



**#85 I-2 I-000086-PLNG-0 I: GOAL 18 EXCEPTION REQUEST
#85 I-2 I-000086-PLNG: FLOODPLAIN DEVELOPMENT
PERMIT**

SARAH ABSHER, CFM, DIRECTOR

TILLAMOOK COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT



SUBJECT
AREA

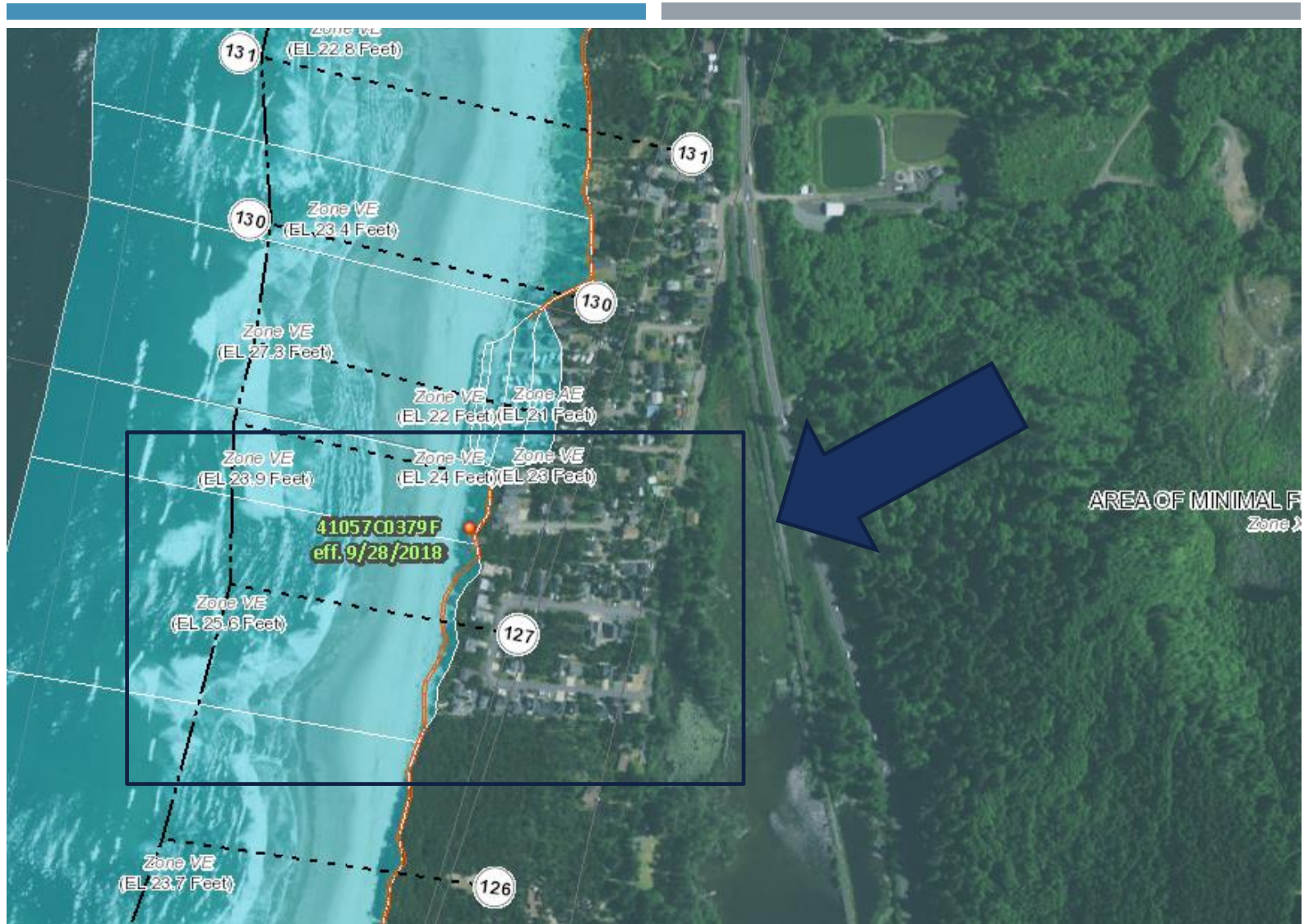


Barview

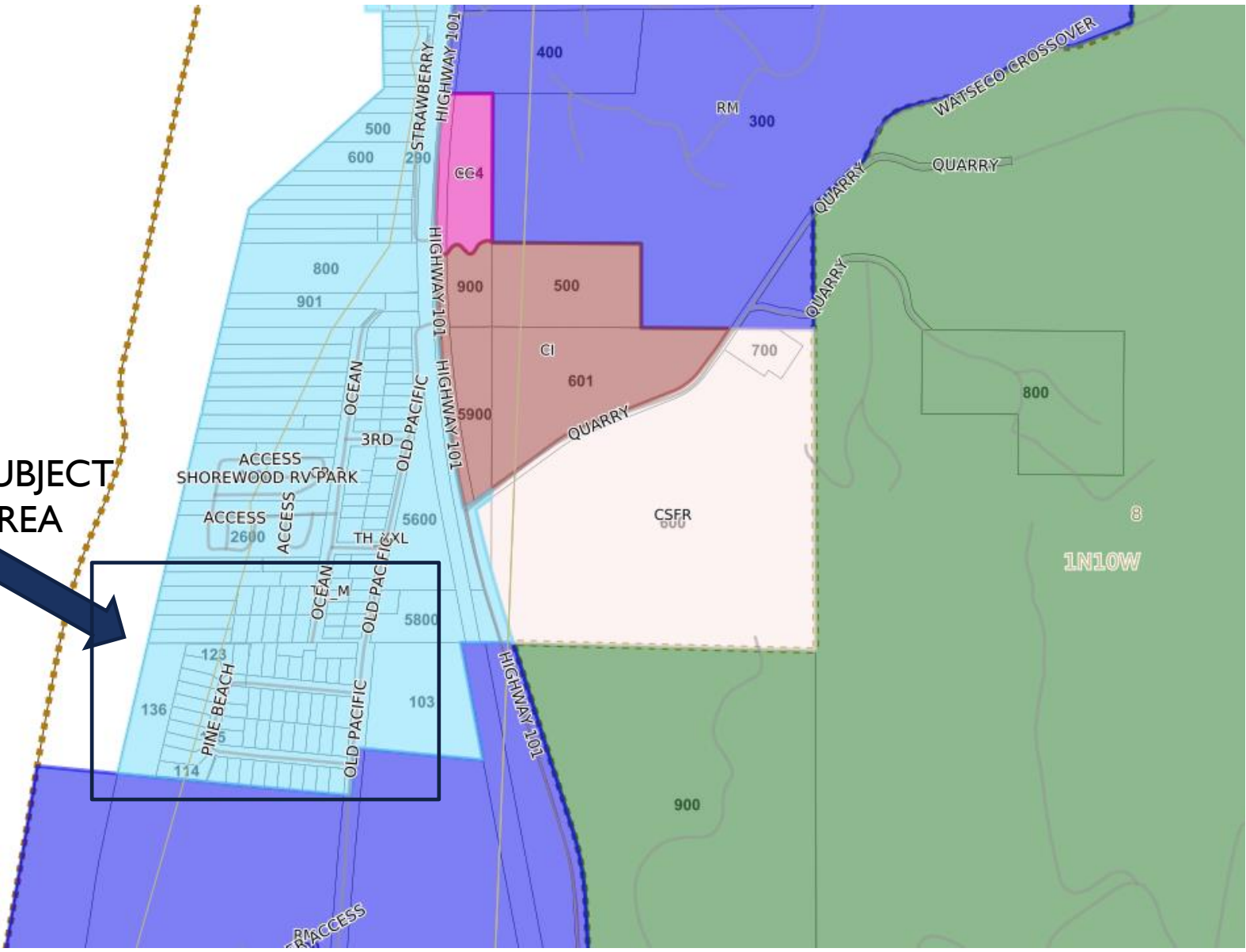




VICINITY MAP & SUBJECT AREA



SUBJECT
AREA



ZONING MAP

Shoreline Armoring and Eligibility

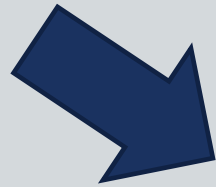
Beachfront Protective Structures, OPRD, 20

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.)

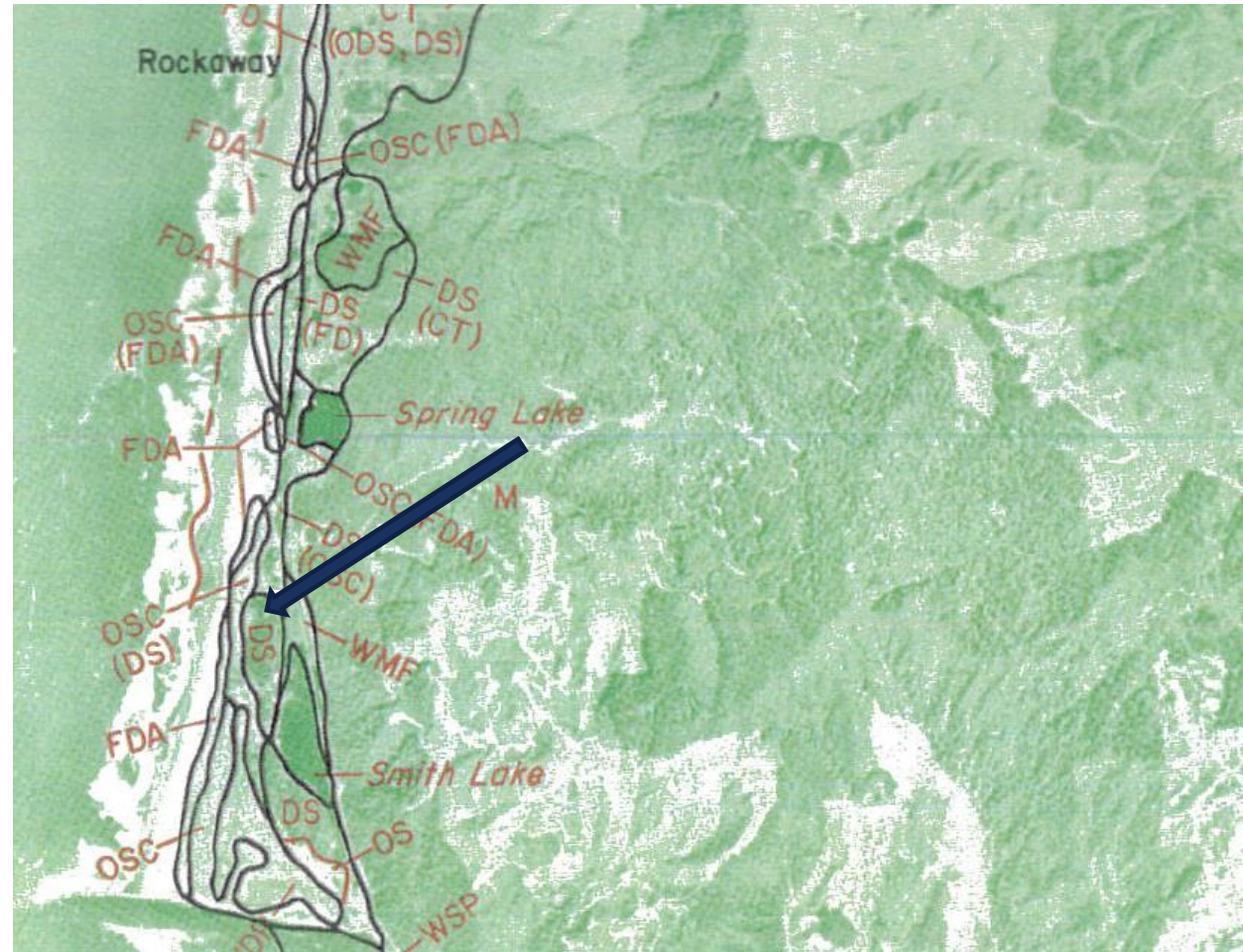
[HTTPS://WWW.COASTALATLAS.NET/OCEANSHORES/](https://www.coastalatlascity.com/ocmp/goal18/)

Coastal Atlas,
Goal 18 Eligibility
Inventory, OCMP,
2015



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
WDP	Wet deflation plain
WFP	Wet flood plain
WMF	Wet mountain front
WSP	Wet surge plain



APPLICATIONS UNDER REVIEW

- 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 .
- Development Permit Request 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.
 - Beach & Dune Hazard Overlay Zone provisions are also made part of this permit review process.

CONSIDERATION FOR ACTION

2 SEPARATE APPLICATIONS & DECISIONS

#85 I-2 I-000086-PLNG-01

- EXCEPTION TO GOAL 18 IMPLEMENTATION MEASURE 5 TO ALLOW THE CONSTRUCTION OF A BEACHFRONT PROTECTIVE STRUCTURE (BPS)

#85 I-2 I-000086-PLNG

- DEVELOPMENT PERMIT FOR CONSTRUCTION OF BPS (BEACH & DUNE OVERLAY ZONE) & DEVELOPMENT WITHIN AREA OF SPECIAL FLOOD HAZARD

GOAL 18 IMPLEMENTATION MEASURES #2 & #5

- 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.
- 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.**
- 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.

APPLICABLE PROVISIONS

Oregon Statewide Planning Goals

Oregon Revised Statutes

- ORS 197.732

Oregon Administrative Rules, Exception Requirements

- OAR 660-004-0020-0022 Goal 2, Part II(c), Exception Requirements, (11) Goal 18 Foregone Development Reasons Exception Requirements

Tillamook County Comprehensive Plan

TCLUO Section 3.510: Flood Hazard Overlay Zone

TCLUO Section 3.530: Beach & Dune Overlay Zone

TCLUO Section 9.030: Text Amendment Procedure and Criteria

TCLUO Article 10: Administrative Provisions

DEFINITION OF “DEVELOPMENT”

STATEWIDE PLANNING GOAL 18

■ 1977

- Develop
- 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.
- Development
- The act, process, or result of developing.

■ 1984

- Houses and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot.

DISCUSSION & CONSIDERATION

- **DEFINITION OF DEVELOPMENT**
 - **1977- IS EXCEPTION REQUIRED IF DEVELOPMENT MET DEFINITION?**
 - **1941 SUBDIVISION PLAT VACATION OF PINE BEACH**
 - **1984- EXCEPTION WOULD BE REQUIRED IF DEVELOPMENT DOES NOT MEET 1984 DEFINITION OF DEVELOPMENT**
- **WHAT TYPE OF EXCEPTION IS APPROPRIATE FOR CONSIDERATION? APPLICANT EXPLORES ALL THREE. TESTIMONY RECEIVED BY DLCD & OTHERS ARGUE THAT A REASONS EXCEPTION IS THE ONLY PATH FORWARD FOR A GOAL 18 IM5 EXCEPTION**
- **DEVELOPMENT LAWFULLY PERMITTED. GOAL 18 IM2/IM5 EXCEPTIONS WERE NOT REQUIRED TO BE TAKEN ON THE YOUNGER STABILIZED DUNE. THREAT OF EROSION & OCEAN FLOODING WAS NOT PRESENT AT THE TIME OF DEVELOPMENT BUT ARE PRESENT NOW.**

THE BEACH IS THE RESOURCE- PURPOSE OF GOAL 18 IS TO PRESERVE & PROTECT THE BEACH RESOURCE

- PROTECTION PRIORITY: DEVELOPMENT OR THE BEACH?
 - POLICIES OF GOAL 18 ITSELF- PROTECT BEACH RESOURCE- WHAT IMPACT, IF ANY, DOES THE BPS HAVE ON THE RESOURCE NOW AND IN THE FUTURE, AND ULTIMATELY WILL THE BPS RESULT IN FURTHER DEGRADATION OF THE RESOURCE?
- WHILE SITE CONDITIONS MAY CHANGE DUE TO CONTINUED EROSION, THE CONSTRUCTION OF THE PROPOSED BPS IS LOCATED WHOLLY WITHIN PRIVATE PROPERTY BOUNDARIES OF THE SUBJECT PROPERTIES
 - FUNCTION OF BPS- ONLY WHEN THREAT OF EROSION EXISTS AT THE LOCATION OF THE BPS. UNTIL THEN, WHAT IS THE PURPOSE AND FUNCTION OF THE BPS?
- ENSURING PUBLIC ACCESS ALONG THE BEACH, NOT NECESSARILY ACCESS TO THE BEACH FROM THE PRIVATE/PUBLIC ROAD SYSTEM
- LINCOLN COUNTY APPLICATION VS TILLAMOOK COUNTY FROM DLCD STANDPOINT- SITE CONDITION CONSIDERATION

RELATIONSHIP WITH OTHER POLICIES & GOALS

- GOAL 7, NATURAL HAZARDS- COUNTY'S OBLIGATION TO UPHOLD OTHER POLICIES OF STWP & COMPREHENSIVE PLAN- BPS PROPOSAL AND GOAL EXCEPTION REQUEST IS CONSISTENT WITH GOAL 7 POLICIES?
- GOAL 10 HOUSING ELEMENT- POLICY TO PROMOTE DIVERSE HOUSING STOCK & HOUSING CRISIS?
- SHORELAND GOAL 17 ELEMENT- HAS EXCEPTION BEEN TAKEN? PRIORITY OF NON-STRUCTURAL VS STRUCTURAL SOLUTIONS? SHOULD AN ALTERNATIVE ANALYSIS BE DONE TO PROVE WHY NON-STRUCTURAL SOLUTIONS CANNOT BE CONSIDERED?

DISCUSSION & CONSIDERATION CONTINUED

RELEVANT GOALS & GOAL ELEMENTS

Goal 1- Planning
Process & Citizen
Involvement

Goal 2- Land Use Plan
& Exception Process
(Reasons/Committed
Exception Request)

Goal 7- Hazards

Goal 11- Public
Facilities

Goal 14- Urbanization

Goal 17- Shorelands

Goal 18- Beaches &
Dunes

- Goal 18 IM #2
- Goal 18 IM #5

CRITERIA DISCUSSION

REQUEST:
4 EXCEPTIONS

ORS 197.732: GOAL EXCEPTIONS; CRITERIA; RULES;
REVIEW

OAR 660-004-0020 GOAL 2, PART II(b), COMMITTED
EXCEPTION

OAR 660-004-0020 GOAL 2, PART II(c), EXCEPTION
REQUIREMENTS

OAR 660-004-0022: REASONS NECESSARY TO
JUSTIFY AN EXCEPTION UNDER GOAL 2, PART II(c)

TCLUO ARTICLE 9, SECTION 9.030(3) CRITERIA FOR
TEXT AMENDMENT

SUMMARY OF FINDINGS MADE BY APPLICANT TO JUSTIFY WHY EXCEPTIONS SHOULD BE GRANTED

- DEVELOPMENT was lawfully permitted by Tillamook County
 - Some if not all properties meet definition of “DEVELOPMENT” as originally defined in Goal 18
 - Determination and identification of properties that meet definition of “development”
 - Subject area is an irrevocably committed area intended for urban residential use
- REQUEST IS CONSISTENT WITH GOAL 18 (AND GOAL 7) POLICIES TO REDUCE HAZARD TO HUMAN LIFE & PROPERTY FROM NATURAL ACTIONS ASSOCIATED WITH COASTAL BEACH & DUNE AREAS
- Visual impacts are minimized and existing beach access is maintained.
- BPS IS DESIGNED TO MINIMIZE IMPACTS ON ADJACENT PROPERTIES AND WILL NOT INCREASE RISK OF HAZARDS (WAVE RUN-UP, INCREASED WAVE HEIGHT, INCREASED FLOOD RISK OR DIVERSION OF FLOOD WATER)
- BPS IS DESIGNED TO MEET GOAL 18 REQUIREMENTS & BEACH & DUNE HAZARD OVERLAY ZONE 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;
 - (b) The use is designed to minimize adverse environmental effects; and
 - (c) The exceptions requirements of OAR 660-004-0020 are met.

SUMMARY CONTINUED

- 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.
- West Consultants Technical Memorandum 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.
- The proposed beachfront protective structure will protect the natural environment from beach erosion and adverse impacts from coastal flooding.
- 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.
- Foredune breaching is not part of the proposed development.
- 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). The proposal to construct a beachfront protective structure will protect the foredune.
- BPS will be constructed and maintained (including vegetation maintenance requirements) by the property owners.

ENVIRONMENTAL, ECONOMIC, SOCIAL & ENERGY CONSEQUENCE ANALYSIS SUMMARY

- Applicants state 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 recovered 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.

TCLUO SECTION 9.030(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.

PUBLIC & AGENCY COMMENTS

- LACK OF EVIDENCE THAT EXCEPTION SHOULD BE GRANTED
- ALTERNATIVES ANALYSIS DOES NOT MEET JUSTIFICATION FOR EXCPETION
- THREAT OF EROSION TO ADJACENT PROPERTIES
- INCREASED THREAT OF FLOOD RISK TO ADJACENT PROPERTIES
- PROTECTION OF EXISTING DEVELOPMENT DOES NOT JUSTIFY NEED TO GRANT EXCEPTION
- EXCEPTION SHOULD NOT BE GRANTED SIMPLY BECAUSE EXCEPTIONS IN THIS AREA HAVE ALREADY BEEN TAKEN
- THREAT OF BEACH ACCESSIBILITY ON STRETCH OF BEACH ADJACENT TO THE SUBJECT PROPERTIES

DEVELOPMENT PERMIT DISCUSSION

BEACH & DUNE OVERLAY ZONE, TCLUO SECTION 3.530

- **PERMITTED CONSTRUCTION OF A BPS REQUIRES GOAL EXCEPTION**
- *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.*
- **SITE DEVELOPMENT REQUIREMENTS & DETAILED SITE INVESTIGATION REQUIRED**
- *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.*
- **BPS WILL NOT EXCEED 3-FOOT HEIGHT MAXIMUM**

DEVELOPMENT PERMIT DISCUSSION

FLOOD HAZARD OVERLAY ZONE, TCLUO SECTION 3.510

- GENERAL STANDARDS
 - ANCHORING
 - CONSTRUCTION MATERIALS & METHODS
 - UTILITIES
- SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD AREAS
 - ELEVATION & PILING CONSTRUCTION (NOT APPLICABLE)
 - MUST BE ENGINEERED DESIGN
 - MUST BE LOCATED LANDWARD OF THE REACH OF MEAN HIGH TIDE
 - PROHIBIT MAN-MADE ALTERATION OF SAND DUNES, INCLUDING VEGETATION REMOVAL, WHICH WOULD INCREASE POTENTIAL FLOOD DAMAGE

DEVELOPMENT PERMIT DISCUSSION

FLOOD HAZARD OVERLAY ZONE CRITERIA, TCLUO SECTION 3.150

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.*
-
- *BPS is not a new or modified Flood Refuge Platform*

CONCLUSIONS

ARE THE
CIRCUMSTANCES
UNIQUE AND
EXCEPTIONAL TO
JUSTIFY GRANTING
AN EXCEPTION?

GOAL 18 CRITEIRA
FOR
BPS MET?

BEACH AND DUNE
DEVELOPMENT
STANDARDS FOR
BPS MET?

FLOOD HAZARD
OVERLAY ZONE
STANDARDS FOR
DEVELOPMENT
WITHIN THE SFHA-
CRITERIA MET?

FINDINGS IN SUPPORT OF APPROVING THE GOAL 18 EXCEPTION REQUEST BY THE PLANNING COMMISSION

- Unique and exceptional circumstances apply to these properties. The subdivision and subsequent development of the lots was done through appropriate land use and permitting processes and were done in good faith.
- Zoning allows for residential development of these properties within the Unincorporated Community of Barview/Twin Rocks/Watseco, an urbanized area committed to urban development through previously taken Goal Exceptions (3,4, 11 and 14).
- Because this area has historically been categorized as a stabilized dune, no Goal 18 Exceptions were needed to be considered or taken for this area at the time of adoption of the Tillamook County Comprehensive Plan.
- Request for Goal 18 Exception is not a self-created issue. At the time of permitting and land use review, development was sited on a stabilized dune. Site conditions that exist today did not exist at the time of development- specifically erosion and ocean flooding.
- In relation to adjacent lots not part of this exception request, granting a Goal 18 Exception does not prevent those who already have a right to rip rap or develop from pursuing same option in the future. It is not right to deny a property owner the same opportunities to protect their property that others are afforded due to grandfathered rights that allow them to take action for protection of their property. (Properties where “development” existed on January 1, 1977.)
- The development standards and criteria of the Flood Hazard Overlay Zone have been met through design and location of the proposed BPS.
- The development standards and criteria of the Beach and Dune Overlay Zone have been met through design and location of the proposed BPS.

ADDITIONAL FINDINGS BY THE PLANNING COMMISSION:

- Site conditions and environmental factors that impact development are beyond the County's control. At what point does the County's responsibility to protect private properties developed in coastal high hazard areas end?
- Is it the County's responsibility to protect private property?
- Goal 18 recognizes importance of natural function of the beach. Actions should not contribute to loss of a natural resource.
- Goal 18 protects public access to the beach and citizen rights to enjoy the beach. Construction of a BPS will ultimately restrict access to the beach.
- The beach is the natural resource and protecting the resource is greater than the right to protect private property from erosion and ocean flooding.
- Concern of negative impacts to neighboring properties if BPS is constructed. Shorewood RV Park and other properties in the County were identified to support these concerns.
- Lack of demonstration and justification to grant exception through Reasons criteria.
- Blanket exceptions should not be granted. The taking of one exception does not alone constitute or satisfy criteria for granting additional exceptions.
- This decision is precedent setting, as DOGAMI projections indicate conditions are going to get worse, what obligation will the County be under in the future should this exception request be approved?