM). Beyond the southern limits of Camp Magruder is Barview Jetty County Park, the Tillamook Bay-Barview Jetty, and the community of Barview; these areas are also zoned RM. Based on the above-stated facts, the northernmost portions of Camp Magruder, up to the southern border of Tax Map 1N10W07DD, most appropriately sets the southern “adjacent lands” border.

To the west is the shoreline and dry, sandy beach of the Pacific Ocean, which runs for many miles north and south of the adjacent lands described above. However, the beach is interrupted to the south by the Barview Jetty and the entrance to Tillamook Bay, and then the beach continues onward south of the jetty. *See Exhibit R.* Based on the above, the said beach/shoreline is the most appropriate western border of the “adjacent lands” area, because it sets a hard topographic barrier between the Pacific Ocean farther west, and the beachfront residential uses east of the beach/shoreline.

To the east, is the Old Pacific Highway, and eastward beyond that is open, vacant land zoned CR-2, Smith Lake, and Highway 101. *See Exhibit R.* Beyond Highway 101 is some RM-zoned land and forest resource land. Based upon the above, the roadway and right-of-way of Highway 101 is the most appropriate eastern border of the “adjacent lands” area, because it sets a hard, man-made barrier between the residential uses to the west, and the open land east of the highway.

“(c) The relationship between the exception area and the lands adjacent to it; and”

APPLICANTS COMMENT:

By design, the subject Pine Beach Subdivision and Ocean Boulevard properties are “self-contained” development, meaning that all of the lots within the subdivision are served by one loop road, (which has three names: Pine Beach Loop/Pine Beach Way/Pine Beach Ave.) or a single access road (Ocean Boulevard). Pine Beach Loop only intersects with Old Pacific Highway along the subdivision’s eastern border. Ocean Boulevard roughly parallels the Old Pacific Highway, accessing it via 2nd and 3rd avenues. There are no other through streets and/or alleys that permit vehicular access to adjacent roads. Old Pacific Highway proceeds southward past the Pine Beach Subdivision and terminates into Camp Magruder. Old Pacific Highway intersects with Highway 101 approximately 1/3 of a mile north of the Pine Beach Subdivision. Therefore, based on the above, there is simply one way in and out of the subdivisions to Old Pacific Highway and to Highway 101.

There are two beach accesses in the exception area. One beach access runs between Tax Lots 123 and 3204 to the beach. *See Exhibit Q, p. 2.* The other access runs

from Pine Beach Loop between Tax Lots 113 and 114, and then along the southern boundary of Tax Lot 114 to the subdivision's common area and the beach. Typically, those beach accesses are used by local area residents and are not the type of "public" beach access easily visible to the general public. Those beach accesses connect Pine Beach Loop and Ocean Boulevard to a long stretch of dry sandy beach. *See* Exhibit Q, p. 2; Exhibit F, Attachment 1, field photos. The beach accesses are a unique and defining characteristic of the exception area in its relationship with lands adjacent to it. The proposed structure will improve the northern beach access with a gravel path and ramp that goes over the rock revetment and allows improved access to the beach and the proposal does not interfere with the southern beach access.

In addition to the beach accesses mentioned above, there are two other factors that the proposed exception area shares with adjacent uses to the north – the predominance of beachfront and other residential development eastward of the beach, and the one-way access pattern from those lots to Highway 101. As stated above, the Shorewood RV Resort, beachfront, and other residential development eastward of the beach, are a common land use pattern north of the exception area. The one-way access pattern in this area is that all residential lots, (including the Shorewood RV Resort) have frontage onto, or an access easement to, Ocean Boulevard. Ocean Boulevard intersects with two streets, (2nd and 3rd avenues), which, in turn, intersect with Old Pacific Highway. From 2nd and 3rd avenues, all traffic would flow north to intersect with the Old Pacific Highway/Highway 101 intersection, just like the Pine Beach Subdivision's access.

The only defining development characteristic that the exception area shares with Camp Magruder is the one-way nature of access. As described above, Old Pacific Highway proceeds southward past the Pine Beach subdivision and terminates into Camp Magruder. Therefore, the exit from Camp Magruder is north along Old Pacific Highway to its intersection with Highway 101. Camp Magruder is a United Methodist Church camp zoned Recreation Management (RM); therefore, it does not contain any other similar characteristics of the urban residential uses shared by the exception area.

The exception area and the lands to the north and south of the property share another common feature. As the Google Earth Historic Imagery (Exhibit J) shows, the shoreline for all of the properties south (as well as north) of the Shorewood RV Resort have been eroding at a consistent rate for the past 20-plus years. Granting the requested exception and approval of the beachfront protective structure will prevent further eroding of the subject properties. Significantly, the West Consultants' analysis concludes that there will be no adverse impacts to the surrounding properties from the revetment structure because the design of the revetment does not direct additional water to the adjacent properties, increase wave heights or wave runup, or impact the natural littoral drift of sediment along the coast. Exhibit F, p. 9, 10. Consequently, there will be no adverse impacts to the lands adjacent to the exception area. The effect of the proposal should be like the

Shorewood RV Resort revetment – while it protects the subject property, it does not adversely affect the adjacent properties; the beaches on adjacent properties will prograde and retrograde at natural rates.

In summary, the exception area is a portion of two self-contained subdivisions, that share some landscape sand development characteristics with development to the north, but are largely separated from that development, as they are separated from the development to the south. The primary connective features are the access roads and the beach. The evidence in the record demonstrates that the proposed development within the exception area will not adversely impact the lands adjacent to the exception area.

“(d) The other relevant factors set forth in OAR 660-004-0028(6).”

APPLICANTS COMMENT:

According to OAR 660-004-0028(6), the other relevant factors are as follows:

“(6) Findings of fact for a committed exception shall address the following factors:

“(a) Existing adjacent uses;”

APPLICANTS COMMENT:

As discussed in greater detail above and summarized here, the majority of developed uses are located to the north of the exception area. See Exhibit R. The existing land uses north of the exception area consist of a nearly fully-occupied 105-space and two-condo RV park, mostly built-out beachfront residential lots, primarily built-out lots eastward of the beachfront lots, and some vacant, platted lots. The RV park contains a beachfront protective structure. See Exhibit R. The analysis area consists of 52 built lots, 15 vacant lots, and a nearly fully-occupied 105-space and two-condo RV park as per the 2020 Google Earth photo. See Exhibit R.

To the east of the proposed Goal 18 exception area is the remainder of the largely developed Pine Beach Subdivision and residences east of the Ocean Boulevard properties, several additional residential structures further inland and the Old Pacific Highway. South of the proposed exception area are a few residential structures and Camp Magruder. To the west is the beach and Pacific Ocean. See Exhibit R.

“(b) Existing public facilities and services (water and sewer lines, etc.);”

APPLICANTS COMMENT:

The subject properties and other area lots, are provided water service by Watseco/Barview Water District, sanitary sewer disposal by the Twin Rocks Sanitary District, and electricity by the Tillamook People’s Utility District. Fire Protection services are provided by Garibaldi Fire District, and law enforcement is controlled by the Tillamook County Sheriff.

With regard to the Pine Beach Replat Subdivision, it was platted in 1994, and obtained preliminary and final plat approval from Tillamook County. *See* Exhibit G. The subject properties and associated subdivisions have long been planned for urban levels of residential use because of the long-standing existing level of committed development. During the County review process, the Applicants were required to demonstrate, by substantial evidence in the file record, that all proposed public utilities, (e.g. sewer, water, electric, streets), were adequately sized and/or constructed to County standards for urban residential development. The same is true for all of the residential lots of the Ocean Boulevard properties, which are a part of the George Shand Tracts platted in the 1930s. *See*, e.g., Exhibit V (public water and sewer acknowledgement for Tax Lot 3100).

Therefore, based on the above-stated evidence, the subject lots are adequately served by urban levels of existing public facilities and services (water and sewer lines, etc.).

“(c) Parcel size and ownership patterns of the exception area and adjacent lands:

“(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created and uses approved pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for non-farm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for

the subject parcels or land adjoining those parcels.”

APPLICANTS COMMENT:

This standard suggests an intent to require an applicant applying for a Resource Goal Exception, (e.g. Goal 3: Agricultural Lands, Goal 4: Forest Lands), to demonstrate that the historical and current pattern of parcelization, and the historical and current installation of public services justifies taking a “committed” exception to allow an expansion, continuation or change to a non-resource use. One of the reasons why this exception request is precautionary and duplicative, is that such an exception for the subject area has already been taken.

Regardless, the central issue here, as applied to this particular “committed” exception, is whether the specific language of Goal 18 Implementation Measure 5, which sets a specific date for when “development” had to have occurred, (January 1, 1977), and prohibits construction and installation of a beachfront protective structure for any “development” that was not in existence on or before that critical date, should apply to this application for a beachfront protective structure.

In response to the analysis required by this standard, the parcel sizes of the subject properties, indeed for all the subject properties and CR-2-zoned properties to the north and east, is a 5,000 square foot minimum. As explained in the findings and supported by the evidence in the record, at the time the Pine Beach Replat Subdivision and development to the north was approved and developed, the subject properties were on a younger stabilized dune with an extensive common area, identified as an open dune sand conditionally stable, between the residential lots and the vegetation line at the beach. Moreover, it was determined that where the dwellings would be placed was not subject to ocean undercutting or wave overtopping. Consequently, the subject lots were created consistent with Goal 18 and a specific Goal 18 exception (if one is ever required) was not required in order to develop the urban levels of residential use with urban public facilities and services that now exist on the subject dune parcels. Goal exceptions had already been taken for all of the subject properties.

The existing development demonstrates an irrevocable commitment of the exception area for the approved urban level of residential use. This is reflected in numerous acknowledged planning documents, to include the acknowledged community boundary and the existing urban residential zoning that applies. The requested exception seeks to protect and ensure that the acknowledged level of approved residential use and their public facilities, continues.

“(B) Existing parcel sizes and contiguous ownership shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or

forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownership are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownership are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;”

APPLICANTS COMMENT:

Existing parcel sizes and contiguous ownership are not relevant factors for the requested exception to Goal 18 Implementation Measure 5's 1977 date restriction, given the exception is not requested for uses on farm or forest land and includes lots lawfully created by a subdivision approvals and land use approvals for dwellings.

To the extent that the parcel size and ownership issue may be relevant for this exception, what is significant is that at the time of subdivision and development, the development was separated from the shoreline by the common area. Furthermore, each of the CR-2-zoned lots is less than 5,000 square feet in size, most are developed and clustered around a road designed to serve the lots, and each of the lots is in separate ownership.

“(d) Neighborhood and regional characteristics;

APPLICANTS COMMENT:

As described earlier in the application narrative, the neighborhood is a mix of single-family dwelling beachfront lots and a 105-space and two-condo RV park, (Shorewood RV Resort) to the north, and a United Methodist church camp, (Camp Magruder) to the south. The dwellings are served by a local street network that provides a loop road through smaller, platted subdivisions, (such as Pine Beach and the George Shand Tracts), or short, public streets that all flow towards Old Pacific Highway, which acts as a “collector” street to funnel all traffic out to a single intersect with Highway 101.

Regionally, the area consists of a string of coastal towns north, (e.g. Rockaway Beach, Wheeler, Nehalem, Manzanita), and south, (Garibaldi, Tillamook, Pacific City), of the subject site along Highway 101, which is the main access up and down the Oregon coast. Some of the larger coastal towns provide a range of services to the local and frequent visitor populations, (grocery stores, banks, County offices, motels, restaurants, gas stations, marinas), whereas smaller communities, such as Barview, Bay City, Netarts, provide only limited local and visitor services. A characteristic shared with the subject properties, Pine Beach Subdivision and

George Shand Tract neighborhood is clusters of small subdivisions along beachfront lots and lots eastward of the beachfront interspersed around and between the above-mentioned large and smaller coastal towns. The regional development is concentrated along the coast; inland areas are generally in resource use.

“(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;”

APPLICANTS COMMENT:

As shown on Exhibit K, all of the land immediately north and east of the Pine Beach Subdivision, is zoned CR-2, (Community Medium Residential), which is a non-resource residential zone. Immediately south of the Pine Beach Subdivision are Camp Magruder and the Barview Jetty State Park which are zoned RM, (Recreational Management), which is not a resource zone. Farther afield, a review of the County zoning map substantiates that the closest resource-zoned land to the exception area is the green-colored F, (Forest Zone) area to the east. See Exhibit S. That resource zone acreage is approximately 800 feet east of the eastern limit of the Pine Beach Subdivision, with Smith Lake and Highway 101 physically separating that resource zone from the Pine Beach Subdivision and the Ocean Boulevard properties.

If beaches and dunes are considered the “resource land”, nothing separates the exception area from the beaches and dunes on the properties to the north and the south of the property. As discussed above, the purpose of the exception is to protect the existing foredune and younger stabilized dune of the subject properties and the residential uses to the east. As discussed above, the evidence in the record establishes that the exception will not interfere with the natural prograding and retrograding of the beaches and dunes on adjacent properties.

“(f) Physical development according to OAR 660-004-0025; and”

APPLICANTS COMMENT:

OAR 660-004-0025 sets forth LCDC’s interpretation of the requirements for a “physically developed exception” under Goal 2, Part II(a) (ORS 197.732(2)(a)), and provides, in relevant part:

“(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal. Other

rules may also apply, as described in OAR 660-004-0000(1).^{3]}

“(2) Whether land has been physically developed with uses not allowed by an applicable goal will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.”

As applied to this “committed” exception request, the Applicants in this case are not required to determine whether or not “*the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal*”, or “*Whether land has been physically developed with uses not allowed by an applicable goal will depend on the situation at the site of the exception.*” The issue is whether the site is physically developed. It is and acknowledged Tillamook County planning documents already confirm this fact.

The properties where the exception is being requested are developed with urban residential uses served by urban public facilities and services. The footprint where the beachfront protective structure is proposed is residential zoned land, and residential lots committed to residential development that is necessary for the approved residential development to continue.

As has been stated before in this application narrative, the central issue here is the specific language of Goal 18, Implementation Measure 5 that sets a specific date for when “development”, (as defined by IM 5), had to have occurred, (January 1, 1977), and the defining prohibition of constructing and installing a beachfront protective structure on any “development” that was not in existence on or before that critical date. Here, the physical development of the subject properties – both the public facilities and services and the residential units as well as the land all around them is committed to residential development and it is necessary for the proposed protective structure to be approved so that they may continue.

“(g) Other relevant factors.”

APPLICANTS COMMENT:

In this instance, the historic background, discussed in part in the findings, constitutes a relevant factor.

³ No other rules as described in OAR 660-004-0000(1) apply to the circumstances here.

From a development perspective, it is worth noting that the County has already determined that the subject properties are committed to urban level development and in fact have recognized that the historical and on-going pattern of beachfront development would continue in the subject area when, in 2002, they adopted the Barview/Watseco/Twin Rocks Community Plan. *See* Exhibit T. The subject Pine Beach Subdivision and subject George Shand Tract lots, are contained within this Community Plan area. The County states that the Community Plan area consisted in 2002 of 269 acres and 150 dwellings. That plan recognizes that the *“the community has a wide variety of residential lots”*, that the *“the residential areas are urban in character”*, *“small lots are common”* and that *“the housing stock is mostly 20 years old or older.”* In terms of development patterns and potential, the County found that *“the predominant land use in Barview-Watseco-Twin Rocks is and will continue to be residential.”*

Even before the 2002 Barview/Watseco/Twin Rocks Community Plan adoption, the County acknowledged in 1994 that beachfront residential development was an urban use that would continue to expand in this area. Contained within the 1994 Tillamook County staff report for the Pine Beach Subdivision Replat, are findings explain that the County long before took Exceptions (committed to urban residential development) to Goals 14 and 17. *See* Exhibit G (1994 staff report). In that, the County states that Element 14 of the County Comprehensive Plan established a Twin Rocks/Watseco//Barview Community Growth Boundary, (which includes the subject Pine Beach Subdivision replat and Ocean Boulevard properties plat), because the County found that it met the Goal 14 definition of “urban areas”, and is described as a “functionally urban area”. Exhibit G, p. 4. The County also states that Goal 18 recognizes younger and older stabilized dunes as the most suitable dune forms for urban development, that residential development can easily occur in such areas without creating adverse effects or hazards, and that the subject Pine Beach Subdivision Replat, (which includes the lots subject to this Goal 18 Exception), is in fact located in a younger and older stabilized dune are and is not subject to ocean undercutting or wave overtopping. Exhibit G, p. 5. Consequently, an exception to Goal 18 was not required to approve the subdivision. The same is true for the Ocean Boulevard properties.

Based on the above-cited evidence, it is evident that the County acknowledged the continued development of beachfront communities and developed beachfront lots. The subject properties are irrevocably committed to residential uses as the county determined decades ago. However, the County did not expect, and indeed no one expected and had no reason to anticipate, that the subject properties would be subject to shoreline encroachment.

Relevant to that issue is the geologic background that formed the basis of the Pine Beach Subdivision approval and that for the Ocean Boulevard properties to the north, the reasonableness of those approvals and why these subdivision lots should be entitled to protections. As discussed above in the findings, the Dune Hazard Report materials submitted as part of the 1994 Pine Beach Subdivision application

and decision established that the subject property area and the common area to the west had become increasingly vegetated between the years 1939 and 1993. Exhibit H, p. 2. The same was established for the Ocean Boulevard properties. See Exhibit L, p. 4, 9-10 (TL 3000); Exhibit M, p. 6, 12 (TL 3100); Exhibit N, p. 13, 17 TL 3104); Exhibit O, p. 2 (TL 3203); and Exhibit P, p. 2 (TL 3204). At the time the Pine Beach Replat Subdivision was approved, the area proposed for development was a well-vegetated younger stabilized dune not subject to ocean undercutting or wave overtopping and the common area was a conditionally stable dune. See Exhibit H, p. 1-2. As noted above, similar analysis accompanies development for the Ocean Boulevard properties. See, e.g., Exhibit L, p. 6, 10 (TL 3000); Exhibit M, p. 6, 12 (TL 3100); Exhibit N, p. 13, 17 (TL 3104); Exhibit O, p. 2, 4 (TL 3203); and Exhibit P, p. 2, 4 (TL 3204).

Perhaps most significant is the fact that the geologist documented a 70-year period of beach progression these locations. Despite the episodic severe storm activity that would erode the beachfront somewhat, the evidence demonstrated that ever since the construction of the Barview Jetty, the shoreline had steadily accreted westward. That expert analysis ultimately concluded that the Pine Beach Replat Subdivision as well as the Ocean Boulevard lots were “relatively safe from long-term net erosion and shoreline regression” and that there was no evidence to suggest reversal of a trend that has continued for more than 70 years. See, e.g., Exhibit H, p. 12; Exhibit L, p. 10; Exhibit M, p. 18; Exhibit N, p. 18; Exhibit O, p. 8; Exhibit P, p. 8. That analysis is reinforced by the County’s adopted and acknowledged Goal 18 maps which show the subject properties being in an area subject to “prograding” shoreline change. See Exhibit I.

These factors distinguish the subject property from other properties elsewhere along the coast that were approved for development. Here, the decision to approve the subdivision and the individual decisions to purchase lots and develop residences at Tax Lots 114-123 and 3000, 3100, 3104, 3203 and 3204 was in no way reckless or ill-advised. All of the evidence in the record at the time the subject properties land was committed to residential use pointed to just the opposite – that the beach was and had long been steadily growing westward and there was no rational reason to conclude that trend would reverse itself. These properties should not be punished for making reasonable decisions based upon a wealth of supporting evidence.

*“(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is ‘impossible.’ * * *”*

APPLICANTS COMMENT:

In order to understand what “impracticable” means in this context, we must first turn to the specific language of ORS 197.732(2)(b), which states:

(2) A local government may adopt an exception to a goal if:

** * **

(b) 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;”

Similar language is also contained in Goal 2, Part II(b):

“PART II -- EXCEPTIONS

“A local government may adopt an exception to a goal when:

** * **

“(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;”

Neither ORS 197.732(2)(b) nor Goal 2, Part II(b) explicitly defines the word “impracticable”, so the Applicants must turn to the dictionary definition of “impracticable”. *Webster’s Third New Int’l Dictionary*, 1136 (unabridged ed 1981) defines “impracticable” as:

“not practicable: incapable of being performed or accomplished by the means employed or at command: INFEASIBLE[.]”

See also, Malinowski Farm v. Metro, 38 Or LUBA 633, 642-43 (2000) (discussing “impracticable” and Court of Appeals analysis that also includes the term “practicable”).

Within the context of the requested exception to not apply the January 1, 1977 development date restriction of Goal 18, Implementation Measure 5, the above-cited ORS language, Goal 2 language, and the “impracticable” definition direct the inquiry to the issue of whether it is impracticable to apply the restriction contained in the Goal 18, Implementation Measure 5 language for which an exception is sought due to the existing development. Here, Goal 18 generally allows beachfront protective structures, but not for development that did not exist on January 1, 1977. The question is whether the existing development irrevocably commits the land to a use consistent with Goal 18 such that the prohibition on beachfront protective

structures for development after a certain date should not be applied.

As discussed at length above, the subject properties and their residential development was authorized by a committed exception and then later by the 1994 Pine Beach Replat Subdivision approval and dwelling approvals on the George Shand Tract/Ocean Boulevard development, and ultimately the community boundary approved and acknowledged in 2002. The underlying urban infrastructure and residential development was constructed based upon those approvals. At that time, the development was entirely consistent with the type of development envisioned by Goal 18 as appropriate for younger stabilized dunes without overtopping or undercutting as the supporting document showed was the case. Consequently, no specific exception to Goal 18 was required and the development can be said to have implemented Goal 18's policy to develop beaches and dune areas "where appropriate."

The issue now is whether this completely authorized residential development which no one thought was in any peril, and which was consistent with Goal 18's policy to develop only where appropriate, so commits the property to residential use such that the property is also entitled to now benefit from the Goal 18 policy of reducing the hazard to human life and property from natural actions associated with these areas given the historically unprecedented reversal of 70 years of beach progression. If so, then an exception to Goal 18, Implementation Measure 5's date restriction for beachfront protective structures is required. There is no other practicable way to protect the residential development that was entirely consistent with Goal 18 when authorized.

As discussed above, it is clear that the Pine Beach subdivision and the Ocean Boulevard properties, and particularly the subject 11 dwellings on beachfront lots and the 4 other vacant beachfront lots, are *"irrevocably committed to uses not allowed by the applicable goal."* The county has previously decided as much, and this is reflected by the applicable acknowledged zoning and the acknowledge community boundary that allows urban level development and public facilities on the subject properties. While the development on these properties also happened to be consistent with Goal 18 when approved and developed, the changed foredune conditions mean that the dwellings are now on "other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping" for which local governments are prohibited from allowing residential developments. It is the existing exceptions that have allowed that development and that require this exception here. The existing wholly lawful and committed development commits the subject properties to residential uses at urban levels.

Exhibit G is the 1994 Tillamook County staff report for the Pine Beach Subdivision Replat, in which the County states that Element 14 of the County Comprehensive Plan established a Twin Rocks/Watseco/Barview Community Growth Boundary, which included the subject Pine Beach subdivision replat, because the County found that it met the Goal 14 definition of "urban areas" and is described as a

“functionally urban area”. Exhibit G, p. 3. The County staff report also states that Goal 18 recognizes younger and older stabilized dunes as the most suitable dune forms for urban development, that residential development can easily occur in such areas without creating adverse effects or hazards, and that the subject Pine Beach Subdivision Replat, (which includes the lots subject to this Goal 18 Exception), is in fact located in a younger and older stabilized dune area. Based on the evidence presented above, it is clear that the exception area is in fact “*irrevocably committed to uses not allowed by the applicable goal*” due to the residential development and supporting public facilities and services. Again, similar materials support the same conclusions for all of the subject properties. See Exhibits H (Dune Hazard Report for Pine Beach Subdivision) and Exhibits L-P (Dune Hazard Reports for each Ocean Boulevard lot).

The second part of this standard states that:

*“It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is ‘impossible.’ * * *”*

Based on the above-cited standard language and combined with the narrow scope of this Goal 18 Implementation Measure 5 exception, it is flexibility in the application of Goal 18 broader resource protections that Applicants seek, namely an exception to the IM 5 language that would otherwise preclude development of a beachfront protective structure on the subject properties. Flexibility in implementing those Goal 18 protections is properly applied when the development to be protected was approved consistent with Goal 18’s provisions that direct development only to areas not threatened by shoreline encroachment, as was the subject properties’ development. In short, the subdivision development on all of the subject properties was located where Goal 18 said it should be and included the natural shorefront protections Goal 18 said it should have.

The Oregon Supreme Court has explained that committed exceptions “must be based on facts illustrating how past development has cast a mold for future uses.” *1000 Friends of Oregon v. LCDC*, 301 Or 447, 501, 724 P2d 268 (1986). In this instance, development of the residential uses that were consistent with Goal 18’s requirements for where residential development should be located has committed the property to that use and casts the mold for how to appropriately address the changed geological circumstances. An exception should be granted to permit the requested beachfront protective structure.

“(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact that address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by

the applicable goal are impracticable in the exception area.”

APPLICANTS COMMENT:

The multiple factors listed for OAR 660-004-0028(6)(a) through (g) were addressed above under OAR 660-004-0028(2)(d), which expressly incorporated “other relevant factors set forth in OAR 660-004-0028(6)” as one of its requirements to be addressed. For purposes of efficiency and brevity, the analysis provided above for OAR 660-004-0028(6)(a) through (g) is herein incorporated.

Several points from the evidence in the record and the analysis provided throughout this application narrative are worth reiterating. The approved subdivision upon which the existing development is based was approved in accordance with Goal 18’s directives about what dune areas are appropriate for development and what areas are not. That development commits the subject properties to residential use. In fact, the County has previously decided that the entire area is committed to residential use. The present situation, which warrants approval of a beachfront protective structure, is the result of a 180-degree reversal of natural accretion patterns from 70 years of beach progradation that, at that time the development was approved, experts found no evidence to believe should or would occur. The purposes of Goal 18 include protecting human life and property from natural actions. Those facts support the conclusion that the Goal 18, Implementation Measure 5 prohibition of beachfront protective structures for the subject properties is impracticable.

“(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.”

APPLICANTS COMMENT:

As discussed earlier in this application narrative, the proposed exception area (Exhibits A and Q) has been described as including the oceanfront lots of the Pine Beach Subdivision and the Ocean Boulevard properties. The application is for development of a beachfront protective structure on the collective 15 lots. Therefore, consistent with this provision, the applicant is not requesting that a “committed” exception to Goal 18, Implementation Measure 5 be taken for each individual lot identified.

“(6) Findings of fact for a committed exception shall address the following factors: [list follows]”

APPLICANTS COMMENT:

The multiple factors listed for OAR 660-004-0028(6)(a) through (g) were addressed above under OAR 660-004-0028(2)(d), which expressly incorporated “other relevant factors set forth in OAR 660-004-0028(6) as one of its requirements to be addressed. For purposes of efficiency and brevity, the analysis provided above for OAR 660-004-0028(6)(a) through (g) is herein incorporated.

“(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map or aerial photograph that shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.”

APPLICANTS COMMENT:

As shown by the inclusion of Exhibits A, J, Q and R, the Applicants have included in this application filing current maps and aerial photographs that show the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. The applicable factors set forth in section (6) of this rule have also been shown on the maps or aerial photographs.

Committed Exception Conclusion:

For the reasons provided above, the County should approve the requested committed exception to Statewide Planning Goal 18, Implementation Measure 5, and approve the requested beachfront protective structure.

3. **Reasons Exception**

Goal 2, Part II(c) “reasons exception” (see also ORS 197.732(2)(c) and OAR 660-004-0020 through 660-004-0022):

APPLICANTS COMMENT:

In addition to or in the alternative, Applicants are also requesting a reasons exception to the date requirement provided in Goal 18, Implementation Measure 5.

OAR 660-004-0020 provides a road map for addressing the four standards of a “reasons” exception under Goal 2, Part II(c) (ORS 197.732(2)(c)). As discussed

above, an exception to Goal 18 must be taken to permit installation of the requested beachfront protective on the beachfront properties that are otherwise ineligible if the County decides that the subject properties were not “developed” on January 1, 1977. This portion of the application provides the analysis required to support a reasons exception. Note that OAR 660-004-0020(2)(a)-(d) mirror and elaborate on the requirements set forth under ORS 197.732(2)(c)(A)-(D). The responses below address the standards provided under the administrative rule and are intended to also apply to the corresponding statutory requirements. In addition to demonstrating that the proposal satisfies the requirements of OAR 660-004-0020 and ORS 197.732(2)(c), the Applicants must also address OAR 660-004-0022(11). The Applicants address those standards in the following paragraphs.

“(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;” (See also ORS 197.732(2)(c)(A)).

APPLICANTS COMMENT:

This standard of Goal 2, Part II(c) requires that an applicant demonstrate why a state policy embodied in Goal 18 should not apply. ORS 197.732(2)(c) provides guidance as to how to address this “reasons” exception standard. Specifically, the implementing regulation for ORS 197.732(2)(c)(A) requires the local government to provide reasons that justify why the applicable policy in Goal 18 should not apply. As applied here, that would require the Applicants, (and the County), to “*set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal, (in this instance Goal 18), should not apply to specific properties or situations, including the amount of land for the use being planned, (in this instance, the requested beachfront protective structure (BPS)), and why the use (BPS) requires a location on resource land*”.

The state policy that should not be applied is the prohibition on allowing beachfront protective structures to protect development that did not exist on January 1, 1977 provided under Goal 18, Implementation Measure 5. Here, Applicants request an exception to that prohibition in order to allow construction of a beachfront protective structure for development approved under existing goal exceptions.

~~Residential~~

The facts behind the reasons that justify why the state policy should not apply are presented in the findings section and are referred to here. Furthermore, since much

of the arguments for the reasons exception include points presented in the committed exception analysis, the reasoning will be roughly framed below but is intended to incorporate relevant details already presented. Applicants will attempt to be judicious in presenting those arguments and to not be unnecessarily repetitive.

Goal 18, Implementation Measure 2 prohibits local government approval of residential developments and commercial and industrial buildings on beaches, active foredunes, other foredunes that may be subject to wave undercutting or wave overtopping, or in interdune areas that are subject to ocean flooding. Under Goal 18, such development is allowed only in areas not subject to beach-related hazards based upon the best evidence available at the time or where an exception has been taken to allow such development.

The theory behind Goal 18 was that all new development, approved consistent within the Goal 18 framework, would not be subject to beach-related hazards because of the preservation of the natural beach and dune protections that implementation of Goal 18 ensured. Under that framework, because the development is appropriately sited, it presumably would never need beachfront protection.

However, the evidence submitted with the application here plainly demonstrates that the proposed structure to protect the existing residential development complied with all of the Goal 18 requirements for uses in the beaches and dunes areas. See Exhibit G and L-P. Indeed, approvals of the Pine Beach Subdivision and Ocean Blvd. properties did not require any exception to Goal 18. In fact, the Comprehensive Plan identified the shoreline change in the area where the subject property was located as “Prograding.” Exhibit I. In other words, the shoreline was growing westward, not receding (“retrograding”). But there can be no mistaking that the Pine Beach and Ocean Blvd. subject properties were subject to acknowledged county goal exceptions that allowed their residential development and the public facilities and services that serve them to be approved at all.

The appropriateness of the county’s planning analysis supporting the authority to approve the development of the subject properties, was more than confirmed by the dune hazard report prepared for the Pine Beach Subdivision application and applications for the properties north of that subdivision (the Ocean Boulevard properties). As detailed in the findings section above, the Dune Hazard Report for the Pine Beach Subdivision documented evidence that although there were periods of both accretion and erosion, particularly during violent storm events, that the beach area had experienced a steady net accretion over the previous 70 years. The geologist for the DHR team explained:

“In conclusion, the property appears to be relatively safe from long-term net erosion and shoreline regression. Current modelling of Velocity flooding will not impact the area proposed for development. The Tillamook Bay north jetty will continue to present a barrier to

southerly offshore sand transport, causing a continued net accretion along this beach. No evidence exists to suggest reversal of a trend that has continued for more than 70 years.” (Exhibit H, p. 12).

See also Exhibit L, p. 10; Exhibit M, p. 18; Exhibit N, p. 18; Exhibit O, p. 8; Exhibit P, p. 8 (same for Ocean Blvd. properties).

At the time the subdivision was approved, the entire subject property was well vegetated, all of the residential lots were on a younger stabilized dune that had improved in vegetative protection over the previous 20 years and the common areas consisted of a vegetated open sand dune structure. The distance from Pine Beach Way to the edge of shoreline vegetation was greater than the length of a football field. These were precisely the type of conditions where Goal 18 provides is appropriate for the development permitted and where Goal 18 envisioned there would not ever be a need for a beachfront protective structure. That condition is true for each of the subject lots, including the Ocean Boulevard properties' lots.

As is well-documented by Exhibit F (West Consultants Technical Memorandum and Attachments) and Exhibit J (Google Earth Historic Aerial Imagery), the assumptions at play in Goal 18 did not operate as expected. Now the question is whether a development, which not only complied with Goal 18's requirements for the proper location of development but was also based upon a 70-year trend of shoreland prograding and evidence that provided no indication that the prograding would stop nonetheless reverse, should not be able to benefit from Goal 18's policy to reduce hazards to human life and property from natural actions and be allowed to develop a beachfront protective structure.

The above-stated reasons for why the restriction on approval of a beachfront protective structure are compelling. The property owners based their development decisions on a development that was entirely consistent with Goal 18 in an area that the county records and analysis conducted at the time of subdivision approval was located on a prograding shoreline. In one sense, the County can consider this exception as an equity and fairness issue. Should development that complies with all of the requirements of Goal 18 not be entitled to benefit from its protections?

Other reasons support approval of the proposed beachfront protective structure. As designed, the footprint of the structure is not substantial. As shown on Exhibit F, Attachment 2 and described in Exhibit F, the design of the structure places it largely within the ground and requires not only that it be covered with sand and replanted with beach grasses and shrubs, but it also requires annual inspection and replanting – all paid for by the residents – to ensure a natural state following its installation.

Most significant is the potential harm that may flow if a beachfront protective structure is not built. If the shoreline continues to change in the manner it has in recent years, not only will the residences in those beachfront properties be threatened, but the public water and sewer systems that provide service to those

properties will be threatened. That threat includes not just the portions that serve those residences, but the integrity of the systems themselves. The water systems could become contaminated, and the sewer system breached to then contaminate the ocean and beachfront.

The above provide reasons why the state policy embodied by Goal 18 should not apply in this instance.

“(b) ‘Areas that do not require a new exception cannot reasonably accommodate the use’. [See also, ORS 197.732(2)(c)(B).] 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;”

APPLICANTS COMMENT:

As shown on Exhibit F, the exception area includes Tax Lots 114-123 of the Pine Beach Subdivision and Tax Lots 3000, 3100, 3104, 3202 and 3204. The proposed beachfront protective structure must be located in the location shown on Exhibit F, Attachment 2 because beachfront protective structures are, by design and function, site-specific. They cannot serve the purpose of abating shoreline erosion unless they are located, constructed, and installed in the proper location for the properties they are intended to protect. For the subject property, that is at the location shown on Exhibit F, Attachment 2. Locating a protective structure elsewhere, for example, at any properties eligible for protection, will not protect the subject properties. Therefore, based on the above-cited evidence, there is no practical, reasonable, factual, or evidentiary reason to evaluate additional alternative sites for the protective structure or to otherwise thoroughly address “*the location of possible alternative areas considered for the use that do not require a new exception*” standard. The requirement to evaluate areas that can “reasonably accommodate” the proposed use, necessarily means that the alternative locations have to be capable of reasonably providing the requested protection. See *Columbia Riverkeeper v. Columbia Cty.*, 297 Or App 628, 645 (2019). There is no such property. The only nearby areas for which an exception would not be required for a beachfront protective structure is the RV park to the north which already has shoreline protection that does and can only protect it, and TL 2900 directly to its south. Locating protective structures there or anywhere else will not afford any protective benefit to the subject properties.

The beachfront protective structure will serve the function of protecting the subject property only if it is located on the western portions of the subject properties.

“(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:"

APPLICANTS COMMENT:

As discussed above, the purpose of the beachfront protective structure is to protect the identified Pine Beach Subdivision lots, the George Shand Tract/Ocean Boulevard lots, the associated streets, and the public water and sewer infrastructure that serves these lots.

As noted above, there are other lots within the immediate vicinity that are "eligible for protection" (*i.e.*, see TL 2900 Exhibit CC for which a beachfront protective structure would be permitted without an exception to Goal 18 Implementation Measure 5). However, no land otherwise "eligible for protection" could establish protection on their properties and protect the subject properties. Note that the Shorewood RV Resort is "eligible for protection" and has in fact already installed a beachfront protective structure. That shoreline protective structure protects only Shorewood RV Resort and no other property. See Exhibit J, p. 9. This proposal seeks the same type of protection (but a different design) for the subject properties.

The standard says that alternative sites need only be considered that can "*reasonably accommodate the proposed use.*" The only property that can reasonably accommodate the proposed use is the proposed beachfront protective structure located along the shoreline of the lots seeking protection. This is because beachfront protective structures are, by design and function, site-specific and they cannot serve the purpose of abating shoreline erosion unless they are located, constructed, and maintained on the site where it is needed. Thus, the request for a "reasons" exception to Goal 18 IM 5 for the subject lots.

The 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 protections afforded by a beachfront protective structure are location-specific and therefore the needed use of that protection cannot be reasonably accommodated at another location regardless of design or cost thereof. Therefore, based on the above, there are no "economic" factors to be considered here to justify taking a "reasons" exception to Goal 18 Implementation Measure 5 to locate the beachfront protective structure in the requested location.

"(i) Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing the density

of uses on non-resource land? If not, why not?"

APPLICANTS COMMENT:

No resource land is being used for the proposed shoreline protection. The subject properties are already subject to a committed exception for urban residential development. There is no adjacent resource land either in the unincorporated community in which the subject properties are located.

Regardless, the proposed beachfront protective structure cannot "*be reasonably accommodated on non-resource land that would not require an exception.*" The property to be protected by the exception is the subject exception property. The decision to designate the oceanfront lots as the sole exception area subject to this request was because the proposed location is the only one that can provide beachfront protection to them.

"(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to non-resource 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?"

APPLICANTS COMMENT:

As with several of the other inquiries, this one presumes the exception requests development on resource lands. As stated throughout this application narrative, the subject exception area, and for that matter adjacent lots north of the subject exception area, are single family residentially zoned land, (CR-2), which, by definition is not resource zoned land; rather it is land that is already planned and zoned for non-resource use. Nor is the Recreation Management (RM) zoned Camp Magruder considered resource land. The site of the proposed protective structure is contained within the County-designated Barview/Watseco/Twin Rocks Community Plan, which is a Tillamook County unincorporated community. The proposed use is proposed to be located within an unincorporated community as this inquiry posits.

By comparison, the closest resource zoned land to the proposed exception area is the green-colored F, (Forest Zone). *See Exhibit S.* That resource zone acreage is approximately 1000 feet east of the subject properties, and Smith Lake and Highway 101 physically separates that resource zone from the subject properties as well as the shoreline.

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

APPLICANTS COMMENT:

The exception area is contained within the County-designated Barview/Watseco/Twin Rocks Community Plan, which is a Tillamook County unincorporated community. The closest urban growth boundary is within the City of Rockaway Beach, approximately 2 miles north of the subject properties. Again, the proposed beachfront protective structure is specifically required to abate shoreline erosion only for the subject properties. Therefore the *“proposed use [cannot] be reasonably accommodated inside an urban growth boundary”* based on the evidence presented above.

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

APPLICANTS COMMENT:

The proposed beachfront protective structure’s location, construction and maintenance will all occur without the *“provision of a proposed public facility or service”* because it does not require, nor rely upon, any public services, (e.g., sewer, water, electric) for the efficient design and function for its intended use. It is a static structure, designed to protect the subject oceanfront properties’ shoreline from further erosion. The proposal complies with this standard.

“(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.”

APPLICANTS COMMENT:

The required “alternative analysis” standard to demonstrate that there are not alternative locations for the proposed shoreline protection by undertaking *“a broad review of similar types of areas rather than a review of specific alternative sites”* is not functionally possible for this specific “reasons” exception to Goal 18, IM 5 given the site-specific protections afforded by a BPS. As shown on Exhibits A and Q, the proposed exception area includes the oceanfront lots of the Pine Beach Subdivision and the George Shand Tract/Ocean Boulevard properties.

As discussed above, given the protective nature of the use and the fact that it can *only* protect structures that are immediately landward of the beachfront protective structure, the BPS must be located at the location shown on Exhibit F, Attachment 2. In this regard, beachfront protective structures are, by design and function, site-specific, and the proposed structure cannot serve the purpose of abating shoreline erosion for the subject properties unless it is located, constructed, and installed as shown on Exhibit F, Attachment 2.

Consequently, the analysis contained here and above is necessarily a “broad review” as allowed by the standard. It is unlikely that any parties can come forward to describe “*specific sites that can more reasonably accommodate the proposed use.*”

“(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 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;” (See also, ORS 197.732(2)(c)(C)).

APPLICANTS COMMENT:

Despite the fact that the location of a beachfront protective structure at some other location would do nothing to protect the subject properties, this standard requires a comparison of the environmental, economic, social and energy (EESA) impacts

between location of the BPS at the subject property and at other properties that would also require an exception to Goal 18. In an abundance of caution, Applicants will conduct an EESE analysis.

In the first place, the subject properties are already an exception area and no resource land whatsoever is proposed to be the subject of the requested goal exception for shoreline protection. Presumably, the comparison here should be between the subject properties and the other sites that are eligible for shoreline protection. Potential impacts to beaches and dunes are discussed below.

Environmental:

The placement of a beachfront protective structure along the subject site's existing shoreline is intended to "reduce the adverse impact" of the on-going eastward march of shoreline erosion at the subject properties' shoreline. The evidence in the record (Exhibit F) demonstrates that all impacts resulting from the proposed beachfront protective structure at the subject property will be positive. As discussed above, and in Exhibit F, the beachfront protective structure's design is a "*measure[] designed to reduce adverse impacts*" of the proposed BPS on other properties and on the environment in general, namely additional erosion of the shoreline and the loss of shoreland vegetation.

The environment will be disturbed to construct the revetment. However, the mitigation plan requires covering the revetment with sand and immediately replanting that area with beach grasses and shrubs. The proposal also requires monitoring of the environmental (as well as structural) condition of the BPS and replanting as necessary.

The long-term environmental impact of the proposal is positive because it will protect native shoreline trees, shrubs, vegetation, and wildlife habitat from further losses due to the change from a prograding beach to a retrograding beach since the approval of the subject properties. Abating the subject site's constant and yearly habitat loss due to erosion affects the overall amount of natural habitat in the immediate vicinity of the subject properties.

It is possible that other properties not eligible for beachfront protection structures without a Goal 18 exception could also design a revetment. But such would only protect those properties and would be in the same legal position as here – seeking a Goal 18 exception. Here, multiple owners have joined together, to obtain approval to afford the broad-area environmental benefits the proposal provides.

Because all of the potential residential properties that would require a Goal 18 exception or that do not require an exception in order to construct a BPS have the same urban residential approvals and are all connected to public water and sewer services, the positive and negative effects are the same. For all of the properties, a beachfront protective structure would protect the properties and public facilities and services immediately adjacent. On the other hand, if the exception is not

granted for the subject property, continued beachfront erosion could destroy these properties, the homes and a significant swath of public facilities and services. Obviously, a break in the public sewer system and the public water system caused by the beach erosion the proposal seeks to avoid would pose catastrophic environmental contamination damage. Moreover, if the proposed BPS is not approved, then the ocean will claim 11 homes and the detritus from homes and their component parts would fall into the ocean and be strewn across the beaches in the area and further, as carried by ocean currents. Homes are full of building materials that are deleterious to the environment and are never intended to become ocean fodder. Garages are full of cars, also never intended to float around in the ocean or be tossed onto beaches. If the ocean destroys the homes, the beaches in the area would be unusable for some period of time. That is a significant adverse environmental harm that is only mitigated by approving the proposal.

In summary, the environmental consequences of locating the requested beachfront protective structure would be the same whether located at the subject properties or located in another area that would or would not require an exception. Moreover, the environmental consequences of approving the proposal are overwhelmingly positive. The environmental consequences of denying the proposal are overwhelmingly negative.

Economic:

The long-term economic consequences of a beachfront protective structure would be similar for the subject properties as it would be for any other property that might be considered. Here, the construction and installation of the BPS will prevent further loss of land and the loss of homes, garages and vehicles. It prevents catastrophic damage to water and sewer infrastructure. The loss of land and dwelling value of the subject 15 beachfront lots and potentially other structures within the subdivisions would be significant. The tax value alone of all 15 properties is \$10,284,990. Exhibit U (Subject Properties County Assessor Reports). The damage that would occur to the public water and sewer infrastructure if these homes were ripped out by the ocean is catastrophic and a significant strain on or perhaps beyond the means of, the water and sewer district to repair.

Approval of the proposal avoids these harms and also provides protection for homes immediately landward of the subject properties and Pine Beach Way and Ocean Boulevard, which would be exposed to ocean erosion if the proposal were not approved.

Stopping the loss of land and dwelling value of the subject properties also has a broader impact on the land and dwelling value of the landward properties, because all land and dwelling sale prices, in part, are established by comparing comparable and recent land and dwelling sale transactions to determine the right asking price for a subject lot and/or dwelling. In turn, the lowering of asking prices for the oceanfront lots, as would happen if a revetment is not constructed, would impact, and potentially lower, the asking price of the land and dwelling value of lots within

the immediate vicinity, beyond the subdivision. For other developed lots that include adjacent or nearby developed inland lots, that adverse economic impact would be avoided by approval of the proposed beachfront protective structure.

Approval of the proposed beachfront protective structure will also prevent not only the public economic costs from breach of the water and sewer facilities serving the subject properties but the environmental fallout from such a breach and closing off those facilities for other properties while a repair is undertaken.

Likewise, retaining the value of the fifteen subject properties will result in maintenance of their property tax income to the county that would be lost if the subject properties are not protected.

The direct economic costs arise primarily from the cost of building the beachfront protective structure itself. In this case, that cost will be borne entirely by the property owners, none of it will be a public cost. Likewise, any annual cost to maintain the BPS will be borne by the owners of the subject properties. Again, that cost would be the same whether developed on the subject properties or developed at a different location that also would require an exception.

Social:

The social benefits, whether at the subject property or at other properties that would or would not require an exception to Goal 18, would be positive.

Granting the requested exception would respect Goal 18's policy to reduce natural hazards to human life as well as respect local land use decisions made consistent with Goal 18's mandates and recognize that nature does not always proceed as expected. Here, there can be little doubt that the subject properties were created consistent with Goal 18's mandates and was supported by the best evidence possible at the time, which showed a prograding beach for the area, as shown on the comprehensive plan map. Exhibit I.

The beach will be protected for public enjoyment if the BPS is approved. The fact that the proposed BPS will be covered with sand and beach grasses ensures it is pleasing to view either from the beach or the subject properties. The northern access to the beach between Tax Lots 123 and 3204 will be improved and the southern access to the beach between Tax Lots 113 and 114 is not disturbed.

The social benefits are positive from approval of the proposal.

Energy:

The energy consequences – positive or negative – of constructing the beachfront protective structure at the subject property or at another location that would and would not require a Goal 18 exception are the same and minor in nature. If a BPS is constructed, there will be the energy expended in the actual construction and periodic maintenance and monitoring. If the use is not approved, there may be

energy costs in the cleanup of damaged residences and public facilities and services. The costs are no different whether the BPS is located along the subject property lots or along other similarly situated lots to the north.

EESE Conclusions:

As the analysis above demonstrates, the consequences that would result from the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in a different area that would or would not require a Goal 18, IM 5 exception. There are really only two differences between the proposed exception area and the other sites.

First, the proposed exception area is for a much larger area than any individual property elsewhere. To afford the same area of protection, multiple property owners would need to join together in an application, as has been done here. The consequences of that are two-fold. While the adverse environmental impact of building the beachfront protective structure at the subject property is greater than for a single lot, that impact will be only temporary given it will be re-covered in sand, replanted and monitored. Ultimately, the long-term advantage is that an even greater area of foredune, beach grasses and shrubs and trees will be protected with the present application over potential other properties individually. That is an environmental benefit that favors the proposal.

Second is the fact that locating the beachfront protective structure at any other location would not protect the fifteen properties and the related public infrastructure thereon, which is the reason for the exception request.

The EESE analysis weighs in favor of locating the beachfront protective structure at the proposed location because the chosen site is not significantly more adverse than would result from locating it in another area that requires an exception.

“(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.” (See also, ORS 197.732(2)(c)(D)).

APPLICANTS COMMENT:

As defined here, the “proposed use” would be the use and function of the proposed beachfront protective structure and how that BPS is “compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.” The overall use of the subject properties will remain residential, which

is consistent with the adjacent uses and their acknowledged residential zoning.

As described earlier in this application narrative, the adjacent uses consist of similarly situated and zoned beachfront residential uses, residential uses eastward of those beachfront lots, the Shorewood RV Resort, Camp Magruder and the Barview Jetty County Park. As shown on Exhibit F, Attachment 2, the proposed BPS is designed to include an underground portion of the BPS that will be covered with sand, with the easterly portion rising out of the sand at a 1:1.5 slope creating a revetment no more than 3 feet above the existing ground level. And all of the proposed revetment will be covered with sand and re-planted. The proposed beachfront protective structure will be planted with native plantings that will reestablish natural shoreline vegetation. Based on the above, the proposed BPS will *“be compatible with surrounding natural resources and resource management or production practices.”* This is because once established, the BPS will ultimately blend into the shoreline of the Pine Beach Subdivision and George Shand Tracts/Ocean Boulevard properties, such that its appearance will be compatible with other existing shoreline vegetated areas of those uses north and south of the subdivision. The protective structure will visually appear as a dune formation.

Furthermore, the structure is designed not to have any adverse physical impacts on adjacent uses. As the West Consultants Technical Memorandum explains, the proposed structure will not deflect wave energy to adjacent properties, nor will it cause an increase to the FEMA total water levels in the area. Exhibit F, p. 8-9.

The proposal is consistent with the reasons exception requirements set forth under OAR 660-004-0020.

The proposal is also required to comply with the requirements of OAR 660-004-0022(11), the specific reasons exception standards for foredune development.⁴

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 Measure. 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;*”

APPLICANTS COMMENT:

As shown in the West Consultants Technical Memo, (Exhibit A) and the

⁴ OAR 660-004-0022(10) is another reasons exception rule that applies to Goal 18, but it applies for foredune breaching. Because the proposal does not seek to breach a foredune, that administrative rule is not relevant to the application.

accompanying construction plans, (Exhibit A, Attachment 2), the proposed beachfront protective structure has been designed in such a way as to protect it “from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves”. Exhibit F, p. 8. On page 5, Figure 3 of the West Consultants Technical Memo is a cross-section of the proposed BPS. The accompanying text on page 5-6 states that “A side slope of 1V [vertical] to 1.5H [horizontal] was used because of the site constraints. A launchable toe is provided to ensure the rock revetment is not undermined by scour at the structure”; and that “An ecology block wall will be placed along the northern and southern boundaries. Ecology blocks are concrete blocks that are used for building retaining walls. Typical blocks have a height of 2 feet, a width of 2 feet, and a length of 6 feet (or 3 feet). These walls are required to ensure that the future wave run up does not flow around the main rock revetment structure and potentially flood the beachfront homes.”

In short, the revetment was designed with a “launchable toe” that will ensure the rock revetment is not undermined by scouring (i.e., undercutting) as well as with ecology block side walls to address ocean flooding and storm wave concerns, as discussed in the FEMA “VE” hazard zone analysis. See Exhibit F, p. 5.

The proposed beachfront protective structure is also designed to minimize wind erosion given the proposed revetment will be sand-covered and replanted with native beach grasses and shrubs and will be monitored over time to ensure that the sand overlay is not eroded by wind.

Last, because the BPS is not a structure that allows for occupancy of any sort or that has standing walls, the structure does not require protection from any geologic hazards such as earthquakes.

The proposal is consistent with this standard.

“(b) The use is designed to minimize adverse environmental effects;”

APPLICANTS COMMENT:

The evidence in the record (Exhibit A) demonstrate that the proposal minimizes any adverse environmental effects from the proposed use. Its design is such as to minimize any off-site environmental impacts. Much like the revetment at the Shorewood RV Resort, which has not increased scouring or erosion of adjacent properties, the proposed design should have no impacts on adjacent shorelines. Moreover, the proposed BPS will be located further inland and will be at a higher elevation than the Shorewood RV Resort’s BPS, so the wave energy and erosion potential will be less. Unlike the Shorewood RV Resort, the proposed revetment will be located partially underground and topped with sand and natural vegetation to include beach grasses and shrubs to afford a natural appearance. Plus, the proposal requires the beachfront protective structure to be monitored and replanted

with native vegetation if necessary.

Ultimately, the proposal will be a net benefit to the shoreline environment. As stated throughout this application narrative, the location is seeing a rapidly eroding vegetation line caused by rapidly advancing coastal erosion. That is an adverse environmental effect that the proposal will mitigate against. If this Goal 18 Implementation Measure 5 exception is granted, it will allow the subject properties to construct and install the proposed beachfront protective structure within an active eroding foredune, which will minimize and abate future landward shoreline erosion. As stated by West Consultants' Chris Bahner, PE, in his Technical Memorandum, there is a high level of risk for future wave overtopping and undercutting that will not only damage the existing oceanfront structures and threaten the established homes, water and sewer public facilities and services, but will also threaten the foredune.

*“(c) The exceptions requirements of OAR 660-004-0020 are met.”
OAR 660-004-0020(2)(a); 660-004-0022(11).*

APPLICANTS COMMENT:

In the section under OAR 660-004-0020 above, the application narrative responds to each of the criteria set forth under that rule. The narrative and evidence in the record demonstrates that proposal satisfies each of the standards.

Based upon the evidence provided in the record and the analysis provided above the County should approve the requested reasons exception to Statewide Planning Goal 18, IM 5 and approve the requested beachfront protective structure.

4. Statewide Planning Goals

Because taking an exception to a statewide planning goal is an amendment to the comprehensive plan (OAR 660-004-005(1): “An ‘Exception’ is a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan[.]”), the applicant must demonstrate that the amendment is consistent with the Statewide Planning Goals.

Goal 1 – Citizen Involvement

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

APPLICANTS COMMENT:

Goal 1 calls for the opportunity for citizens to be involved in all phases of the planning process. This application will be processed in accordance with the county's acknowledged land use regulations and procedures, which will provide an opportunity for public participation in this quasi-judicial proceeding. The proposal is consistent with Goal 1.

Goal 2 – Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

APPLICANTS COMMENT:

The county has established an acknowledged land use planning process and policy framework under which the applicant's request will be reviewed. Noteworthy is that process has already resulted in an exception finding that the subject properties are committed to urban levels of residential development and that exception is acknowledged. The proposal is consistent with Goal 2.

Goal 3 – Agricultural Lands

To preserve and maintain agricultural lands.

APPLICANTS COMMENT:

The subject property is not agricultural land or zoned for agricultural use. The proposal will have no impacts on agricultural land. The proposal does not implicate and is consistent with Goal 3.

Goal 4 – Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growth and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

APPLICANTS COMMENT:

The subject property is not forest land or zoned for forest use. The proposal will have no impacts on forest land. The proposal does not implicate and is consistent with Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

APPLICANTS COMMENT:

Goal 5 requires the county to identify, inventory and provide protective measures in its land use code, if appropriate, for specific resources. There are no identified Goal 5 resources on the subject property or on immediately surrounding properties. The proposal does not implicate and is consistent with Goal 5.

Goal 6 – Air, Water and Land Resource Quality

To maintain and improve the quality of the air, water and land resources of the state.

APPLICANTS COMMENT:

Goal 6 is a directive to local governments and requires the comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater and air pollution. It is a directive to the county and the development of a proposal that is consistent with the adopted and acknowledged regulations demonstrates consistency with the goal. The subject properties are connected to public water and sewer systems. Approval of the proposal maintains ocean and sand resources so that they may be enjoyed by the public rather than risking the serious damage that would occur if the proposed BPS is not approved. Furthermore, approval of the proposed BPS protects water delivery systems that the public relies upon that would suffer catastrophic damage if the proposal is not approved and the ocean rips out the homes and the water infrastructure serving them.

The proposed use will be developed consistent with the adopted and acknowledged land use regulations and will comply with any development requirements intended to protect air, water and land resource qualities. The proposal is consistent with Goal 6.

Goal 7 – Areas Subject to Natural Hazards

To protect people and property from natural hazards.

APPLICANTS COMMENT:

Goal 7 is a directive to local governments and requires them to apply “appropriate safeguards” when planning for development in areas identified as a natural hazard. The subject parcels are within an identified hazard area and are subject to a Floodway Hazard Overlay Zone (FH). The application narrative addresses the requirements of TCLUO 3.510 below and demonstrates that the proposal complies with all applicable standards. Furthermore, the proposed beachfront protective structure will protect existing development from natural hazards that did not exist and were not anticipated at the time of subdivision approval or the construction of the residential dwellings.

In fact, approving the proposed BPS is the only way that the county can reasonably comply with Goal 7 at this location given the serious threat to people and property presented by significant ocean erosion that is now anticipated to continue, if it is not approved. The proposal is consistent with Goal 7.

Goal 8 – Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

APPLICANTS COMMENT:

The subject properties have been planned and zoned, as well as developed, for residential uses. The county has identified other land as necessary for recreational facilities. There are two beach accesses in the exception area. One beach access runs between Tax Lots 123 and 3204 to the beach. *See* Exhibit Q, p. 2. The other access runs from Pine Beach Loop between Tax Lots 113 and 114, and then along the southern boundary of Tax Lot 114 to the beach. Those beach accesses connect Pine Beach Loop and Ocean Boulevard to a long stretch of dry sandy beach. *See* Exhibit Q, p. 2; Exhibit F, Attachment 1, field photos. The proposed structure will improve the northern beach access with a gravel path and ramp that goes over the rock revetment and allows improved access to the beach and the proposal does not interfere with the southern beach access.

Further, the public has a significant interest in recreating on the beach and the ocean. Approval of the proposal protects those public recreation interests from the harm that would occur to the ocean and beaches if the ocean claimed the 11 homes, as well as their water and sewer infrastructure and potentially roads serving the subject properties. The proposal is consistent with Goal 8.

Goal 9 – Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

APPLICANTS COMMENT:

The subject properties have been planned and zoned, as well as developed, for residential uses. The county has identified other land as necessary for economic development. The proposal does not implicate and is consistent with Goal 9.

Goal 10 – Housing

To provide for the housing needs of citizens of the state.

APPLICANTS COMMENT:

The subject properties have been planned and zoned, as well as developed, for residential uses. The proposed beachfront protective structure will protect the developed residential development from environmental hazards that did not exist and were not anticipated at the time the development was approved. The subject properties are the homes of the persons who own them and provide for their housing needs. The application is consistent with Goal 10.

Goal 11 – Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

APPLICANTS COMMENT:

Goal 11 is a directive to local governments to efficiently plan for and provide for public facilities and services. The county has planned for public facilities and services, and the subject properties have a full range of urban public facilities and services to include public water and sewer service. One purpose of the proposed revetment is to protect these public facility investments from potential future beachfront erosion. The proposal is consistent with Goal 11.

Goal 12 – Transportation

To provide and encourage a safe, convenient and economic transportation system.

APPLICANTS COMMENT:

Goal 12 is implemented by the Goal 12 rule (OAR 660 division 12). The Goal 12 rule is triggered when an amendment to a comprehensive plan would “significantly affect” an existing or planned transportation facility. OAR 660-012-0060(1). To “significantly affect” is defined to mean when a proposal will change the functional classification of a transportation facility, changes the standards that implement a functional classification system, or allows types of levels of traffic or access inconsistent with the functional classification of a transportation facility, or will degrade the performance of a transportation facility below the standards identified in the TSP or even further if the facility is projected to fall below TSP standards. OAR 660-012-0060(1). Here, the proposed beachfront protective structure will not generate any continuing traffic related to its use. The only traffic that will be generated will be temporary traffic required for construction of the structure, which will be similar (but will occur over a shorter period of time) to that of constructing the residential structures in the subdivision. Such traffic levels will not “significantly affect” any existing or planned transportation facility as that term is used by Goal 12, consequently the Goal 12 rule is not triggered by the proposal. The proposal is consistent with Goal 12.

Goal 13 – Energy Conservation

To conserve energy.

APPLICANTS COMMENT:

Goal 13 is a directive to local government to use methods of analysis and implementation measures to assure achievement of maximum efficiency in energy utilization. Goal 13 is not directly implicated by the proposed use. That said, the proposed beachfront protective measure will only consume energy resources during its construction phase and will be returned to a natural environment following construction. Once the beachfront protective structure is built, it will not use any

energy. The proposal is consistent with Goal 13.

Goal 14 – Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

APPLICANTS COMMENT:

The subject properties are already subject to an acknowledged goal exception that designates them to provide urban levels of residential use and are served with urban public facilities and services. The proposed structure is consistent with the level of that development and will protect that development. The proposal is consistent with Goal 14.

Goal 15 – Willamette River Greenway

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

APPLICANTS COMMENT:

Goal 15 applies only to property along the Willamette River, which is not in the vicinity of the subject properties. The proposal does not implicate Goal 15.

Goal 16 – Estuarine Resources

To recognize and protect the unique environmental, economic and social values of each estuary and associated wetlands; and

To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

APPLICANTS COMMENT:

Goal 16 applies to properties in estuarine areas. The subject property is not within an estuarine area. Therefore, the proposal does not implicate Goal 16.

Goal 17 – Coastal Shorelands

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and

To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment

of Oregon's coastal shorelands.

APPLICANTS COMMENT:

Goal 17 directs local governments to identify coastal shorelands and to adopt comprehensive plan and zoning provisions consistent with the Goal. Tillamook County has done that. The subject properties are in a coastal shorelands area. The subject properties were appropriately planned for residential use and the findings for the Pine Beach Subdivision approval in 1994 noted that an exception to Goal 17 was taken for the area. Exhibit G, p. 3. Therefore, as a technical matter, Goal 17 does not apply. Regardless, it is addressed below.

Goal 18, Implementation Measure 5, speaks of a preference for non-structural solutions to problems of erosion and flooding, but that erosion control structures may be allowed where shown to be necessary and will be designed to minimize adverse impacts on water currents, erosion and accretion patterns.

When the subject properties were approved for residential development, all evidence showed a 70-year trend of beachfront accretion. Furthermore, the Pine Beach Subdivision approval approved a natural, non-structural buffer, in the form of the common area, to address potential flooding and erosion issues. See Exhibit G, p. 13; Exhibit H, p. 3. The oceanfront properties to the north had extensive oceanfront yards that extended the same length as the Pine Beach Subdivision's common area. All of the subject properties were required to develop in the easternmost portions which at the time were not subject to ocean undercutting or wave overtopping as a natural protective measure. Exhibit G, p. 5, 8. The reversal of the prograding shoreline trend and now years of erosion have consumed more than 142 feet of beachfront make it necessary to utilize erosion control structures to protect the existing residential construction, public facilities and vegetation.

The design of the beachfront protective structure will be located on shorelands above the ordinary high-water mark. As discussed throughout this application narrative, Exhibit F demonstrates that the proposal has been designed to minimize adverse impacts on the existing environment and will minimize adverse impacts on water flow and erosion of other properties. Given its location and mostly sub-surface final form, it will have no impact on accretion patterns should the shoreline change pattern return to an accretion/prograding pattern.

The proposal is consistent with Goal 17.

Goal 18 – Beaches and Dunes

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

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

APPLICANTS COMMENT:

The proposal requests a precautionary exception to Goal 18, Implementation Measure 5. The demonstration of consistency with the exception requirements for both a committed exception and reasons exception are provided above. The committed urban residential exception that applies to the subject properties authorizes residential construction on the dunes on which they are located. Now that the dune on which the subject residential properties are situated is subject to ocean undercutting and wave overtopping, the existing exception applies to authorize that residential development under the existing exception. That means that the subject property already has an exception to Goal 18, Implementation Measure 2, which in turn means that, by its express terms, the Goal 18, Implementation Measure 5 prohibition on shoreline protection, does not apply.

Regardless, as a precaution, the analysis below demonstrates that the proposal is consistent with the other Goal 18 Implementation Measures to justify this precautionary exception.

Goal 18 Implementation Measure 1 provides:

“Local governments and state and federal agencies shall base decisions on plans, ordinances and land use actions in beach and dune areas, other than older stabilized dunes, on specific findings that shall include at least:

“(a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;

“(b) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

“(c) Methods for protecting the surrounding area from any adverse effects of the development; and

“(d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

APPLICANTS COMMENT:

(a) The proposal is for a static beachfront protective structure as shown in Exhibit F, Attachment 2, that should have only temporary adverse effects on the site and adjacent areas. The proposal calls for the preservation of sand excavated from the site during construction, and its placement on top of and on the seaward side of the structure following construction of the BPS. The adverse effects of excavation will be mitigated by subsequent replanting of native beach grasses and shrubs, which will be subject to periodic monitoring and replanting when necessary.

(b) As discussed above, the proposal is for a stabilization structure that will protect the foredune. The proposal includes specific instructions for the maintenance of new and existing vegetation by the owners of the properties. Exhibit F.

(c) Exhibit F, Attachment 2 also demonstrates that the design protects surrounding properties from the adverse impacts of development. For example, given the nature of the BPS design, there will be no off-site stormwater runoff during or after construction. The design of the structure is such that it will not direct additional water to surrounding properties, increase wave heights or wave runup, or impact the natural littoral drift of sediment along the coast. The collection of Google Earth photos of the shoreline within the vicinity of the existing Shorewood RV Resort's BPS shows no pronounced differences in the erosion of the shoreline south of the structure than what is now naturally occurring within the area. Given the location and higher elevation of the proposed BPS, the wave energy and erosion potential should be even lower. On this matter, West Consultants Technical Memo concludes, "[T]he proposed structure will not have an adverse impact to the surrounding properties. No additional measures are necessary to protect the surrounding area as a result of the proposed revetment structure." Exhibit F, p. 9.

(d) West Consultants Technical Memo provides the following purpose of the proposed revetment: "The proposed revetment structure will reduce the risk of damage to life, property and the natural environment from beach erosion and coastal flooding resulting from large waves occurring during high tides. The proposal as designed will not cause any of those hazards." Exhibit F, p. 8.

The proposal is consistent with the requirements of Goal 18, Implementation Measure 1.

Goal 18 Implementation Measure 2 states that development is allowed on foredunes that are conditionally stable but are subject to ocean undercutting or wave overtopping only under certain conditions. Goal 18 Implementation Measure 2 provides:

"Local governments and state and federal agencies shall prohibit residential developments and commercial and industrial buildings on beaches, active foredunes, on other 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. Other development in these areas shall be permitted only if the findings required in (1) above are presented and it is demonstrated that the proposed development:

"(a) Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and

"(b) Is designed to minimize adverse environmental effects."

APPLICANTS COMMENT:

As explained above, the subject properties are already subject to a Goal 18, IM 2

exception because their residential development on a dune now subject to ocean undercutting and wave overtopping is authorized by an exception. The legal significance of such existing Goal exception that covers all of the subject properties is, among other things, a Goal 18, IM 2 exception. Regardless, this proposal is not for residential development, but rather protects it, and falls into the category of “other development” that is permitted subject to specific findings. Those findings follow.

The response to Implementation Measure 1 is provided above under the immediately previous heading.

(a) The West Consultants Technical Memorandum (Exhibit F) addresses most of the factors identified in (a) above. It explains that the revetment was designed with a “launchable toe” that will ensure the rock revetment is not undermined by scouring (*i.e.* undercutting). The memorandum also expressly discusses ocean flooding and storm waves in its analysis for the FEMA “VE” hazard zone. The memorandum explains that the structure is designed to address ocean flooding and storm waves and that its design will also not cause an increase to FEMA total water levels near the structure. The BPS is also designed to minimize wind erosion given that the proposed revetment will be recovered with sand and replanted with native beach grasses and shrubs, as well as monitored to ensure the plants hold and serve their purposes. *See* Exhibit F, p. 9 (5.7 Periodic Monitoring). The only potential geologic hazard is from earthquakes. Given that the BPS is not a structure that allows occupancy of any sort or has standing walls, the structure does not require protection from geologic hazards.

(b) Exhibit F also addresses how the BPS has been designed to minimize adverse environmental effects. All excavated sand will be placed over and seaward of the rock revetment structure and the entire area replanted with native grasses and bushes. The proposal also calls for annual inspections to include, among other things, evaluation of “vegetation conditions and identification if additional replanting is necessary.” Ultimately, the proposed beachfront protective structure will protect the natural environment from beach erosion and adverse impacts from coastal flooding.

The proposal is consistent with the two Goal 18, Implementation Measure 2 two specific requirements.

Implementation Measure 3 provides:

“Local governments and state and federal agencies shall regulate actions in beach and dune areas to minimize the resulting erosion. Such actions include, but are not limited to, the destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage), the exposure of stable and conditionally stable areas to erosion, and construction of shore structures which modify current or wave patterns leading to beach erosion.”

APPLICANTS COMMENT:

As discussed above, the purpose of the beachfront protective structure and its revegetation maintenance program is to minimize erosion of the foredune area since natural protective measures have failed. It will not result in the destruction of desirable vegetation; it will protect it. Also discussed above and in Exhibit F is how the proposed BPS will not adversely affect wave patterns that will lead to beach erosion elsewhere beyond what will normally and naturally occur, as it has functioned at the nearby Shorewood RV Resort.

The design of the proposed structure is consistent with Goal 18, Implementation Measure 3.

Implementation Measure 4 provides:

“Local, state and federal plans, implementing actions and permit reviews shall protect the groundwater from drawdown which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of salt water into water supplies. Building permits for single family dwellings are exempt from this requirement if appropriate findings are provided in the comprehensive plan or at the time of subdivision approval.”

APPLICANTS COMMENT:

The proposed structure does not use groundwater or affect it in any way. The structure was designed by West Consultants to minimize adverse environmental impacts such as the ones identified in IM 4. The proposal calls for re-sanding, revegetation, and monitoring as part of the structure’s design and maintenance. The structure does not reach down to the water table and will not lead to loss of water quality or the intrusion of salt water into water supplies.

The proposal is consistent with Goal 18, Implementation Measure 4.

Implementation Measure 5

APPLICANTS COMMENT:

Implementation Measure 5 is addressed in the exceptions portion of the application and that response is herein incorporated.

Implementation Measure 6 provides:

“Foredunes shall be breached only to replenish sand supply in interdune areas, or on a temporary basis in an emergency (e.g., fire control, cleaning up oil spills, draining farmlands, and alleviating flood hazards), and only if the breaching and restoration after breaching is consistent with sound principles of conservation.”

APPLICANTS COMMENT:

No foredunes will be breached as part of this proposal. The proposal is consistent with Implementation Measure 6.

Implementation Measure 7 provides:

“Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if the area is committed to development or is within an acknowledged urban growth boundary and only as part of an overall plan for managing foredune grading.” [requirements omitted].

APPLICANTS COMMENT:

This Implementation Measure applies to activities related to maintaining views and preventing sand inundation. While grading and sand movement will occur with development of the proposed beachfront protective structure, such activity is not for the purpose of maintaining views or to prevent sand inundation. Consequently, this proposal does not invoke Implementation Measure 7.

Goal 18 Guideline E promotes responsible public access to the beaches. The beach access that runs between Tax Lots 123 and 3204 will be maintained. The proposed structure will improve that beach access with a gravel path and ramp that goes over the rock revetment and allows improved access to the beach. The proposal maintains the southern beach access and does not interfere with it.

Goal 18 Guideline F states that dune stabilization actions should be evaluated for their potential impact. This application narrative and the evidence in the record address a range of potential impacts that will flow from the proposal, which the county will evaluate in making its decision on the application. The proposal is consistent with this guideline.

The proposal is consistent with Goal 18.

Goal 19 – Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

APPLICANTS COMMENT:

Goal 19 concerns Oregon’s off-shore ocean resources. To the extent that the proposal prevents the ocean destroying 11 houses, and their public water and sewer infrastructure and street system, it benefits the ocean by keeping out harmful pollutants. Other than that benefit, nothing about the proposal impacts ocean resources. The proposal is either consistent with or does not implicate, Goal 19.

The proposal is consistent with the Statewide Planning Goals.

C. Tillamook County Comprehensive Plan

APPLICANTS COMMENT:

As discussed in Section VIII.D below, TCLUO 3.530(4)(A)(4) authorizes beachfront protective structures that are authorized by an Exception to Goal 18. Goal exceptions must be made part of the Comprehensive Plan, which requires an amendment to the text of the Comprehensive Plan. TCLUO 9.030(3)(b) requires that amendments to the comprehensive plan must demonstrate consistency with the Comprehensive Plan other than the parts being amended.

Because this is a quasi-judicial, site specific amendment to the plan and does not involve an amendment of general applicability to the Comprehensive Plan requirements or even a Plan Designation/Zone Change, which can invoke a broad range of plan sections, this application narrative addresses only Comprehensive Plan provisions that are relevant to this application following a review of the entire Comprehensive Plan. In the event that Applicants have missed one or more relevant provisions, Applicants will address any other provisions that County staff identify as relevant at the time such provisions are raised.

In summary, given the limited nature of the proposed beachfront protective structure, only certain provisions from the Hazards Element (Goal 7) and Beaches and Dunes Element (Goal 18) appear to be applicable. Note that the Coastal Shorelands Element (Goal 17) findings and policies for rural shorelands at Finding 8.2 recognize the urban residential use of the subject property area. However, that element provides no relevant policies applicable to the proposed use.

COUNTY HAZARDS ELEMENT (Goal 7)

County Goal 7 – 2.4 Erosion

APPLICANTS COMMENT:

Policy 2.4a provides that prevention or remedial action shall include any or all of the items that follow in a list. Responses to the relevant actions are listed by number. (1) The proposed beachfront protective structure will aid in maintaining the existing vegetation on the younger stabilized foredune from potential future erosion. (2) The design, and restoration and maintenance plan for the beachfront protective structure calls for the rapid revegetation of the structure following construction as well as the continued maintenance and re-vegetation of the development site if necessary. (3) The proposal seeks to stabilize the shoreline with a beachfront protection structure (similar to riprap) as called for by this policy. As discussed above, the historic natural protections, which were vegetated, have eroded in a manner that was not predicted by the evidence at the time the subdivision was approved. (5) The proposal will not result in any increased runoff due to development. See Exhibit F, p. 9. (7) The proposed beachfront protective

structure will be set back 10 feet from the existing line of established vegetation allowing that area to remain in its natural state. Plus, as noted above, the revetment structure will be covered in sand and revegetated to further reinforce the integrity of the vegetation line area. *See* Exhibit F, p. 6, 9.

Policy 2.4b is not applicable because there are no slopes greater than 15% on the subject properties.

County Goal 7 – 2.5 Flooding

APPLICANTS COMMENT:

Policy 2.5f provides that new construction shall be by methods and practices that minimize flood damage. Exhibit F demonstrates that the proposed BPS has been designed to resist the adverse effects of ocean flooding such as undercutting. Exhibit F also explains that the proposed structure will not cause an increase to the FEMA total water levels near the proposed structure.

Policy 2.5h requires all development meet Federal requirements. West Consultants explain that the proposed structure has been designed to meet all FEMA requirements for construction within the flood hazard zone. (Exhibit F, p. 9.)

Policy 2.5i provides that measures shall be taken to ensure that the cumulative effect of a proposed development will not increase the water surface elevation. The West Consultants Technical Memorandum explains that the BPS will not increase water surface elevations. (*See* Exhibit F, p. 9).

County Goal 7 – 2.6 Tsunamis (Seismic Waves)

APPLICANTS COMMENT:

While most of this section is dedicated to tsunami planning, Policy 4 relating to reducing development risk in high tsunami risk areas, calls for protecting and enhancing existing dune features and coast vegetation to promote natural buffers and reduce erosion. The original 1994 Pine Beach Subdivision proposal utilized natural barriers, but those have failed. The proposed beachfront protective structure is designed to reduce erosion and stabilize the natural buffers on the site's foredune vegetation.

The proposal is consistent with the Hazards Element (Goal 7) of the comprehensive plan.

COUNTY ESTUARINE RESOURCES ELEMENT (GOAL 16)

APPLICANTS COMMENT:

The Estuarine Resources Element is generally not applicable to the subject property. However, the Beaches and Dunes Element (Goal 18) Policy 4.4d provides that the shoreline stabilization policies of Section 7.5 of the Goal 16 element shall apply to beachfront protective measures. Consequently, the relevant policies from that section are addressed immediately below.

County Goal 16 – 7.5 Shoreline Stabilization

“2. Within estuarine waters, intertidal areas, tidal wetlands and along WDD shoreland zones and other shoreland areas, general priorities for shoreline stabilization for erosion control are, from highest to lowest:

“a. proper maintenance of existing riparian vegetation;

“b. planting of riparian vegetation;

“c. vegetated riprap;

“d. non-vegetated riprap;

“e. groins, bulkheads and other structural methods.”

APPLICANTS COMMENT:

As explained by the 1994 staff report (Exhibit G), the Dune Hazard Reports from 1994 (Exhibit H) and the West Consultants Technical Memorandum (Exhibit F), the 1994 Pine Beach Subdivision approval incorporated approach (a), the existence and maintenance of riparian vegetation, as the solution for shoreland stabilization and erosion control. This was also the case for the subject oceanfront properties to the north which were similarly set back. See Exhibit L, p. 6; Exhibit M, p. 8; Exhibit N, p. 19; Exhibit O, p. 2, 4; Exhibit P, p. 2, 4.

Due to the unanticipated reversal in shoreline change conditions, which was contrary to the 70-year pattern of progradation, the first two shoreline stabilization techniques are no longer possible. The shoreline stabilization proposed here is the highest option left, which is vegetated “riprap.” As discussed in Exhibit F, the beachfront protective structure will be overlain with the sand excavated to install the structure and will be planted with native grasses and shrubs. That replanting will be monitored annually and replanted if necessary, which is consistent with this policy, thus implementing the vegetated riprap approach.

“3. Proper maintenance of existing riparian vegetation and planting of additional vegetation for purposes of shoreline stabilization shall be permitted within all estuary zones, and along WDD shoreland

zones and other shoreland areas. Tillamook County supports the efforts of the Tillamook Soil and Water Conservation District to maintain and improve streamside habitat along the County's rivers and streams.”

APPLICANTS COMMENT:

As just discussed, the proposal includes a maintenance plan for the planting of additional vegetation and maintenance by the property owners.

“4. Structural shoreline stabilization methods within estuary zones, WDD shoreland zones or other shorelands areas shall be permitted only if:

“a. flooding or erosion is threatening a structure or an established use or there is a demonstrated need (i.e., a substantial public benefit) and the use or alteration does not unreasonably interfere with public trust rights; and

“b. land use management practices or non-structural solutions are inappropriate because of high erosion rates or the use of the site; and

“c. adverse impacts on water currents, erosion and accretion patterns and aquatic life and habitat are avoided or minimized.”

APPLICANTS COMMENT:

(a) As shown in Exhibits F and J, the erosion and related ocean flooding are threatening the 15 lots that make up the subject properties and the development on those lots, including 11 homes. It is also threatening the supporting water and sewer public facilities. The proposal also does not interfere with any public trust rights whatever those may be. All existing beach accesses are retained by the proposal. The proposed revetment is east of both the statutory vegetation line and the line of established vegetation. The public has no trust interest in the area where the proposed BPS will be located.

(b) As discussed above and demonstrated by Exhibit F, land use management practices and non-structural solutions are no longer appropriate because of the high erosion rates over the past twenty-five years and because of the existing dwellings on the subject properties.

(c) Exhibit F explains that the proposed beachfront protective structure has been designed to not have any adverse impact on erosion or accretion patterns in the area. There are no aquatic life or habitat areas that could be impacted by the proposal.

“5. In Estuary Natural (EN) and Estuary Conservation Aquaculture (ECA) zones, structural shoreline stabilization shall be limited to riprap, which shall be allowed only to protect:

“a. existing structures or facilities, which are in conformance with the requirements of this ordinance, or non-conforming structures or facilities; and

“b. unique natural resources or sites with unique historical or archaeological values; and

“c. established uses on private property.”

APPLICANTS COMMENT:

Consistent with requirements (a) and (c) above, the proposed beachfront protective structure will protect existing dwellings and public water and sewer facilities that were developed in conformance with the requirements of the Tillamook County Comprehensive Plan and Land use Ordinance. Those structures are established uses on private property.

“6. In Estuary Conservation 1 (EC1) and Estuary Conservation 2 (EC2) zones, structural shoreline stabilization (riprap, groins or bulkheads) shall be permitted only if:

“a. consistent with the long-term use of renewable resources; and

“b. does not cause a major alteration of the estuary.”

APPLICANTS COMMENT:

Despite not being in the EC1 or EC2 zone, the beachfront protective structure will not adversely affect long term use of the beach resource and will not cause alteration of the beachfront other than at the protected location.

“7. In Estuary Development (ED) zones, structural shoreline stabilization (riprap, groins or bulkheads) shall be permitted only if consistent with the maintenance of navigational and other needed public, commercial and industrial water-dependent uses.”

APPLICANTS COMMENT:

The proposed BPS is not in an ED zone. This provision does not apply. Regardless, construction of the proposed beachfront protective structure will not interfere with navigational or commercial and industrial water-dependent uses and is therefore consistent with those uses. The proposal is consistent with and incorporates the accesses to the beach.

“8. Structural shoreline stabilization in WDD shoreland zones shall not preclude or conflict with existing or reasonable potential water-dependent uses on the site or in the vicinity.”

APPLICANTS COMMENT:

The subject properties are not in a WDD zone. This standard does not apply. Regardless, there are no water-dependent uses on the site or in the vicinity nor are any planned or zoned for the area. The beachfront protective structure will not conflict with any of those uses.

The proposed beachfront protective structure is consistent with the shoreline stabilization policies in Section 7.5.

COUNTY BEACHES AND DUNES ELEMENT (GOAL 18)

APPLICANTS COMMENT:

The most relevant comprehensive plan provisions are contained within the Beaches and Dunes Element (Goal 18) of the comprehensive plan.

County Goal 18 – 2.2b Beach & Dune Use Capabilities: Active Foredune

APPLICANTS COMMENT:

The County Comprehensive Plan Goal 18 under Section 2.2b, (Active Foredune) recognizes that *“certain management practices are necessary in order to minimize the hazards of developing on active foredunes”*. The relevant management practices, as applied here are:

1. *Vegetate open sand areas and protect existing vegetation*
2. *Minimize dune alteration and disturbance of vegetation, temporarily protect disturbed areas and re-vegetate as soon as possible*
3. *Locate structures and facilities as far from the beach as possible*

The 1994 Pine Beach Subdivision approval authorized development on a younger stabilized dune that started approximately 142 feet from the line of established vegetation, in an area where the shoreline had been prograding for 70 years. The Ocean Boulevard lots had similar setbacks. Due to unanticipated changes in the shoreline movement, the area is now part of an active foredune, and this standard is now applicable to the property.

The proposed BPS will be located approximately 185 feet landward of the statutory vegetation line. As shown in Exhibit F, the design by West Consultants provides for re-sanding over the structure and the planting of beach grasses and native

vegetation over the area where the structure is placed. This vegetation will be monitored, and the area revegetated as necessary as part of the maintenance program. Exhibit F, p. 8. This will allow native vegetation to flourish, thereby restoring the natural resource that has been rapidly eroding away. See (2) above.

Therefore, based on the above-stated evidence, the proposed revetment will vegetate within an actively eroding foredune, protect the existing vegetation within the existing shoreline, permanently protect the disturbed, (eroding active foredune) and re-vegetate that foredune, all of which will be located 185 feet from the statutory vegetation line. The proposal meets the above-stated elements based on the evidence presented above.

County Goal 18 – Implementation Measure 2.3a.1 Beach and Dune Management Requirements: Findings

APPLICANTS COMMENT:

Implementing Requirement (1) states that, (in relevant part):

“Local government and state and federal agencies shall base decisions . . . and land use actions in beach and dune areas, other than older stabilized dunes, on specific findings that shall include at least:

“(a) The type of use proposed and adverse effects it might have on the site and adjacent areas;

“(b) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation

“(c) Methods for protecting the surrounding area from any adverse effects of the development; and,

“(d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.”

(a) The placement of a beachfront protective structure along the subject site's existing shoreline is intended to “reduce the adverse impact” of the on-going eastward march of shoreline erosion at the specified oceanfront lots. The evidence in the record demonstrates that all impacts resulting from the proposed beachfront protective structure will be positive, not negative. The design of the beachfront protective structure is such as to minimize adverse effects it might otherwise have on adjacent properties and the area in general. As the revetment structure at the Shorewood RV Resort shows, a well-designed structure in this area will not have adverse impacts on adjacent properties, although it cannot halt the progression of beach erosion on those other properties if erosion continues. (See Exhibit J, Google Earth Historic Aerial Images).

(b) The proposal is for a permanent stabilization program that calls for future

monitoring and maintenance of the structure and overlying vegetation, with re-vegetation if necessary, paid for by the owners of the subject properties. The structure is placed 10 feet landward of the line of established vegetation, thereby preserving that vegetation in its native state.

(c) As explained in Exhibit F, the protective structure is designed to not have any adverse impacts to the natural runoff, beach access or surrounding properties.

(d) The proposal will in fact reduce the hazards to life, public and private property, as well as the natural environment by halting future shoreline regression (erosion) that may occur in the future. If the shoreline change reverts to the prograding that historically occurred throughout the 20th Century, the proposed structure will likewise offer no hazards to the public, property, or the natural environment.

County Goal 18 – Implementation Measure 2.3a.6 Beach and Dune Management Requirements: Urban and Rural Development

APPLICANTS COMMENT:

This section discusses urban and rural development in dune areas and explains that younger and older stabilized dunes “are the most suitable dune forms for urban and rural development.” These Implementation Measure provisions were expressly addressed by the applicant and the staff report for the 1994 Pine Beach Subdivision as well as in each of the hazard reports for each of the subject properties in the George Shand Tracts/Ocean Boulevard subdivision and that approval was consistent with all of the requirements of this section. This proposal is also consistent with these requirements. *See* Exhibits H (Dune Hazard Report for Pine Beach Subdivision) and Exhibits L-P (Dune Hazard Reports for each Ocean Boulevard lot).

As discussed throughout this narrative and the attached exhibits, the proposal is consistent with the listed management practices necessary to minimize the hazards of developing on foredunes. The proposal protects existing vegetation as much as possible, especially at where the line of established vegetation exists. Disturbance of vegetated areas due to construction activity will be mitigated and the area revegetated as soon as possible afterwards, with follow up monitoring and revegetation as needed. The beachfront protective structure is located as far away from the beach as possible and still serve its function. And the design is such as to protect against wave damage and to allow sand build-up. Exhibit F.

As prescribed by this Implementation Measure, there is no development on open dune sand or other areas where development is not well tolerated.

County Goal 18 – Implementation Measure 2.3a.7 Beach and Dune Management Requirements: Findings

APPLICANTS COMMENT:

This Implementation Measure generally provides the findings that demonstrate the County's compliance with Goal 18 Implementation Measure 1 for those areas that the county has expressly taken a Goal 18 exception at the time of designating the area as suitable for development. It recognizes that development in the dune areas requires compliance with Goal 18, IM 1.

As explained above, the subject properties are irrevocably committed to urban levels of residential use as are the Goal 18 exception areas identified in the comprehensive plan. To the extent this Comprehensive Plan Implementation Measure requires the present proposal to comply with Goal 18, IM 1, the Applicants hereby incorporate the response to that Goal provision from Section VIII.B.4 above.

County Goal 18 – Implementation Measure 2.3b – Implementation Measure 2

APPLICANTS COMMENT:

This provision recognizes that allowing development in foredune areas requires compliance with the requirements of Goal 18, IM 2. To the extent this Comprehensive Plan Implementation Measure requires the present proposal to comply with Goal 18, IM 2, the Applicants hereby incorporate the response to that Goal provision from Section VIII.B.4 above. Moreover, because an existing exception and existing land use approvals already allow residential development on the subject dune, as a matter of law a Goal 18, IM 2 exception has already been taken for the subject properties and shoreline protection is allowed.

County Goal 18 – Implementation Measure 2.3c – Implementation Measure 3

APPLICANTS COMMENT:

This provision recognizes that allowing development in foredune areas requires compliance with the requirements of Goal 18, Implementation Measure 3. To the extent this Comprehensive Plan implementation measure requires the proposal to comply with Goal 18, IM 3, the Applicants hereby incorporate the response to that Goal provision from Section VIII.B.4 above.

County Goal 18 – Implementation Measure 2.3d – Implementation Measure 4

APPLICANTS COMMENT:

This provision recognizes that allowing development in foredune areas require compliance with the requirements of Goal 18 Implementation Measure 4. To the

extent this Comprehensive Plan Implementation Measure requires the present proposal to comply with Goal 18, IM 4, the Applicants hereby incorporate the response to that Goal provision from Section VIII.B.4 above.

County Goal 18 – Policy 2.4 – Policies

APPLICANTS COMMENT:

Each of the applicable policies are identified and addressed below.

Policy 2.4a: “All decisions on land use actions in beach and dune areas other than older stabilized dunes shall be based on the following specific findings unless they have been made in the comprehensive plan:

- “(a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;**
- “(b) The temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;**
- “(c) Methods for protecting the surrounding area from any adverse effects of the development; and,**
- “(d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.”**

(a) This application explains the type of proposed use – a beachfront protective structure. The possible adverse effects the use may have on the site and adjacent areas are addressed throughout the narrative, for example at Implementation Measure 2.3a.1 in Section VIII.C above. Those responses are hereby incorporated.

(b) Exhibit F, as well as this narrative, explain the permanent stabilization program proposed (a beachfront protective structure) and that the structure will be overlaid with sand removed during construction, replanted with native grasses and shrubs and maintained by an annual inspection and revegetated, if necessary, by the property owners.

(c) Exhibit F also discusses how the surrounding area will be protected through the design of the beachfront protective structure. As Exhibit F explains, the structure is designed to prevent erosion of adjacent properties and will not cause an increase to the FEMA total water levels near the proposed structure. *See* Exhibit F, p. 8-9.

(d) Exhibit F, p. 8-9 explains that the purpose of the beachfront protective structure is to protect life, public and private property and the natural environment from the adverse impacts that may flow from continued erosion of the shoreline and from storm surge and tidal events.

The evidence in the record demonstrates the proposal is consistent with this policy.

Policy 2.4b: “Development in beach and dune areas shall comply with the requirements of the Flood Hazard Overlay zone.”

The requirements of the Flood Hazard Overlay zone are provided below under TCLUO 3.510(5)(b) and (10), which are herein incorporated.

Policy 2.4c: “Grading and vegetation removal shall be the minimum necessary to accommodate the development proposed. Removal should not occur more than 30 days prior to the start of construction. Open sand areas shall be temporarily stabilized during construction and all new and pre-existing open sand areas shall be permanently stabilized with appropriate vegetation.”

Grading and vegetation removal will be conducted in accordance with the West Consultants Technical Memorandum and the County’s land use regulations. Sand will be retained and stabilized during construction and placed over the structure and appropriately vegetated and monitored as prescribed in the Technical Memorandum, Exhibit F, p. 6, 9.

Policy 2.4d: “Excavated, filled, or graded slopes shall not exceed 30 degrees unless adequate structural support is provided. Clearing of these slopes shall be minimized and temporary and permanent stabilization measures shall be applied to safeguard the slope from erosion and slumping.”

There are no 30-degree slopes on the property, nor will any be created by the proposal. This policy is not invoked by the proposal.

Policy 2.4f: “Residential, commercial, and industrial buildings shall be prohibited on beaches, active foredunes, on other 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 except on lots where such development is specifically authorized by Section 5. Ocean flooding includes areas of velocity flooding and associated shallow marine flooding mapped by the Federal Emergency Management Agency (FEMA). Other development in these areas shall be permitted only if the findings required in policy 2.4a are presented and it is determined that the proposed development:

“(a) Is adequately protected from geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and,

“(b) is designed to minimize adverse environmental effects.

The findings required by Policy 2.4a are addressed above and hereby incorporated.

The two numbered standards for Policy 2.4f are identical to those for OAR 660-004-0022(11) addressed at Section VIII.B.3 above. For purposes of brevity and efficiency, those responses are hereby incorporated.

Policy 2.4g: “Foredunes shall be breached only on a temporary basis in an emergency (e.g., fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards), and only if the breaching is consistent with sound principles of conservation. Policy 2.4a shall apply.”

No foredunes are proposed to be breached. The proposal complies with this standard.

Policy 2.4h: “Because of the sensitive nature of active and conditionally stable dunes, vehicular traffic and recurring pedestrian and equestrian traffic should be limited to improved roads and trails.”

The existing beach accesses are approximately 5-foot wide and are only suitable for pedestrian or equestrian traffic. They are not intended for or suitable for vehicular traffic. Those accesses will be maintained and the beach access between Tax Lots 3204 and 123 will be improved. The proposal does not interfere with the southern beach access.

County Goal 18 – Section 3 – Fore dune Management:

APPLICANTS COMMENT:

The proposal does not invoke any of the Fore dune Management Policies listed in section 3 of the Beaches and Dunes Element under 3.3. Those provisions apply to “grading or sand movement necessary to maintain views or prevent sand inundation” consistent with Goal 18 Implementation Measure 7. This proposal does not seek to grade or move sand for that purpose.

County Goal 18 – Section 4 – Coastal Erosion:

APPLICANTS COMMENT:

The County Comprehensive Plan Goal 18 Section 4, (Coastal Erosion) recognizes the role of a balance of sand deposits and removal from the winter to the summer plays in shoreline change:

“Erosion of the beach and adjacent dunes occurs on a yearly cycle. Winter storm waves erode the beach and deposit sand in offshore bars. . . . In the summer, gentler waves redistribute the sand in offshore bars back onto the beach and form a wide berm . . . If the summer beach build-up does not equalize winter losses over the period of several years, there is a net erosion of the beach . . . ” (Emphasis supplied).

Exhibit G, the Dune Hazard Reports for the 1994 Pine Beach Subdivision application and approval established that, at the time, historic records indicated that

there had been a 70-year precedent where the shoreline steadily increased (prograded). Exhibit G, p.1-2. Similarly, the hazard reports for the George Shand Tract/Ocean Boulevard residences, say the same thing. Exhibit L, p. 9; Exhibit M, p. 17; Exhibit N, p. 17; Exhibit O, p. 7; and Exhibit P, p. 7. That historic shoreline prograding change is documented in Map 7 of the Beaches and Dunes Element of the Comprehensive Plan, which shows the “Shoreline Change” for the beach areas along the subject properties as “Prograding.” Exhibit I, p. 2. However, the West Consultants Technical Memorandum (Exhibit F) as well as the Google Earth Historical Aerial Imagery (Exhibit J) document a reversal of that trend and the rapid erosion that has occurred over the past two decades.

Section 4.2 Management Considerations recognizes that: *“The primary means of guarding residences or other structures from damage is to locate them back from the eroding coastline”* As shown on Exhibits G and L-P, that is precisely what was done when the Pine Beach Subdivision was platted in 1994 and at the time the houses in the George Shand Tracts/Ocean Boulevard were approved. For the Pine Beach Subdivision, a two-acre Common Area, approximately 190-feet wide, separated the rear yards of the Pine Beach beachfront lots from the statutory vegetation line. The George Shand/Ocean Boulevard lots north were similarly setback with extensive “oceanfront yards” with development allowed only on the eastern portion of the properties. Therefore, at least still in 1994, the westernmost rear yards of the Pine Beach Subdivision and the George Shand/Ocean Boulevard properties were located “back from the eroding coastline”. However, as also shown on Figure 2 in Exhibit F, that eroding coastline made a rapid eastward march towards those rear yards of the Pine Beach and Ocean Boulevard beachfront lots, removing approximately 142 feet of shoreline vegetation in the years since the Pine Beach Subdivision was approved. Therefore, based on the above, when the subdivisions and homes were approved, precautionary measures were taken to compensate for the possibility of an eroding shoreline, despite the historic 70-year trend of progradation, by placing the sites for development on the lots well eastward of the then shoreline and outside the areas of ocean undercutting and wave overtopping.

Section 4.2 also recognizes that, *“In cases of severe erosion, it may be necessary to use some means of structural shoreline stabilization such as a revetment or seawall.”* That is what is being proposed here. It seems only equitable and fair to allow these properties to provide needed relief from the wholly unexpected shoreline erosion that began after the subdivisions were approved years ago and houses built.

The section also discusses the potential visual impacts from beachfront protective structures and impacts on erosion in the surrounding area. The proposed beachfront protective structure will be located below the surface of the ground and overlain with the sand removed when excavating for the structure. That sand will then be revegetated with native grasses and shrubs and will result in a vegetated mound no taller than three feet above grade that appears natural. Exhibit F. As discussed

elsewhere, the revetment structure has been designed to minimize adverse erosion impacts on the surrounding area. Exhibit F, p. 9.

Policy 4.4c: Coastal Erosion: Policies; Protective Structures

APPLICANTS COMMENT:

This policy implements Goal 18 Implementation Measure 5 by limiting beachfront protective structures to where development existed on January 1, 1977. TCLUO 3.530(4)(A)(4) implements this policy and provides that it is possible to take an Exception to Goal 18 to develop a beachfront protective structure for development that did not exist on January 1, 1977. As explained herein, the subject properties already have an exception to the prohibition in Goal 18, IM 2 on houses on dunes, and so are allowed their protective structure under the express terms of Goal 18, IM 5 and this plan policy. Nonetheless, the proposal is consistent with this policy by taking another (and precautionary) Exception to Goal 18, Implementation Requirement 5.

Policy 4.4d: *“The shoreline stabilization policies in Section 7.5 of the Goal 16 element shall apply to beachfront protective structures.”*

APPLICANTS COMMENT:

The shoreline stabilization policies in Section 7.5 of the County’s Goal 16 element are addressed above and that response is hereby incorporated.

Policy 4.4e: *“Policy 2.4a shall apply to beachfront protective structures.”*

APPLICANTS COMMENT:

The County’s Beaches and Dunes Element Policy 2.4a is addressed above. That response is hereby incorporated.

Policy 4.4f: *“Shoreline protection measures shall not restrict existing public access.”*

APPLICANTS COMMENT:

There are two beach accesses in the area of the proposal. One beach access runs between Tax Lots 123 and 3204 to the beach. See Exhibit Q, p. 2. The other access runs from Pine Beach Loop between Tax Lots 113 and 114, and then along the southern boundary of Tax Lot 114 to the beach. See Exhibit Q, p. 2. The proposed structure will improve the northern beach access with a gravel path and ramp that goes over the rock revetment and allows improved access to the beach. The proposal does not interfere with the southern beach access. The proposed beachfront protective structure will not restrict the existing beach accesses.

The proposal is consistent with the Tillamook County Comprehensive Plan.

D. Tillamook County Land Use Ordinance

1. Article III – Zone Regulations

TCLUO Section 3.014 – Community Medium Density Urban Residential Zone (CR-2)

TCLUO Section 3.014(1): “PURPOSE: The purpose of the CR-2 zone is to designate areas for medium-density single-family and duplex residential development, and other, compatible, uses. Land that is suitable for the CR-2 zone has public sewer service available, and has relatively few limitations to development.”

APPLICANTS COMMENT:

This criterion states, in part, that the CR-2 zone is in designated areas for medium-density single-family and duplex residential development, and other, compatible, uses. The subject lots consists of homes consistent with this standard. The subject fifteen lots include eleven developed beachfront lots and four vacant beachfront lots. A “compatible” use would certainly be the proposed beachfront protective structure that will be essential to if not accessory to the primary medium-density single family residential use permitted by the CR-2 zone. This criterion goes on to say that land is suitable for the CR-2 zone if it has public sewer service available and has relatively few limitations to development. The site is served by the Twin Rocks Sanitary District, which provides sewer service to the Pine Beach subdivision, the Ocean Blvd. properties and other residences in the vicinity. The subject site is flat. The only limitation to the development of the four, vacant beachfront lots is the on-going shoreline erosion. This concern can be best remedied by the installation of the proposed beachfront protective structure, which will also protect the existing public water and sewer facilities and all the lots in the Pine Beach Subdivision and the George Shand/Ocean Boulevard properties.

TCLUO Section 3.014(2): “USES PERMITTED OUTRIGHT: In the CR-2 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.

“(a) One or two-family dwelling.”

APPLICANTS COMMENT:

Single-family residences are permitted outright in this zone. The beachfront protective structures are accessory to those permitted residential uses and as here essential to their survival. There are no prohibitions against the installation of beachfront protective structures.

TCLUO Section 3.510 Flood Hazard Overlay Zone (FH)

TCLUO Section 3.510(1): “PURPOSE: It is the purpose of the FH zone to promote the public health, safety and general welfare and to minimize public and private losses or damages due to flood conditions in specific areas of unincorporated Tillamook County by provisions designed to:

“(a) Protect human life and health;

“(b) Minimize expenditure of public money for costly flood control projects;

“(c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;

“ * **

“(e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;

“(f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

“ * **

“(h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.”

APPLICANTS COMMENT:

As referenced in the attached West Consultants Technical Memorandum (Exhibit F), and as shown on Exhibit K, the subject site is located in FEMA Flood Hazard Zone VE, which is assigned to coastal areas with a 1% or greater chance of flooding, and areas with an additional hazard associated with storm waves. FEMA determines the “regulatory” water surface elevations for this particular VE zone. In coastal flooded areas, FEMA defines tide levels and the total water level heights, which combine tide levels with wave “run-up”, and assigned a percentage to the frequency when those tides and total water levels baseline values will be exceeded. Table 2 on page 3 of the West Consultants report lists those values. The far-right column lists the total water levels that potentially could be reached at each “Annual Chance of Exceedance”, which for the subject properties’ shoreline is 23.4 feet to 26.8 feet, assuming a “baseline” elevation of 20.8 feet. Therefore, based on the above-cited evidence, the relevant and applicable standards of Section 3.510 apply to this request. The Applicants will address those standards in the following paragraphs.

(a) The proposed beachfront protective structure will help protect human life and health by mitigating the effects of flooding that may threaten existing residential

structures and their occupants. (b) The costs of construction and maintenance of the revetment and environmental restoration will be borne by the property owners, (c) thus minimizing the expenditure of public money for the cost of the structure or potential rescue efforts. Also, consistent with the stated purposes, (e) the BPS will protect and certainly minimize damage to the existing public facilities and utilities – sewer and water – that serve the subject properties. (f) Protection of the subject properties will help to retain their value and thus maintain a stable tax base. (h) As discussed above, at the time the subdivisions were proposed and houses approved, there was no reason to believe that the pattern of shoreline change would reverse or that erosion would threaten these properties. The property owners (Applicants) are assuming responsibility by requesting an exception to build a protective structure.

TCLUO Section 3.510(5): “GENERAL STANDARDS: In all areas of special flood hazards the following standards are required:

“* * *

“ANCHORING

“(b) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.”

APPLICANTS COMMENT:

As shown on Exhibit F, the beachfront protective structure will be “anchored” to the ground by first excavating approximately 8 feet below the 20.8-foot shoreline elevation, placing approximately two-thirds of the structure under the ground, and backfilling the underground portion with sand. An “ecology” block wall will be installed at the northern and southern ends of the beachfront protective structure to ensure that the predicted future wave runup will not flow around the beachfront protective structure, which if such runup occurs could potentially flood the beachfront homes or otherwise undermine the structural integrity of the BPS. The BPS will be constructed with a launchable toe on each end that will prevent undermining of the structure from erosion and scouring. The said beachfront protective structure will be engineered to prevent flotation, collapse, or lateral movement of the structure. The proposal complies with this criterion based on the evidence provided above.

“CONSTRUCTION MATERIALS AND METHODS

“(d) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.”

APPLICANTS COMMENT:

As shown on Exhibit F, the proposed beachfront protective structure has been engineered to resist flood damage through the use of large boulders or large, linear mesh bags filled with sand. Each of these are designed to withstand the pounding

of waves and of ocean flooding. The structure will be overlain with sand and will be planted with beach grasses and native vegetation, thereby providing “anchoring” into the shoreline, and thus be resistant to flooding by high tides and wave run-up. The proposal complies with this criterion based on the evidence provided submitted with the application.

“(e) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.”

APPLICANTS COMMENT:

As shown on Exhibit F, the top of the proposed beachfront protective structure will be 23.8 feet, which West Consultants have calculated to be tall enough to account for the 10% chance that the “total water level” at this location will be 23.4 feet. (See Exhibit F, Table 2). Also, the height of the beachfront protective structure is set at 3-feet above the ground elevation, which complies with the allowable County-required 3-foot maximum height for accessory beachfront protective structures. Placing the beachfront protective structure at the proposed entire 3-foot maximum height minimizes the chance that any of the homes will experience flood damage. Based on the above, the proposed BPS will be constructed using methods and practices that minimize flood damage in compliance with this criterion.

“(f) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated to prevent water from entering or accumulating within the components during conditions of flooding. In Flood Zones A, A1-A30, AE, V, V1-V30 or VE, such facilities shall be elevated three feet above base flood elevation. In Flood Zone AO, such facilities shall be elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet above highest adjacent grade if no depth number is specified).”

APPLICANTS COMMENT:

This proposal for a beachfront protective structure does not require any of the above-cited equipment as would be required to locate a new dwelling in the floodplain. Therefore, this criterion is not applicable to this request.

“UTILITIES

“(g) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.”

APPLICANTS COMMENT:

This proposal for a beachfront protective structure does not require a water system

or involve a replacement water system. Rather, it is designed to protect existing water delivery infrastructure. Therefore, the proposal either complies with this standard or it is not applicable to this request.

“(h) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.”

APPLICANTS COMMENT:

This proposal for a beachfront protective structure does not require a sanitary sewage system or involve a replacement sanitary sewage system. As above, the proposed BPS is designed to protect existing sewer system infrastructure. Therefore, the proposal either complies with this standard or it is not applicable to this request.

“(i) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.”

APPLICANTS COMMENT:

This proposal does not require or include an on-site disposal system. Therefore, based on the above, this criterion is not applicable to this request.

TCLUO Section 3.510(10): “SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD AREAS, (V, VE, OR VI-V30 ZONES): Located within areas of special flood hazard established in Section 3.510(2) are Coastal High Hazard Areas. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this Section the following provisions shall apply to residential, non-residential, manufactured dwellings and other development in Coastal High Hazard Areas:”

APPLICANTS COMMENT:

As stated above, the site is located in the VE flood zone, therefore, the relevant and applicable standards of Section 3.510(10) apply to this request.

“(a) All new construction and substantial improvements in Zones VI-V30, VE and V shall be elevated on pilings and columns so that:

“(1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above one foot above the base flood level: and

“(2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each

have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).”

APPLICANTS COMMENT:

This standard generally applies to occupied structures and for which there are “floors.” As shown on Exhibit F, the proposed beachfront protective structure is a below- and above-ground revetment, which does not require it to be elevated on pilings or columns. Therefore, this criterion is not applicable to this request.

“(b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (a)(1) and (a)(2) above. A certificate shall be submitted, signed by the registered professional engineer or architect that the requirements of this Section will be met.”

APPLICANTS COMMENT:

As evidenced by Exhibit F, Chris Bahner, PE for West Consultants, has prepared a technical report and construction plans, and developed and reviewed the beachfront protective structure’s structural design, specifications and plans for the construction. Exhibit F. He has stamped his technical report and construction plans, therefore certifying that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the construction safety requirements embodied in the provisions of (a)(1) and (a)(2) above. See Exhibit F. Based on evidence presented above, the proposal complies with this criterion.

“(c) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones VI-30, VE, and V and whether or not such structures contain a basement. The Community Development Director shall maintain a record of all such information.”

APPLICANTS COMMENT:

The proposed beachfront protective structure is not a dwelling, therefore there is no “lowest structural member of the lowest floor (excluding pilings and columns)”. Therefore, based on the above, this criterion is not applicable to this request. As background information the construction plans provided as Exhibit F, Attachment 2, Sheet 4 (Revetment Details) provide detailed elevations for all aspects of the revetment.

“(d) All new construction shall be located landward of the reach of mean high tide.”

APPLICANTS COMMENT:

As stated in Exhibit F, p. 6, the proposed beachfront protective structure is “located landward (or east) of the existing vegetation line near the western edge of the beachfront properties and beachfront homes. The structure will be located about 185 feet landward” of the statutory vegetation line which is well-landward of the reach of mean high tide. Therefore, the proposal complies with this criterion based on the above-cited evidence.

“(e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this Section a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

“[standards relating to breakaway wall collapse and elevated portions of buildings]”

APPLICANTS COMMENT:

The proposed beachfront protective structure is not a dwelling, therefore any reference to “substantial improvements have the space below the lowest floor” is not relevant to the proposal. The structure also does not have “walls” and therefore the standards for breakaway walls and other elevated portions of a building are not applicable. The structure is a below- and above-ground structure specifically intended to withstand and absorb wind and water loads and is not a structure that will be occupied. Therefore, this criterion is not applicable to this request.

“(f) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.”

APPLICANTS COMMENT:

The proposed beachfront protective structure is not a dwelling and there are no enclosed spaces that will be occupied by persons, vehicles, or storage materials.

There are no “breakaway walls” proposed. Any reference to “*breakaway walls. . . enclosed space shall be usable solely for parking of vehicles, building access, or storage substantial improvements,*” are not relevant to the proposal. Therefore, this criterion is not applicable to this request.

“(g) Prohibit the use of fill for structural support of buildings.”

APPLICANTS COMMENT:

The proposed revetment structure is not a “building” and is not proposed for structural support any building. This standard does not apply.

“(h) Prohibit man-made alteration of sand dunes, including vegetation removal, which would increase potential flood damage.”

APPLICANTS COMMENT:

The purpose of the proposed beachfront protective structure is to decrease potential flood damage. Accordingly, and in order to accomplish this purpose, the man-made alteration of sand dunes, including vegetation removal, will be temporary, and it is required in order to install and locate the proposed beachfront protective structure 10-foot landward of the existing shoreline. However, as detailed in Exhibit F, the proposed beachfront protective structure will be back filled with sand and revegetated. The disturbed area surrounding the proposed beachfront protective structure will be restored to its natural state, monitored annually and replanted when necessary as part of the maintenance program to ensure that native beach grasses and shrubs establish on the site. (Exhibit F, p. 8). Therefore, based on the above, once the native vegetation is reestablished after replanting, there will be minimal if any impacts and no permanent disturbance to the actively eroding dune adjacent to the Pine Beach Subdivision and George Shand Tract/Ocean Boulevard properties. Significantly, as noted above, establishment of the beachfront protective structure will protect the dune and its vegetation and reduce the potential for flood damage.

TCLUO Section 3.510(14): “DEVELOPMENT PERMIT PROCEDURES:”

APPLICANTS COMMENT:

This section requires a permit application and approval for all development activities before construction or development can begin in any area of the special flood hazard zone. The responses below address the applicable requirements.

“(a) Application for a development permit shall be made on forms furnished by the Community Development Director and shall include but not necessarily be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information in 3.510(14)(a)(1)–(4) is required and

*Development Permits required under this Section are subject to the Review Criteria put forth in Section 3.510(14)(b):”
[list follows]*

APPLICANTS COMMENT:

Applicants’ Exhibit F satisfies the enumerated provisions listed under this criterion. The exhibits indicate the elevation of all components of the beachfront protective structure and its floodproofing worthiness has been certified by a registered professional engineer. No watercourses will be altered or relocated as a result of the proposed development.

“(b) Development Permit Review Criteria

“(1) The fill is not within a Coastal High Hazard Area.”

APPLICANTS COMMENT:

No fill will be placed within a Coastal High Hazard Area. The structure is proposed in the VE zone, which is a Coastal High Hazard Area, however, no fill is involved in the construction of the proposed protective structure. The definition of “fill” is:

“FILL: Any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed on land including existing and natural floodplains, or in waterways, for the purposes of development or redevelopment.”

The proposed protective structure is the development, it is not filling land for the purposes of development. Accordingly, this standard does not apply. All excavated sand will be placed back over the proposed protective structure, so there will be no loss or addition of sand from the foredune area.

“(2) Fill placed within the Regulatory Floodway shall not result in any increase in flood levels during the occurrence of the base flood discharge.”

APPLICANTS COMMENT:

No fill will be placed within a regulatory floodway. This criterion is inapplicable.

“(3) The fill is necessary for an approved use on the property.”

APPLICANTS COMMENT:

Although no fill is involved in the construction of the structure, the residential uses, for which the beachfront protective measures are accessory and necessary, are an approved use on the property.

“(4) The fill is the minimum amount necessary to achieve the approved use.”

APPLICANTS COMMENT:

Although no fill is involved in the construction of the structure, the elevation of the proposed BPS is at 23.8 feet, just 3 feet above the shore elevation, which is the minimum amount necessary to achieve the intended protection for the existing structures and public facilities on the subject properties. See Exhibit F. West Consultants have calculated a 10% chance that the “total water level” at this location will be at 23.4 feet. This is the minimum necessary to achieve the necessary protection.

“(5) No feasible alternative upland locations exist on the property.”

APPLICANTS COMMENT:

The beachfront protective structure is placed at the most landward point possible on the subject properties given the existing residential structures they are intended to protect. Exhibit F, Attachment 2, Sheet 3 shows that there are mere feet between the proposed BPS and several of the residences.

“(6) The fill does not impede or alter drainage or the flow of floodwaters.”

APPLICANTS COMMENT:

While this is a protective structure and not fill, the West Consultants’ analysis concludes that the beachfront protective structure will not impede or alter the flow of the floodwaters in a manner that will result in any adverse off-site impacts. Exhibit F, p. 9.

“(7) If the proposal is for a new critical facility, no feasible alternative site is available.”

APPLICANTS COMMENT:

The proposal is not for a new critical facility; this standard is not applicable to this application.

“(8) For creation of new, and modification of, Flood Refuge Platforms, the following apply, in addition to (14)(a)(1-4) and (b)(1-5):”

APPLICANTS COMMENT:

This proposal is not for a new or modified Flood Refuge Platform. This standard

is not applicable to this application.

“(c) Before approving a development permit application for other than a building, the Community Development Director may determine that a public hearing should be held on the application. Such hearing shall be held before the Planning Commission and a decision made by the Planning Commission in accordance with the provisions of Article X.”

APPLICANTS COMMENT:

This is an “application for other than a building.” The Community Development Director will determine that a public hearing should be held on the application.

TCLUO Section 3.530: BEACH AND DUNE OVERLAY (BD)

TCLUO Section 3.530(2): “APPLICABILITY:

“(a) The BD zone applies to dune areas identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan and indicated on the Tillamook County Zoning Map. These areas were identified based on information contained in the inventory of beach and dune landforms of Tillamook County, prepared by the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) and published in their 1975 report, Beaches and Dunes of the Oregon Coast.”

APPLICANTS COMMENT:

As shown on Exhibit I, the subject Pine Beach Subdivision and the George Shand Tract/Ocean Boulevard properties, are identified as a dune area in the County’s (Beaches and Dunes) Element of the Comprehensive Plan and on the Tillamook County Zoning Map. Therefore, Applicants address the relevant criteria of Section 3.530 below.

TCLUO Section 3.530(3): CATEGORIES

APPLICANTS COMMENT:

Section 3.530, sets forth various categories, such as:

Category 1: Developed Beachfront, where active foredune areas have taken an Exception to Goal 18 to allow development on the active foredune, or;

Category 2: Foredune Management Areas, where active foredune areas have taken an Exception to Goal 18 allows development on the active foredune and an overall management plan is approved to allow foredune grading.

As explained above, an existing goal exception approves the urban level residential use of the Pine Beach Subdivision or George Shand Tract/Ocean Boulevard

properties on the active foredune they are now established on. That means the subject properties are on a Category (1) dune.

No other category applies to the subject properties. They are certainly not committed to resource protection – their goal exception that applies expressly determines that they are committed to the urban uses reflected by their acknowledged zoning. The existing exception removes any possibility of resource protection. The existing C-2 zone applies to the property where the proposed BPS will be located.

Exhibit F describes the location of the proposed beachfront protective structure to be within the “active eroding foredune.” The residential structures on the subject properties were originally constructed on a younger stabilized dune (a Category (4) classification), but it has now become a conditionally stable foredune subject to ocean undercutting or wave overtopping. Because the subject properties have an existing exception, they now fall into Category (1). Regardless, the proposal is to take a precautionary exception to allow the proposed BPS.

TCLUO Section 3.530(4)(A) PERMITTED USES

TCLUO Section 3.530(4)(A)(2): “Accessory structures for beach access, oceanfront protection or stabilization, on-site sewage disposal systems, or other uses with the Department determines are consistent with the purpose of this zone, subject to the standards of Section 3.530(5) and the following provisions:

“a. The location of accessory structures will be determined in each case on the basis of site-specific information provided by a Dune Hazard Report, pursuant to the provisions of Section 3.530(5)(B).”

APPLICANTS COMMENT:

The beachfront protective structure is an accessory use of the subject properties. As detailed in Exhibit F, West Consultants in their Technical Memorandum, have prepared and supplied on pages 7-9 a “Detailed Site Investigation” report, which provides evidence to demonstrate that all applicable and relevant standards for such a report have been met. Based on the above, the proposal complies with this criterion.

“b. Any accessory structure higher than three feet as measured from existing grade will be subject to the variance procedure and criteria set forth in Article VIII of the Tillamook County Land Use Ordinance.”

APPLICANTS COMMENT:

As shown in West Consultants’ Technical Memorandum and construction plans (Exhibit F), the proposed accessory structure, (*i.e.*, revetment), will be no more than

three feet above the existing grade in compliance with this criterion.

TCLUO Section 3.530(4)(A)(4): Beachfront Protective Structures

“(b) Beachfront protective structures (rip-rap 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.”

APPLICANTS COMMENT:

The Applicants here, request both a precautionary new “committed” and “reasons” exception to Goal 18 Implementation Measure 5, because the subject Implementation Measure does not allow the proposed beachfront protective structure (in the absence of an exception or being developed).

To the extent necessary, the application narrative above and evidence entered into the record demonstrate compliance with all of the requirements for either a committed exception or a reasons exception, or both. The proposal is consistent with this criterion.

“(c) Proposals for beachfront protective structures shall demonstrate that:

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

APPLICANTS COMMENT:

As has been detailed in Exhibit F, the Pine Beach Subdivision and the George Shand Tract/Ocean Boulevard properties have been subject to rapidly advancing coastal erosion and have been losing portions of their properties from coastal flooding during high tides, combined with high wave run-up during winter King Tides, such as those that occurred on February 8-12, 2020. Exhibit F, p. 1-3. During that subject event, the maximum still water level reached the ocean front homes and went past the southernmost home for a distance of about 45 feet. As stated by West Consultants’ Chris Bahner, PE, in his Technical Memorandum, there is a high level of risk for future damage to the subject 11 structures in the Pine Beach and George Shand Tract/Ocean Boulevard developments. Exhibit F, p. 1. The Technical Memorandum also notes that an additional 40 or so homes are also threatened by coastal flooding, as are the Pine Beach and Ocean Boulevard properties’ water and sewer infrastructure and the Pine Beach Loop vehicular access, if no actions are taken to stop future erosion. Exhibit F, p. 8. The proposal complies with this criterion based on the evidence presented above.

“2. Non-structural solutions cannot provide adequate protection;”

APPLICANTS COMMENT:

It is clear by the abundance of evidence presented in this narrative, and by evidence in Exhibit F, that the installation of the proposed beachfront protective structure is the only viable solution to stop rapid erosion, the loss of shoreline vegetation, and the threat of damage to property, dwellings, and infrastructure within the Pine Beach Subdivision and the subject George Shand/Ocean Boulevard properties if the shoreline retrograding continues as is predicted in the West Report at Exhibit F, p. 3, 8.

As discussed in the findings and supported by evidence in the record, when the Pine Beach Replat was approved in 1994 and when the George Shand Tract homes were approved, the shoreline had been prograding for 70 years. Both properties were located on a younger/older stabilized dune that was well vegetated as shown by the Google Earth images in the record. That was entirely consistent with Goal 18's provisions. The fact that the Pine Beach approval required the beachfront residences to be located on the far eastern portions of the lots and that there was also a very wide, vegetated open dune sand conditionally stable area designated as a common area without any development that acted as a natural buffer to shoreline change, as well as a broad beach run-up area, made the undeveloped natural environment a viable non-structural protective solution. To everyone's surprise, that protection is now gone. All efforts to provide a non-structural solution to protect the existing residences have failed.

Shoreline erosion is now expected to continue to remove active foredunes, trees and vegetation whether a Goal 18 exception is granted or not. Exhibit F, p. 3. In the past two decades, the subject properties have lost up to 142 feet of shoreline. As shown in Exhibit J (the Google Earth Historic Aerial Imagery), the difference between shoreline location of the Shorewood RV park, (which has a beachfront protective structure), versus the subject properties' shoreline, could not be more telling as to how a beachfront protective structure keeps recent on-going shoreline erosion at bay. Based on Exhibit J, p. 9, there is approximately 75 more feet of subject properties' shoreline erosion than there is at Shorewood RV park. Based on the above, it is clear that the Shorewood RV Park beachfront protective structure has been and is successful in keeping shoreline erosion from encroaching beyond the western edge of its beachfront protective structure. There are no non-structural solutions that can provide adequate protection to the subject properties.

“3. The beachfront protective structure is place as far landward as possible;”

APPLICANTS COMMENT:

As stated in Exhibit F, West Consultants have determined that the most effective placement of the proposed beachfront structure will be to construct and install it

within an active eroding foredune approximately 10 feet landward of the existing vegetation line and within the rear yards of the subject properties. That placement will also be about 185 feet landward of the statutory vegetation line and is as close to the existing residential dwellings as is possible. The proposal complies with this criterion based on the evidence presented above. (Exhibit F, Attachment 2, Sheet 3).

“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;”

APPLICANTS COMMENT:

On page 6, Figure 4 of the West Consultants’ Technical Memo is a plan view of the proposed beachfront protective structure that shows that the north and south ends of the revetment are angled into the bank. (See also Exhibit F, Attachment 2, Sheet 3). The purpose of angling the ends of the revetment in that way is to prevent flank erosion. Exhibit F, p. 6. The Technical Memo explains that the proposed revetment will not have any adverse impacts to adjoining properties. Exhibit F, p. 9. The design of the proposed beachfront protective structure complies with this criterion.

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

APPLICANTS COMMENT:

As shown on Exhibit F, Figure 3 and Attachment 2, Sheet 4, the proposed BPS is designed to include an underground portion of the BPS that will be covered with sand and rising out of the sand at a 1:1.5 slope as a series of rock creating a revetment no more than 3 feet tall. The proposed structure will allow planting with native grasses and shrubs that will reestablish natural shoreline vegetation. The proposal also requires annual maintenance by the property owners and replanting of beach grasses and shrubs as needed. The proposal complies with this criterion based on the evidence presented above.

“6. Existing public access is preserved; and”

APPLICANTS COMMENT:

As shown on Exhibit Q, there are two existing accesses in the exception area to the beach. The proposed beachfront protective is designed such that these accesses will be maintained. The proposal is consistent with this public access requirement.

“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).”

APPLICANTS COMMENT:

As discussed in Exhibit F, and as shown in Exhibit F, Attachment 2, the proposed beachfront protective structure consists of an armor layer (large boulders), a filter layer of graded stone (beneath armor layer), and a toe trench seaward extension of revetment structure in compliance with this criterion.

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

APPLICANTS COMMENT:

As discussed in Exhibit F, and as shown in Exhibit F, Attachment 2, the proposed beachfront protective structure will be constructed with a slope of 1:1.5 in compliance with this criterion.

“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.”

APPLICANTS COMMENT:

As discussed in Exhibit F, and as shown in Exhibit F, Attachment 2, the proposed beachfront protective structure will have a toe trench constructed and excavated below the winter beach level or to the existing wet sand level in compliance with this criterion.

“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 the concurrent jurisdiction with the Division of State Land, the Parks Division includes the Division of State Lands in such beach permit reviews.”

APPLICANTS COMMENT:

This standard does not apply to the proposal because it is not located seaward of the state “beach zone line” as defined by ORS 390.770. As discussed in Exhibit F, and as shown in Exhibit F, Attachment 2, the proposed beachfront protective structure will be constructed and installed approximately 10 feet landward of the existing line of established vegetation and within the rear yards of the subject properties. That placement will be about 185 feet landward of the “beach zone line or statutory vegetation line described in ORS 390.770. Therefore, based on the above, the

proposed beachfront protective structure will not be located seaward of the state beach zone line (ORS 390.770) and thus, the proposal does not require State Parks and Recreation Division approval.

“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).”

APPLICANTS COMMENT:

The subject beachfront protective structure is not being proposed as “*an emergency request for beachfront protective structures.*” but rather it is being proposed as a “committed” and/or “reasons” exception to Goal 18, Implementation Measure 5 to protect residential structures already subject to a goal exception for their residential development on a dune. Furthermore, given the location of the proposed beachfront protective structure, the application does not require State Parks and Recreation Division approval. Consequently, the proposal does not require that the State Parks and Recreation Division notify Tillamook County of this request.

Section 3.530(5): SITE DEVELOPMENT REQUIREMENTS: All development within the Beach and Dune Overlay zone shall comply with the following standards and requirements.

“* * *

“(B) Dune Hazard and Modified Dune Hazard Reports

“* * *

“3. Dune Hazards Report

“The Dune Hazards Report shall include the results of a preliminary site investigation and where recommended in the preliminary report, a detailed site investigation.”

APPLICANTS COMMENT:

The West Consultants’ Technical Memorandum, (Exhibit F), contains a preliminary site investigation, a preliminary site report, and a detailed site investigation with summary findings and conclusion. Based on the above, the above-mentioned report contains all of the relevant and application evidence to comply with these criteria.

2. Article IX - Amendment

TCLUO SECTION 9.030: TEXT AMENDMENT PROCEDURE

“(1) A COMPREHENSIVE PLAN TEXT or ORDINANCE AMENDMENT may be requested by any person, subject to the requirements of a Type IV procedure and Article 10. The proponent of COMPREHENSIVE PLAN or ORDINANCE AMENDMENT shall arrange a pre-application conference with the Department, pursuant to Section 10.030.”

APPLICANTS COMMENT:

The Applicants are requesting a quasi-judicial plan amendment in the nature of a precautionary goal exception for specific properties. The request is not for an amendment applicable county-wide. Consequently, the proposal is not a Type IV legislative plan amendment. Rather, Table 10.1 Review Procedures Summary indicates the proposal is to be subject to the requirements of a Type III procedure. A preapplication conference was conducted with the County on July 30, 2019. This standard is met.

“(2) The applicant or, if County initiated, the Department shall prepare an analysis of the proposed AMENDMENT, addressing such issues as the intent of the provisions being amended; the affect on land use patterns in the County; the affect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed text.”

APPLICANTS COMMENT:

The purpose of the exception to Goal 18 Implementation Measure 5 is to allow the county to approve the requested beachfront protective structure at a location that all evidence at the time of development, would never be necessary, but is now necessary to protect nearly built-out subdivisions, established public water and sewer facilities, and street infrastructure. The proposal will not have any effect on land use patterns in the County and will only protect existing development and infrastructure in the identified location. As the evidence in the record and in this narrative demonstrates, the requested BPS location is not on, adjacent to or near any resource land. Consequently, approval of the proposal will not affect the productivity of such lands. The monitoring and maintenance of the proposed beachfront protective structure will be borne by the residents, who will be the ones who suffer the adverse impacts if such monitoring and maintenance is not carried out throughout the life of the structure. There should be no continuing costs to the county following the cost of reviewing and approving the application, for which the Applicants are paying application fees. Among others, a benefit to the County

generally is that the beachfront protective structure will also protect existing urban public facilities. The proposal satisfies this standard.

“(3) Criteria. Commission review and recommendation, and Board approval, of an ordinance amending the Zoning Map, Development Code or Comprehensive Plan shall be based on all of the following criteria:

“(a) If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;

“(b) The proposal must be consistent with the Comprehensive Plan. (The Comprehensive Plan may be amended concurrently with proposed changes in zoning);

“(c) The Board must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or ordinance; and

“(d) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.”

APPLICANTS COMMENT:

(a) The application narrative, in Section VIII.B above, and supporting evidence, demonstrate that the proposed exception is consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules.

(b) The application narrative, in Section VIII.C above, and supporting evidence, demonstrates that the proposal is consistent with the Comprehensive Plan. The application is requesting an exception to Statewide Planning Goal 18 Implementation Measure 5, which must be made part of the Comprehensive Plan as permitted by this standard.

(c) It is in the public interest to protect this subdivision, which is part of a larger urban residential area between Camp Magruder and Rockaway Beach, as well to protect the water and sewer public facilities that serves that greater community and supporting street system. The proposal responds to natural changes in the community that were contrary to the 70-year trend of shoreline prograding that existed at the time of residential development.

(d) As discussed immediately below, the amendment is consistent with Section 9.040.

**TCLUO SECTION 9.040: TRANSPORTATION PLANNING RULE
COMPLIANCE**

“Proposals to amend the Comprehensive Plan, Zoning Map or Ordinance shall be reviewed to determine whether they significantly affect a transportation facility pursuant with Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the County, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the County shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.”

APPLICANTS COMMENT:

As discussed in the response to Goal 12 and 14 above, the proposal will not generate any additional traffic other than during construction, when construction traffic will be minimal. Consequently, the proposal will not significantly affect a transportation facility as that term is defined and used in OAR 660-012-0060. Therefore, the provisions of the Goal 12 Rule are not triggered, and the proposal is consistent with the transportation planning rule.

IX. CONCLUSION

This application has been submitted in accordance with the Tillamook County Land Use Ordinance, which authorizes shoreline protection as of right in the circumstances described here. The County code also authorizes an exception to Goal 18 Implementation Measure 5 to allow a beachfront protective structure and such exception is also sought as a precaution. The requested protective structure is proposed to protect the oceanfront lots of the Pine Beach Subdivision and the five oceanfront lots immediately to the north, from the recent shoreline erosion that reversed a 70-year trend of shoreline prograding. If approved, this request will allow placement of the proposed beachfront protective structure within an active eroding foredune approximately 10 feet landward of the existing vegetation line and within the rear yards of the subject properties.

This application narrative and the evidence entered in the record demonstrates that the proposal satisfies all of the relevant Tillamook County land use regulations as well as the requirements established by state statutes and administrative rules for taking a committed exception and taking a reasons exception, and for the establishment of a beachfront protective structure. For the above reasons, the County should approve the requested protective structure as of right and in the alternative also approve the requested exception to Statewide Planning Goal 18 Implementation Measure 5 and the development application for a beachfront protective structure. Thank you.

List of Exhibits:

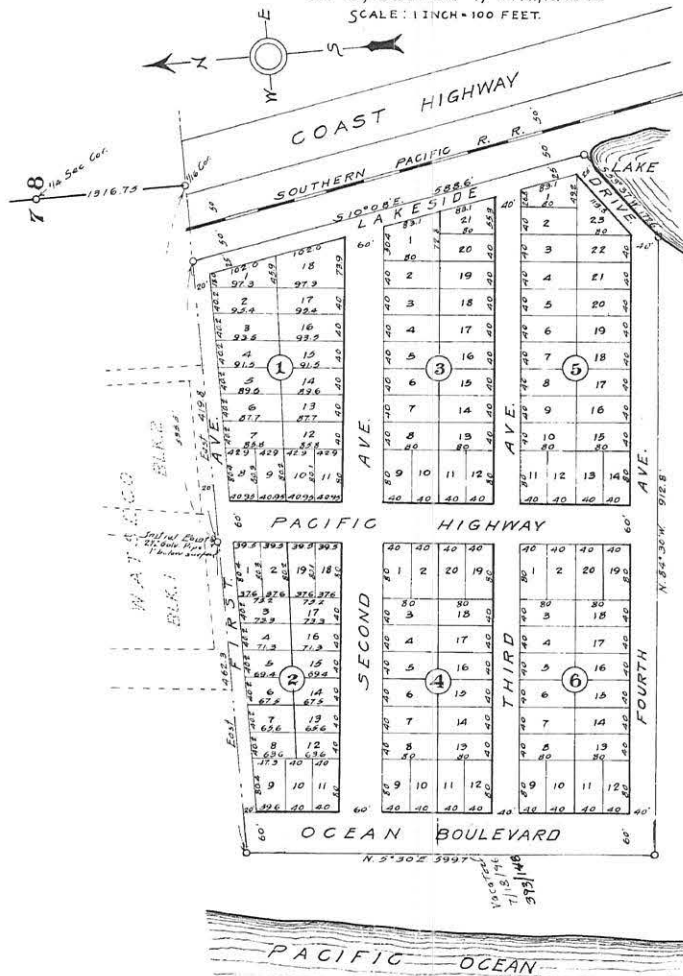
- Exhibit A – Map Subject Properties
- Exhibit B – 1934 Pine Beach Plat
- Exhibit C – 1950 George Shand Tracts Plat
- Exhibit D – Tax Lot 2900 Building Permit Documents
- Exhibit E – Goal 18 Focus Group Final Report 2019
- Exhibit F – West Consultants Technical Memorandum
 - Attachment 1 – January 17, 2020 and January 30, 2021 Field Photos
 - Attachment 2 – Construction Plans
- Exhibit G – 1994 Staff Report Pine Beach Replat Subdivision and Replat
- Exhibit H – 1994 Pine Beach Replat Subdivision Dunes Hazard Report
- Exhibit I – County Comprehensive Plan Goal 18 Maps
- Exhibit J – Google Earth Historic Aerial Imagery
- Exhibit K – County Zoning Map Subject Properties
- Exhibit L – Tax Lot 3000 Materials
- Exhibit M – Tax Lot 3100 Materials
- Exhibit N – Tax Lot 3104 Materials
- Exhibit O – Tax Lot 3203 Materials
- Exhibit P – Tax Lot 3024 Materials
- Exhibit Q – County Tax Maps 1N10W07DA and 1N10W07DD
- Exhibit R – Proposed Exception Area and Adjacent Lands Map
- Exhibit S – County Vicinity Zoning Map
- Exhibit T – Barview/Watseco/Twin Rocks Community Plan
- Exhibit U – County Assessor Reports Subject Properties
- Exhibit V – Public Water and Sewer Acknowledgment Tax Lot 3100

Subject Properties



PLAT OF PINE BEACH

SITUATED IN
LOT 4, SECTION 7, T.1N., R.10W.
SCALE: 1 INCH = 100 FEET



2-71

DEDICATION

Know all men by these presents that we A. E. Jackson and Elizabeth L. Jackson his wife, and the owners of Lot 4, Section 7, T. 1N. S. 10 W. W. 7M. that we have caused such portions of the same to be surveyed and subdivided into streets, avenues, boulevards, lots and blocks as appear on the following description, to wit:

Beginning at the Initial Point, marked by a copper nail set in cement on the top of a galvanized iron pipe, 2 1/2 inches in diameter and 3 feet long, driven one foot below the surface and located 1316.75 feet South and 535.5 West of the quarter section corner between Section 7 and 8, T. 1N. S. 10 W. W. 7M. thence East 4 1/4 feet; thence S 10° 08' E. 588.6 feet; thence S 53° 37' W. 112.6 feet; thence N 78° 30' W. 912.8 feet; thence N 5° 30' E. 599.7 feet; thence East 462.3 feet to the Initial Point.

We caused said lots, blocks, streets and avenues to be laid out as herein marked and dedicated and we hereby dedicate the same said map and plat and the said streets and avenues as herein marked out on said map and plat and named as streets and avenues to be used as and for public highway forever.

A. E. Jackson
Elizabeth L. Jackson

ACKNOWLEDGMENT

State of Oregon
County of Multnomah
This Certificate that on this 21st day of June, 1932 before me, the undersigned, a Notary Public in and for said county and state, personally appeared the within named A. E. Jackson and Elizabeth L. Jackson, his wife, who are known to me to be the individual persons described in and who executed the within instrument and acknowledged to me that they executed the same as their free act and deed for the uses and purposes therein expressed.

In testimony whereof I have hereunto set my hand and notarial seal the day and year last above written.

Vivian Brownings
Notary Public for Oregon
my Commission expires Jan 22, 1934

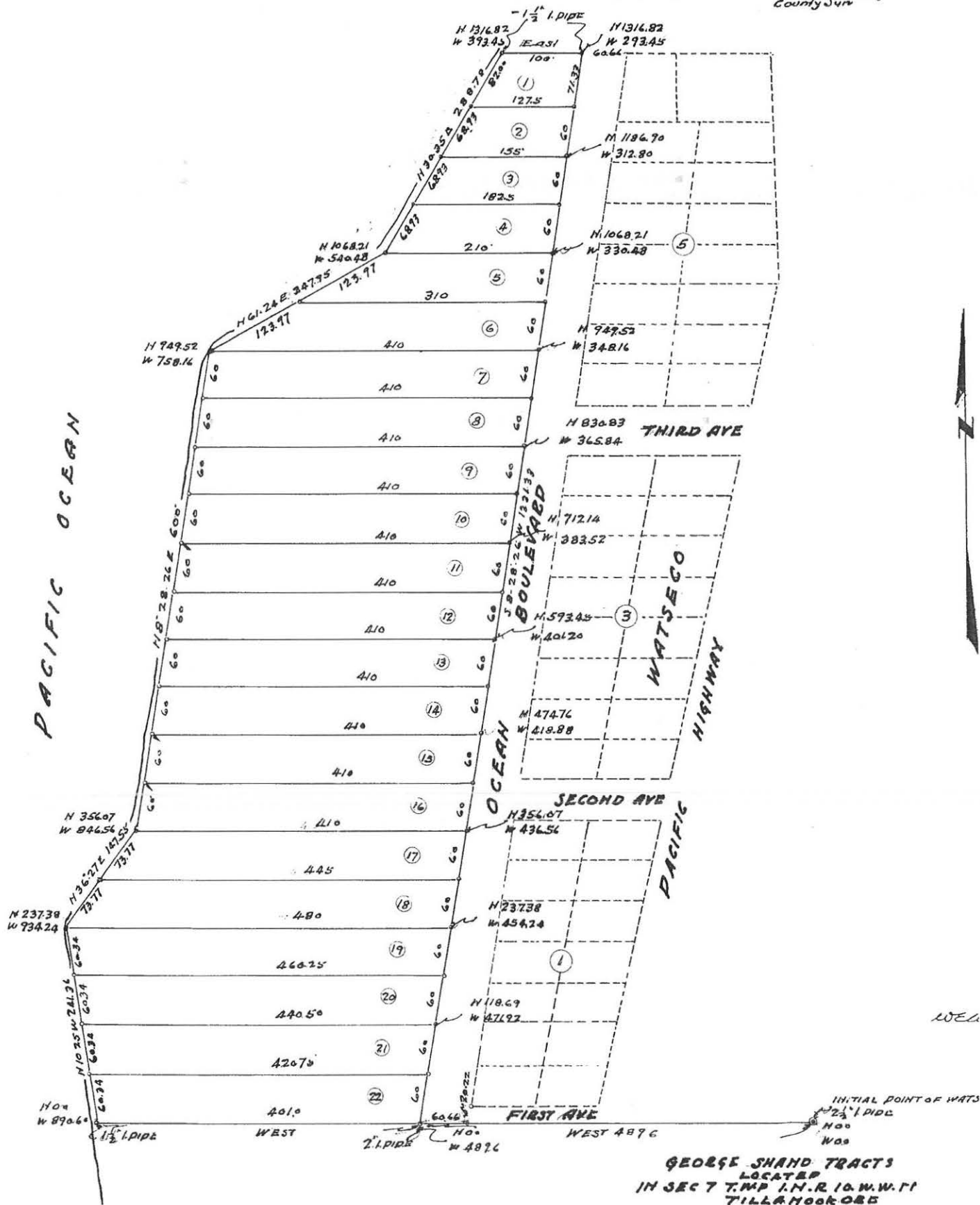
SURVEYOR'S CERTIFICATE

State of Oregon
County of Multnomah
I, W. B. Lott, a Registered Professional Engineer of the State of Oregon, being first duly sworn, depose and say that I have correctly surveyed the land embraced in the plat of Pine Beach; that the survey is so accurately delineated on the map herein shown, that proper monuments have been placed, and that a copper nail set in the top of galvanized iron pipe 2 1/2 inches in diameter and three feet long, driven one foot below the surface, marks the initial point of survey.

A. E. Jackson - Registered Professional Engineer 412
Subscribed and sworn to before me this 21st day of June 1932.
Vivian Brownings
Notary Public for Oregon
my Commission expires Jan 22, 1934

Approved and accepted by the County Judge of Tillamook County this 6th day of July 1932:
W. B. Lott, County Judge
E. L. Gendron, County Commissioner
H. L. Gendron, County Commissioner
Approved: W. C. Lindstrom, County Surveyor
Approved: J. C. Hadden, County Sheriff
Approved: G. W. Hart, County Assessor
Attest: H. S. Brinshall, County Clerk

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 in Oct. 1950, and that it correctly represents the property herein shown
County Surveyor W.E.A.



GEORGE SHAND TRACTS
LOCATED
IN SEC 7 T.10 N. R. 10 W. W. 11
TILLAMOOK CO. OR.
SCALE 1" = 100'
W. E. ANDERSON

STATE REGISTRATION No. owner

EXHIBIT D

Page 1 of 1

Receipt No. 2933

Permit No. 3075

Zone R-2

TILLAMOOK COUNTY BUILDING DEPARTMENT

Court House, Tillamook, Oregon 97141
Room 9 -:- Phone 842-6202

C. T. _____

Fire Zone 3

Sec. 70A1 IN R 10

Occupancy I

Construction Cost 145,000.00
~~28,500.00~~

Class IV

Residence

No. Families

No. Rooms

Permit Fee 99.00

Type of Building Full

Plex

1

6 Bd

Plan Check Fee check

Apartment

APPLICANT MUST FILL IN FROM HERE DOWN TO HEAVY LINE, PRINT IN INK, AND SUBMIT IN TRIPPLICATE.
TWO (2) COMPLETE SETS OF PLANS MUST ACCOMPANY EACH APPLICATION.

Application is hereby made to erect a Building Structure 17570 Ocean according to plans and specifications and descriptions as given below. The work

which is to be done under this permit covers Excavation Construction X Put an X in space following work to be done.

Number and Street Watseco Between South side of Trailer Court

Tax Lot 2900 Section 445! Lot _____ Block _____ Addition _____

Size of Lot Is 60' x 560' ; Size of Building Is 28' , Garage 50'

Construction — Frame X Brick _____ Concrete Block _____ Fireproof Steel Frame _____ Fireproof Concrete _____
(Put an X in space following kind of construction.)

Number of Stories 2 Height in Feet 28'

Occupancy or Use — Basement GARAGE First Story LIVING Second LIVING Third _____ Attic _____

Sewage Disposal Method SEPTIC TANK Source Water Supply WATSECO WATER

Entire work when completed will cost, including labor and materials:

Building \$ _____ Plumbing \$ _____ Wiring \$ _____ Total \$ 145,000.00

Plans and specifications made by RUDOLF KLYCAR accompany this application

Recorded Owner FRANK X. LENARD Address 1600 N.W. SPRINGWOOD RD

Builder OWNER Address PORTLAND Phone 645-1666

Driveway Permit _____

LOT PROVIDES

PLOT PLAN OR DESCRIPTION

Area of Lot	<u>60' x 445'</u>
Front Yard	<u>20'</u>
Side Yard L.	<u>18'</u>
Side Yard R.	<u>5'</u>
Rear Yard	<u>331'</u>

Any work not mentioned not included in Permit

I agree to build according to above description, plans and specifications and the Uniform Building Code as adopted by Tillamook County. I have been informed of my responsibility regarding free passage of surface drainage and/or diversion of waters.

Framing Lumber Grade

Construction _____ No. 1 _____
Standard _____ No. 2 _____
Utility _____ No. 3 _____

LOCAL WIRING RULES

MUST BE OBSERVED

CONTACT TILLAMOOK P. U. D.
842-2535

PERMIT GOOD FOR ONE YEAR

Applicant Frank X. Lenard

County Planning & Zoning

County Health Dept.

Plans Checked by Plan Ex

Fire Marshal

Permit Issued

County Clatsop

Approved Denied

Approved Denied

By Deborah R.

By Deborah R.

By _____

Date 20 May 1974

Date 20 May 1974

Date _____

Application Received:

NOTICE: Application must be kept on premises until completion.

By N. Larson

Date 5-20-74

Goal 18: Pre-1977 Development Focus Group

FINAL REPORT

To the Oregon Department of Land Conservation & Development

September 2019



OREGON
Department of
Land Conservation
& Development



OCMP
Oregon Coastal
Management Program

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List of Acronyms and Abbreviations

BPS	Beachfront Protective Structure
DLCD	Oregon Department of Land Conservation and Development
Goal 18, IR#5	Statewide Planning Goal 18: Beaches & Dunes, Implementation Requirement #5
LCDC	Land Conservation and Development Commission
LUBA	Land Use Board of Appeals
ODOT	Oregon Department of Transportation
OPRD	Oregon Parks and Recreation Department
SLR	Sea Level Rise

Focus Group Overview

The Department of Land Conservation & Development (DLCD) initiated a focus group of stakeholders to review the equity and consistency of the application of Statewide Planning Goal 18: Beaches and Dunes, Implementation Requirement #5. This provision of the Goal relates specifically to shoreline armoring requirements.

Oregon Statewide Planning Goal 18, Beaches and Dunes (OAR 660-015-0010) limits the issuance of permits for beachfront protective structures (BPS)* to areas where development existed on January 1, 1977. Development is defined as:

- Houses, commercial and industrial buildings;
- Vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot; or
- Areas where an exception to Goal 18 Implementation Requirement #2 has been approved.

**Note: Shoreline armoring = beachfront protective structures (these terms are used interchangeably, but neither are defined in statute or rule).*

The focus group was charged with addressing the specific implementation provisions of Goal 18 related to shoreline armoring identified by the department (*see below*). The group did not address other provisions of Goal 18, nor was it their purpose to debate the fundamental, date-based limitation on shoreline armoring established in Goal 18.

Focus group participants represented various interests and expertise related to this topic, including state agencies, non-profit groups, local planners, private property interests, coastal erosion specialists and others. Members were identified by DLCD staff and invited to participate. They are listed below.

Name	Affiliation
Carrie Landrum	Aquatic Resource Coordinator, Oregon Dept. of State Lands
Charlie Plybon	Oregon Policy Manager, Surfrider Foundation
Chris Laity	Director, Tillamook County Public Works
David Phillips	Land Use Attorney, Vial Fotheringham LLP
Doug Gless	Engineering Geologist, HG Schlicker & Associates, Inc.
Geoff Crook	Sustainability Program Manager, Oregon Dept. of Transportation
Jay Sennewald	Ocean Shores Coordinator, Oregon State Parks and Recreation Dept.
Jonathan Allan	Coastal Geomorphologist, Oregon Dept. of Geology and Mineral Industries
Kris Wall	West Coast Regional Coastal Management Specialist, NOAA Office for Coastal Management
Onno Husing	Director, Lincoln County Planning Dept.
Scott Marion	Marine Habitat Project Leader, Oregon Dept. of Fish and Wildlife
Steven Dundas	Assistant Professor, Department of Applied Economics, OSU
Terri Michel	Manager, City of Rockaway Beach

Timeline: The group met in Newport, OR a total of six times starting in January 2019 and ending in August 2019. Members were given the option to participate in meetings remotely if needed.

Staffing: The focus group was staffed and led by the Coastal Shores Specialist, with assistance from the Coastal Policy Specialist. Facilitation and meeting support was provided by Oregon Sea Grant. Other DLCD staff were consulted as needed, including the Policy Team.

Output: The Goal 18: Pre-1977 Development Focus Group provided input and feedback to DLCD on each of the four topics identified by DLCD (*see below*); that feedback is summarized in this report. DLCD will consider this input in reaching decisions on whether and how to move forward with any proposed changes to Goal 18. If DLCD decides to move forward with rulemaking or goal amendments, the public will have the opportunity to be fully involved in those processes.

Public Participation: All meetings of the focus group were advertised on the DLCD website and via an interested parties email list. All meetings were open to the public and an opportunity to give public comment was provided at a specified time during each meeting. Members of the public were also welcome to submit written comments electronically to dlcd.goal18@state.or.us or meg.reed@state.or.us. All submitted comments were made available to focus group members for their consideration, and any public comments within the purview of the focus group's charge were considered. A summary of the major points conveyed through public comments are included in the "Public Comments" section of this report. A compilation of all written comments submitted to the group can be found in the Appendix. Public comments were accepted until September 30, 2019.

Public Comment: There was a committed group of citizens that attended the meetings. DLCD and the focus group members would like to thank them for their time and interest in the group and for being respectful and patient throughout the process. Those individuals who attended had specific concerns about the application of Goal 18 and the protection of their private property from erosion hazards. The attendees represented the views of a specific segment of stakeholders affected by potential changes to Oregon's coastal land use planning goals. While most of the comments received were outside of this focus group's charge, DLCD may want to consider their concerns in the future.

Concepts reviewed by the Focus Group:

1. *Concept #1: Beachfront Protective Structures Definition:* Implementation Requirement #5 outlines where beachfront protective structures (BPS) can be placed along the Oregon coast, but does not define "beachfront protective structure." Currently, what is and is not a BPS is determined on case-by-case basis by local jurisdictions and OPRD. This concept evaluated whether to add a definition for this term and how that might be accomplished.

2. *Concept #2: Pre-1977 Public Infrastructure:* Currently, public infrastructure (e.g. roads, utility lines and facilities) is not included in the definition of development eligible for shoreline armoring under Goal 18. Protecting public assets from coastal erosion through armoring requires an exception to Goal 18. This concept evaluated alternative approaches to address armoring for the purpose of protecting public infrastructure developed prior to January 1, 1977.
3. *Concept #3: Small In-fill Parcels:* Currently, the definition of development in Goal 18 includes vacant subdivision lots which were physically improved through construction of streets and provision of utilities to the lot (as of January 1, 1977) as eligible for shoreline armoring. It does not include vacant parcels that were similarly committed to development prior to 1977 but that were not created by statutory subdivision. This concept evaluated potential alternatives for addressing armoring issues associated with these parcels, either through Goal 18 or other mechanisms.
4. *Concept #4: Mitigation and alternatives to shoreline armoring:* This is a broad-based concept meant for brainstorming and discussion, the results of which may inform DLCD staff work programs or priorities. Goal 18, implementation requirement #5 outlines what development is eligible for shoreline armoring. However, it does not address strict requirements for siting oceanfront development, nor many alternative options for development that cannot armor. This has implications for both existing (post-1977) and future oceanfront development. This concept looked at some options (such as increased land use regulations and managed retreat) to reduce the need for shoreline armoring along the Oregon coast or to mitigate the impacts of erosion on development.

With the adoption of the coastal goals in 1977, LCDC established one of the foundational policies for the management of Oregon's ocean shore recreation area, namely that beach armoring for the protection of new shoreline development would be prohibited. A provision was provided in the policy to allow armoring to protect existing development (i.e. development that occurred before implementation of this prohibition). This was based on the rationale that prior siting and development decisions made without knowledge of this policy should be effectively "grandfathered" for purposes of shoreline armoring.

Consideration of changes to Oregon's core policy of prohibiting shoreline armoring for new development would require a major policy discussion involving an extensive group of stakeholders and the public. Ultimately, it would encompass revisiting the basic premise of the 1977 limit on shoreline armoring: the primacy of public over private interests in protecting Oregon's beaches. This is a policy discussion that is far beyond the scope and purpose of the Goal 18: Pre-1977 Development Focus Group.

Focus Group Concepts

This report is formatted to follow the four main concepts covered at the focus group meetings. For each meeting, there is a synopsis of the concept discussed and the key discussion points for DLCD's consideration. The focus group was not tasked with identifying consensus-driven recommendations, so the report shows their considerations and feedback. Some topics were discussed at multiple meetings, so this report reflects any discussion that occurred on a given topic. A summary of main takeaways from all four concepts is provided at the end of the report.

1 – Beachfront Protective Structures Definition

Overview:

Goal 18, Implementation Requirement #5 outlines where beachfront protective structures (BPS) can be placed along the Oregon coast, but does not define “beachfront protective structure.” Alternative strategies for shoreline protection (including cobble revetments) can be a grey area for regulators trying to decide what a beachfront protective structure is versus what is not regulated by the goal. There is a definition for “riprap” and “structure” in the Definitions section of Oregon’s Statewide Planning Goals, and there is a definition for “improvement/alteration” in the Definition section of OAR 736, Division 20, but there is no definition for the term “beachfront protective structure.” The term has also never been litigated. Currently, what is and is not a BPS is determined on case-by-case basis by local jurisdictions and OPRD.

During this meeting, focus group members explored the difference between structural and dynamic erosion control treatments and what typical examples of those treatments look like (e.g. sand re-nourishment, seawalls, breakwaters, riprap, sand burritos, etc.). They discussed verbiage for a potential definition for BPS that contained both a conceptual definition and also a list of examples. Goal 18 doesn’t prohibit all types of shorefront protection, but does prohibit the use of “structures.” Additionally, the legal processes/options for creating a definition for BPS were discussed: goal amendment, rule creation (Goal 18 currently doesn’t have any administrative rules); rule amendment through OPRD’s [OAR 736, Division 20](#) rules; or status quo.

Policy Options Discussed

- Overall, most focus group members agreed that having a definition for BPS would be beneficial and would like to see a definition created; however, most members did not think initiating a process (whether goal amendment or rule-making) only to add a definition for BPS was worth the effort unless it was packaged with other changes and could be done at the same time. Status quo (no definition) works in most cases currently.
- If a definition were pursued through a goal amendment, an alternative term could be explored – “beachfront protective structure” is not necessarily an accurate term.
- There were split preferences on the preferred method for creating a definition between a goal amendment approach or rule-making through OPRD’s existing rules.
- DLCD, with the help of other experts, could put together a guidance document of typical erosion control treatment options and whether they are considered a structure (and therefore allowed only on eligible properties) or non-structural (and would be allowed on non-eligible properties). This would assist regulators, property owners, and public entities in understanding the most common erosion control treatment options in Oregon and how they are regulated.
- The group reviewed sample BPS definitions. This is a suggested definition for BPS based on group discussions:

Beachfront Protective Structure – A static structure that is intended to remain in a fixed position with the purpose of redirecting wave energy and to minimize or eliminate coastal erosion risk to development. BPS are purposefully constructed and intended to maintain that form over time. This includes, but is not limited to, rip-rap revetments, seawalls, groins, breakwaters, jetties, bulkheads, geotextile sandbags, sand burritos, gabions, and concrete or mortar reinforcement such as shotcrete. Beachfront protective structures do not include dynamic treatments such as sand nourishment, cobble revetments, and similar non-structural or non-fixed erosion mitigation measures.

This definition does not reflect the preferences of all focus group members, but is a result of many of the major points that came from the group’s discussion. If a process was pursued to create a definition for BPS, more input and discussion should be included in the final verbiage of that definition.

Benefits: There would be a definition, which would provide clarity to practitioners, regulators, and homeowners. Having a definition may allow for innovation in non-structural approaches to mitigate erosion risk.

Challenges: The mechanism for creating a definition will be challenging no matter the approach (rulemaking or goal amendment) because of the resources and capacity needed to bring forward.

Feasibility: Not feasible at this time on its own, but could be incorporated into other processes if pursued at the same time.

Next steps: If a Goal 18 amendment or rulemaking is pursued in the future, a definition for *Beachfront Protective Structure* should be included in that process. However, it is not a priority to initiate an amendment or rulemaking solely for the purpose of creating a definition for BPS.

DLCD, with the help of other experts, could put together a guidance document of typical erosion control treatment options and whether they are considered a structure (and therefore allowed only on eligible properties) or non-structural (and would be allowed on non-eligible properties) by practitioners. This would assist regulators, property owners, and public entities in understanding the most common erosion control treatment options in Oregon and how they are regulated. It is especially important to include where dynamic revetments can and cannot be placed in relation to goal 18 “eligibility.”

2 – Pre-1977 Public Infrastructure

Overview:

This meeting addressed pre-1977 public infrastructure. Currently, public infrastructure (e.g. roads, utility lines and facilities) is not included in the definition of development eligible for shoreline armoring under Goal 18. Protecting public assets from coastal erosion through armoring requires an exception to Goal 18. This meeting and concept focused on exploring and evaluating whether to include public infrastructure developed prior to January 1, 1977 in the definition of development in Goal 18. Examples of public assets prone to erosion along the oceanfront include: roads, water/sewer lines, wastewater facilities, stormwater outfalls, parks, lighthouses, campgrounds, and waysides.

Assembling digital data that reflects the development status of various public infrastructure assets in 1977 is very difficult. DLCDC staff did a preliminary data analysis prior to this meeting comparing aerial photographs from 1967 and 1977 images. Staff were also able to assemble modern data for transportation, utilities (some, not all), and recreation/tourism. A more thorough investigation would be warranted if this concept were to be pursued further, in order to get a better sense of the scope of this particular topic.

ODOT gave a presentation on the history of Highway 101, where it is vulnerable, and current protection options. There are other state highways in the coastal zone, however US 101 is the highway with most exposure to coastal hazards and subject to Goal 18 on the open coast. ODOT has identified 27 vulnerable areas, with a wide range of sites and conditions (i.e. different reasons for erosion). The vulnerable areas average 0.7mi in length, and cover roughly 19 highway miles total, which is about 5% of 101 in Oregon. ODOT has also completed several relevant coastal resilience studies, including a climate vulnerability assessment, a nature-based resilience pilot project in Lincoln County, and a sea level rise exposure analysis in the estuaries, to help them assess assets at risk from multiple natural hazards.

Focus group members from Lincoln County, Tillamook County, Rockaway Beach, and State Parks also gave a high level assessment to the rest of the group about local assets that are at risk of coastal erosion and whether shoreline armoring would be helpful in those cases or not. The main points conveyed by these members were that 1) beach access points are likely the most vulnerable local public infrastructure assets to coastal erosion, and that 2) shoreline armoring, even if allowed, would likely be a last resort for any at-risk infrastructure assets. Retreat or other alternatives would be looked at first for most of these areas. The takeaway is that Highway 101 appears to be the public asset most at risk from coastal erosion that might benefit from shoreline armoring in some instances.

The group also discussed the 2002 Goal 18 amendment attempt to include Highway 101 in the definition of development eligible for shoreline armoring. This process was initiated by ODOT to DLCDC and included narrow segments only, about 19 miles of shoreline total. This proposal went through the goal amendment process, including 11 hearings, most of which were held on the

coast. Public testimony gathered throughout the hearings process wasn't very extensive, until the final hearing before LCDC (Land Conservation and Development Commission). Then there was a large outpouring of comments, largely opposed to protecting Highway 101. Interest groups and citizens argued for the status quo: that the exceptions process should be followed for protecting Highway 101. Cities and counties argued that their public infrastructure assets should also be included in the amendment: if a state highway is considered development, then all roads/infrastructure should be included as development if built pre-1977. The testimony focused on the legal argument between private property treatment and public assets. ODOT ultimately withdrew the amendment proposal.

Policy Options Discussed

2.1 Status Quo: Goal exceptions are completed on a project-by-project basis, with the decision made by the local government as a plan amendment. These decisions go to a hearing in front of the planning commission and then final hearing by the governing body. Decisions can be appealed to LUBA (Land Use Board of Appeals). The focus group talked at length about existing approaches that have been underutilized. ODOT has used exceptions for other goals.

Benefits: This approach already exists and would require no changes to rules or the goal. Goal exceptions process might work best for local public infrastructure protection due to the localized nature of the process (project-by-project approach). Any entity can pursue this option now.

Challenges:

- This is not a state-wide or streamlined approach and would be cumbersome for an entity like ODOT to attempt this through each local jurisdiction. From ODOT's perspective, goal exceptions would be very expensive and highly redundant.
- Goal exceptions take time; not a good solution for an immediate erosion problem.
- While this is an existing tool, this process has never been tried for this particular issue (G18, IR#5). There is a perception that it is very difficult to attempt this approach, which is why it has never been tried.
- Focusing on goal exceptions can undermine the original intent of the goal, which is to protect the resource and the function of the coastal ecosystem. Goal exceptions are not a comprehensive approach to dealing with the impacts of coastal erosion.

Feasibility: The local goal exceptions process is feasible for local jurisdiction public infrastructure if needed, less feasible for ODOT. The time and resources for ODOT to support this effort are limited on a coast-wide scale.

Next steps: Find out 1) the approximate cost of a goal amendment vs. a goal exception; and 2) the risk to all public infrastructure assets subject to Goal 18. Seek institutional help from

DLCD to help explain the local goal exception process more thoroughly to local governments and other entities looking to pursue this option.

2.2 Goal 18 Amendment: Amending Goal 18 to include pre-1977 public infrastructure, such as Highway 101, in the definition of development. To complete a goal amendment, the directive would need to be included in DLCD's policy agenda. The process includes 10 public hearings and a final hearing and adoption with LCDC.

Benefits: An amendment would be a more comprehensive state-wide approach. If a comprehensive analysis of what public/critical infrastructure is at risk from erosion can be completed, then a goal amendment may be justified based on the results. A goal amendment may work best for protecting critical infrastructure, but what is meant by "critical infrastructure" still needs to be defined.

Challenges: A goal amendment is a lengthy, resource-intensive process. The previous goal amendment effort was unsuccessful in 2002, and the group does not know whether the outcome would be different now. Nothing significant has changed since then in terms of public perception. However, there have been changes in other areas: the beach has seen increased erosion and impacts to development from erosion since 2002. There also wasn't a robust public process before that previous attempt. This focus group is helping to bring transparency to these deliberations.

Feasibility: A goal amendment to address public infrastructure is not seen as feasible at this time.

Next steps:

See 2.4 Research Needs

2.3 Rulemaking for Chapter 660, Division 4: OAR 660-004-0022 provides a list of reasons necessary to justify a goal exception. Specific reasons are set forth for certain identified goal requirements and uses; the rules provide set parameters for meeting the "reasons test." Examples: Goal 18, foredune development prohibition (implementation requirement 2); foredune breaching (implementation requirement 6).

Option: Add specific reasons for a goal exception to Goal 18, implementation requirement 5. There is nothing in the rules right now for this provision. This may be an option for making the local goal exception process more clear for specific issues related to G18 IR#5, such as pre-1977 public (critical) infrastructure. This option is not specific to Highway 101 only, but could include other public infrastructure assets.

Benefits: This approach would serve as a compromise between the status quo and a goal amendment. A local goal exception would still be needed for a public asset such as Highway 101, but the process would be made clearer through state rules. This process would help