

# Geologic Hazard Report Review Staff Review, Decision, Conditions of Approval Case File GEO 2022-06

**Date:** February 2, 2023

**Case File:** GEO 2022-06 Cromwell

**Property Owners:** Michael Cromwell

**Situs Address:** Unaddressed

**Location:** Approximately 100 feet west of the intersection of SW Bard Lp and SW Coast Ave

**Tax Map and Lot:** 07-11-22-BD-01000-00

**Comprehensive  
Plan Designation:** Single-Family Residential District (R-5)

**Zoning District:** Single-Unit Residential (R-1-5) Zone

**Site Size:** 3,729 square feet

**Proposal:** Request to review a geotechnical report

**Surrounding  
Land Uses  
and Zones:**  
North: Houses; R-1-5  
South: Houses; R-1-5  
East: Houses; R-1-5  
West: Houses, Pacific Ocean; R-1-5

**Authority:** Table 17.76.020-1 of Lincoln City Municipal Code (LCMC) 17.76.020 lists a geologic hazard report review application as a Type II procedure with the Planning and Community Development Director (Director) listed as the review authority. LCMC 17.76.040(A) states that Type II procedures apply to administrative permits and applications and that decisions on administrative applications are made by the Director, based on reasonably objective approval criteria that require only limited discretion.

**Procedure:** The application was received on December 27, 2022. The application was deemed complete on December 28, 2022. On December 28, 2022, pursuant to LCMC 17.76.040(E), the Planning and Community Development Department mailed a notice of application to property owners within 250 feet of the subject property.

**Applicable  
Substantive  
Criteria:**  
LCMC Chapter 17.16 Single-Unit Residential (R-1-5) Zone  
LCMC Chapter 17.47 Natural Hazards, Beaches and Dunes  
LCMC Section 17.76.040 Type II Procedure  
LCMC Section 17.77.090 Geologic Hazard Report Review



**BACKGROUND**

The subject property (site) is unaddressed and undeveloped in the R-1-5 zone. The tax lot number is 07-11-22-BD-01000-00 and the assessed lot size is 3,729 square feet. The property owner seeks to develop the site with a detached dwelling in the future. The request for the geologic hazard report review did not include any building plans, elevations, or building site plans, although a building permit has been submitted separately from this geologic hazard report review application.

Lincoln City's GIS mapping shows the site contains bluff erosion hazards. The site does not contain aesthetic resource, floodway, flood hazard areas, or natural resource overlays.

**COMMENTS**

No comments were received from the public.

**ANALYSIS**

*Chapter 17.16 Single-Unit Residential (R-1-5) Zone*

*17.16.020 Permitted uses*

**Finding:** The property owner would like to construct a new single-unit dwelling. The site is zoned Single-Unit Residential (R-1-5) Zone. LCMC Chapter 17.16 lists the permitted uses in the R-1-5 zone; specifically, single-family dwellings are listed as a permitted use per LCMC 17.16.020(A)(1).

*17.16.050 Restrictions.*

**Finding:** This application is not for development; rather, this application is for a geologic hazard report review. Compliance with the restrictions shall be reviewed at the time of a development application review or during the building permit process.

*17.16.060 Maximum building height*

*The maximum building height shall be 35 feet, except as provided in LCMC 17.52.190 and 17.52.200.*

**Finding:** This request does not include any building permit applications or requests to review any building permit plans. At the time a building permit application is submitted, the accompanying building elevations shall be reviewed for compliance with the maximum 35-foot building height requirement.

*17.16.070 Lot requirements*

**Finding:** The geologic hazard report review does not include any building permit applications or requests to review any building permit plans. At the time a building permit application is submitted and reviewed, the accompanying building site plan shall be reviewed for compliance with the minimum setback requirements and maximum coverage requirement. The lot is an existing legal lot, so the minimum lot area, minimum lot width, and minimum lot depth are not applicable.

*17.16.075 Landscaping*

*17.16.080 Signs*

*17.16.090 Off-street parking and loading*

*17.16.100 Other required conditions*

**Finding:** This request for a geologic hazard report review does not include any building permit applications or requests to review any building permit plans. At the time a building permit application is reviewed, the accompanying plans shall be reviewed for compliance with LCMC Chapter 17.16

*Chapter 17.47 Natural Hazards, Beaches and Dunes  
17.47.020 Development in identified hazard areas*

- A. *Hazards Identified and Applicability of Standards. Specific natural hazard areas have been identified in Environmental Geology of Lincoln County, Oregon, Bulletin 81 (State of Oregon Department of Geology and Mineral Industries, 1973) and Environmental Hazard Inventory (RNKR Associates, 1978), and other sources. They are depicted on the comprehensive plan natural hazards map, as supplemented by Priest, G.R., and Allan, J.C., 2004. For purposes of this chapter, in cases of conflict between a cited source and the map, as supplemented by the 2004 Priest and Allan report, the map, as so supplemented, will prevail.*

*Natural hazard areas identified in Environmental Geology of Lincoln County, Oregon, Bulletin 81 (State of Oregon Department of Geology and Mineral Industries, 1973) and Environmental Hazard Inventory (RNKR Associates, 1978) are advisory only. The city does not require analysis or mitigation for property identified as being in these hazard areas, but recommends that developers seek professional advice.*

**Finding:** The site is in an identified natural hazard area. As stated in the code, the city does not require analysis or mitigation for property identified as being in hazard areas, but recommends that developers seek professional advice. The property owner has sought the professional advice of H.G. Schlicker & Associates Inc, registered geologists who are licensed to practice in Oregon.

*Development of property identified by Priest, G.R., and Allan, J.C., 2004, as subject to coastal erosion must meet the requirements of this chapter; however, the following activities are exempt:*

1. *Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation;*
2. *New construction or maintenance, repair, or alterations to existing structures on a portion of the lot that lies outside the coastal erosion zones;*
3. *Exploratory excavation under the direction of a registered engineering geologist or geotechnical engineer;*
4. *Construction for which a building permit is not required;*
5. *Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided work does not extend outside the previously disturbed area;*
6. *Activities of emergency responders intended to reduce or eliminate an immediate danger to life or property.*

**Finding:** LCMC Chapter 17.08 defines development as the alteration of the natural environment through the construction or exterior alteration of any building or structure, whether above or below ground or water, and any grading, filling, dredging, draining, channelizing, cutting, topping, or excavation associated with such construction or modification; the placing of permanent or temporary obstructions that interfere with the normal public use of the waters and lands subject to this code; the division of land into two or more parcels, and the adjustment of property lines between parcels. The property owner is seeking to alter the natural environment through future construction of a dwelling; therefore, the proposed development activity is not exempt and must meet the requirements of LCMC Chapter 17.47.

This staff report notes that the request for review of the geologic hazard report does not include any applications for building permits or any building plans, building site plans, or building elevations. The review of building plans, building site plans, and building elevations takes place as part of the building permitting process.

*B. Required Geotechnical Analysis. Development of all types, except beach front protective structures and natural means of beach protection, in coastal erosion hazard areas identified by Priest, G.R., and Allan, J.C., 2004, may not occur until an engineering geologist, certified to practice in Oregon, or geotechnical engineer registered and licensed to practice in Oregon, completes a review of the project site. To the extent the engineering geologist or geotechnical engineer deems necessary, the review shall incorporate analysis and recommendation of an Oregon-certified coastal engineer and of technical experts from other fields outside of engineering geology. The review shall be prepared at the applicant's expense. The geologist or geotechnical engineer must submit (electronically) the review to the city as a written report that, if written or last updated more than a year prior to the first building inspection, must be updated to reflect current conditions. In reviewing the submitted geotechnical report, the city may consult with, among others, the Oregon Department of Geology and Mineral Industries, the Department of Land Conservation and Development, and a certified engineering geologist or geotechnical engineer. The city assumes no responsibility for the quality or accuracy of a geotechnical report.*

**Finding:** The site is in an identified coastal erosion hazard area. Per LCMC 17.47.020(B), development may not occur until an engineering geologist, certified to practice in Oregon, or geotechnical engineer registered and licensed to practice in Oregon, completes a review of the project site. This requirement has been met by the property owner retaining the services of H.G. Schlicker & Associates Inc, a firm of registered engineering geologists, licensed to practice in Oregon. H.G. Schlicker & Associates Inc conducted a geologic hazards and geotechnical investigation of the site and prepared a written report. The written report submitted with this application is dated July 7, 2022, hereinafter referred to as Report. No development has occurred on the site. The Report has been prepared and submitted prior to construction, as required by LCMC 17.47.020(B).

**Lincoln City assumes no responsibility for the quality or accuracy of the report.**

*Report Contents. Any geotechnical report must follow professional guidelines established by the Oregon State Board of Geologist Examiners, and include an explanation of the degree the hazard affects the property use in question, an explanation of the measures to be employed to minimize losses associated with the hazard, including, but necessarily limited to, erosion control, vegetation removal, and slope stabilization, and an explanation of the hazard-associated consequences the development and the loss-minimizing measures will have on the surrounding properties.*

*For development activities of all types on a property in the coast erosion hazard zones, defined by Priest and Allan, 2004, except for beach front protective structures and natural means of ocean beach protection, the geotechnical report must include, but is not limited, to the following items:*

*1. Site Description.*

*a. The history of the site and surrounding areas, such as previous riprap or dune grading permits, erosion events, exposed trees on the beach, or other relevant local knowledge of the site.*

**Finding:** The Report provides a site description at the bottom of page 1 with a history of the site and surrounding areas provided on page 2 of the Report.

*b. Topography, including elevations and slopes on the property.*

**Finding:** The initial pages of the Report provide a description of the site topography, elevations, and slopes noting that the area of the site east of the bluff is relatively flat. The requirement to provide the information on topography, including elevations and slopes on the property, is met.

*c. Vegetation cover.*

**Finding:** Page 2 of the Report lists the site’s vegetation cover, noting the following, “The area of the site is vegetated, generally with common grasses and weeds. The bluff slope, west of the site, is moderately to densely vegetated with shore pine, spruce, and salal on the middle to upper slope, and European beach grass, salal, and scotch broom on the lower slope. The near-vertical upper-bluff is devoid of vegetation on the bluff face. An oceanfront protective structure is not present at the base of the bluff.” The requirement to provide the information on the site’s vegetation cover is met.

*d. Subsurface materials – the nature of the rocks and soils.*

**Finding:** Page 3 of the Report states, “Interbedded, medium dense to dense, moderately cemented fine-grained sand was exposed on the bluff west of the site. The upper few feet of the bluff exposed slightly organic silty sand with an overhanging mat of vegetation (Appendix A). Mudstone was exposed at the base of the bluff slope (Appendix A).” Accordingly, the requirement to provide the information on the site’s subsurface materials is met.

*e. Conditions of the seaward front of the property, particularly for sites having a sea cliff.*

**Finding:** Pages 3 states, “The site is not oceanfront but is located east of an oceanfront bluff slope consisting primarily of marine terrace sands that have undergone recession as a result of wind and rain erosion, sloughing, and shallow landsliding. A detailed description of the fronting beach area is provided in Section 3.2, with oceanfront slope stability and erosion discussed in Section 4.0 below.” The requirement to provide the information on the conditions of the seaward front of the property is met.

*f. Presence of drift logs or other flotsam on or within the property.*

**Finding:** Page 3 of the report states, “At the time of our site visit, we observed a moderate accumulation of driftwood and flotsam in the beach area west of the site. Satellite imagery indicates that the accumulation of driftwood and flotsam in the vicinity is generally consistent with greater amounts of accumulation north of the site.” Staff concludes this requirement has been met.

*g. Description of streams or other drainage that might influence erosion or locally reduce the level of the beach.*

**Finding:** Page 3 of the Report states, “The nearest major stream is the Siletz River, approximately 1.6 miles south of the site. The nearest stream is Canyon Creek, located approximately 2,800 feet north of the site, and it does not appear to influence the beach elevation at the site.” The requirement to provide information on the description of streams or other drainage is met.

*h. Proximity of nearby headlands that might block the long shore movement of beach sediments, thereby affecting the level of the beach in front of the property.*

**Finding:** Page 3 states, “Headlands are not present in this local section of the Oregon Coast and the Lincoln City oceanfront. The site lies within the Lincoln littoral cell. The sands within the Lincoln littoral cell are

believed to have little or no transport beyond Cascade Head to the north and Cape Foulweather to the south (Komar, 1997).” The requirement to provide information on the proximity of nearby headlands is met.

- i. *Description of any shore protection structures that may exist on the property or on nearby properties.*

**Finding:** Page 4 states, “The nearest oceanfront protective structures are present on lots approximately 450 feet southwest of, and 2,200 feet north of the subject lot.” The requirement to provide a description of any shore protection structures that may exist on the property or on nearby properties is met.

- j. *Presence of pathways or stairs from the property to the beach.*

**Finding:** The Report provides analysis of beach pathways on page 4, stating, “Presently there is no direct access to the beach from the subject site. Public beach access is present approximately 0.5 miles north of the site at the S.W. 11th Drive beach access at Canyon Drive City Park”. The requirement to provide information on the presence of pathways or stairs is met.

- k. *Existing human impacts on the site, particularly those that might alter the resistance to wave attack.*

**Finding:** Page 4 states, “The site is not listed as an oceanfront property, according to Lincoln County records. Based on our observations, direct human impacts are not contributing to the alteration of the resistance of the bluff to wave attack at this site. The requirement to provide information on existing human impacts on the site is met.

## 2. *Description of the Fronting Beach.*

- a. *Average widths of the beach during the summer and winter.*

**Finding:** The Report does not explicitly address the average widths of the beach, but does state, “The beach at the site has a width of approximately 100 feet to more than 300 feet in this area during the winter and summer, respectively, depending upon sand transport in any given year. The beach here is very dynamic and frequently changes, primarily due to rip current formation and El Niño and La Niña ocean conditions. Typically, the beach is broad and dissipative in summer, becoming narrower and steeper in winter, particularly during prolonged storm cycles.” The requirement to provide width has been met.

- b. *Median grain size of beach sediment.*

**Finding:** Page 5 of the Report states, “Beach sediment west of the site is comprised of primarily fine-grained to lesser medium-grained sand.” The requirement to provide information about the median grain size is met.

- c. *Average beach slopes during the summer and winter.*

**Finding:** Page 3 of the Report states, “West of the site the beach slopes at approximately 7 degrees in the winter and a few degrees in the summer. Based on our review of beach morphology monitoring data available for this section of Oregon’s coast from 1997 to 2002, beach elevations varied by 0 to 6 feet from minimum to maximum, with a minor change at the beach- bluff junction (Allan and Hart, 2005).” Accordingly, the requirement to provide information on the average beach slopes during the summer and winter is met.

- d. *Elevations above mean sea level of the beach at the seaward edge of the property during summer and winter.*

**Finding:** It is worth noting that the property does not front the beach. The Report does provide information on the beach bluff junction on page 5, stating, “Topographic contours derived from 2016 lidar data provided by NOAA show the elevation above mean sea level of the beach-bluff junction west of the subject property as approximately 20 feet (NAVD 88), which generally agrees with data from Allan and Hart (2005).” The requirement to provide information on elevations above mean sea level is met.

*e. Presence of rip currents and rip embayment that can locally reduce the elevation of the fronting beach.*

**Finding:** Page 5 of the Report states, “Rip currents and rip current embayments have formed in the area of the site frequently, as evidenced by our review of historical aerial and satellite imagery.” This requirement is met.

*f. Presence of rock outcrops and sea stacks, both offshore and within the beach zone.*

**Finding:** Pages 5 and 6 of the Report state, “A basaltic dike is present along the beach southwest of the site, and exposures of Nestucca Formation mudstone create a rocky reef in the wave swash zone of the beach in the area west of the site.” This standard has been met.

*g. Information regarding the depth of beach sand down to bedrock at the seaward edge of the property.*

**Finding:** On page 6, the Report states, “Exposed mudstone bedrock was observed at the base of the bluff slope (Appendix A). We estimate sand depths along the beach at this time to be up to about 6 feet thick. The requirement to provide information regarding the depth of beach sand down to bedrock at the seaward edge of the property has been met.

### *3. Analysis of Erosion and Flooding Potential.*

*a. Analysis of DOGAMI beach monitoring data available for the site.*

**Finding:** The bottom of page 9 of the Report provides the following, “Beach monitoring data for the section of Oregon’s coast west of the site shows that beach elevations varied by several feet from minimum to maximum over the monitored period of 1997 to 2002 (Allan and Hart, 2005).” The requirement to provide information on an analysis of DOGAMI beach monitoring data is met.

*b. Analysis of human activities affecting shoreline erosion.*

**Finding:** The bottom of page 9 of the Report states the following, “Human activities have not significantly altered the resistance of the bluff to wave attack at this site.” The requirement to provide information on analysis of human activities is met.

*c. Analysis of possible mass wasting, including weathering processes, land sliding or slumping.*

**Finding:** Page 8 of the Report states the following, “The site is located approximately 100 feet east of a high and steep bluff slope that is undergoing erosion and sloughing as the result of wind, rain and ocean wave activity. Several landslides were observed along the bluff in the area of the site. These landslides appear to have failed back from the bluff edge from 5 to 15 feet. The upper oversteepened bluff is more susceptible to sloughing and landsliding than the lower bluff due to the steepness of the upper bluff segment and the poorly

consolidated nature of the sediments.” The requirement to provide information on analysis of possible mass wasting is met.

- d. *Calculation of wave runup beyond mean water elevation that might result in erosion of the sea cliff or foredune.*

**Finding:** The Report does not give an exact calculation of wave run up, but it does address risks from direct wave action. Page 10 states, “In the bluff-backed shoreline recession methodology applicable to the subject site, wave erosion at the bluff toe and associated parameters (rock composition, vegetative/protective cover, ballistics of debris, bluff slope angle of repose, etc.) are more critical to erosion zone and rate estimates than calculating wave runup elevation which changes with many variables such as changing beach elevations, presence of transient dunes, etc. It is the chronic nature of the wave attack hazard that undercuts the toe of the bluff, creating bluff instability.” The requirement to provide information on the calculation of wave runup beyond mean water elevation that might result in erosion has been addressed satisfactorily for the purposes of this report.

- e. *Evaluation of frequency that erosion-inducing processes could occur, considering the most extreme potential conditions of unusually high water levels together with severe storm wave energy.*

**Finding:** Page 10 of the Report notes that, “Ocean wave, wind, and rain erosion are continuous and ongoing processes that impact bluff recession. Future landsliding near the subject site would cause additional recession of the upper bluff. We anticipate that future landslides could fail back 5 to 15 feet at a time if not mitigated; however, these would be very infrequent and impossible to predict when they will occur.” The requirement to provide information on the evaluation of frequency of erosion-inducing processes is met.

- f. *For dune-backed shoreline, use an appropriate foredune erosion (Komar et al. 1999) or time-dependent erosion model (e.g., Kriebel and Dean, 1993) to assess the potential distance of property erosion, and compare the results with direct evidence obtained during site visit, aerial photo analysis, or analysis of DOGAMI beach monitoring data.*

**Finding:** The site is not a dune-backed shoreline; therefore the requirement to provide information on the dune-backed shoreline is not applicable.

- g. *For bluff-backed shorelines, use a combination of published reports, such as DOGAMI bluff and dune hazard risk zone studies, aerial photo analysis, and field work, to assess the potential distance of property erosion.*

**Finding:** Page 10 of the Report states, “As discussed in Section 4.0 above, the average annual erosion rate for the bluff at the site is  $0.27 \pm 0.34$  feet per year (Priest and Allan, 2004), and as also discussed in Section 4.1.3 above, is currently estimated at 0.6 feet per year for the calculation of setbacks from the upper bluff edge. “ This standard has been met.

- h. *Description of potential for sea level rise, estimated for local area by combining local tectonic subsidence or uplift with global rates of predicted sea level rise.*

**Finding:** The Report provides historical sea level rise data on page 10, stating, “Information from NOAA’s Garibaldi and Newport/South Beach monitoring stations provides an average sea level rise of approximately  $2.11 \pm 0.65$  mm/year between 1967 and 2021 (NOAA Tides & Currents Sea Level Trends,



<http://tidesandcurrents.noaa.gov/sltrends>). Global climate change can also influence rates of sea-level rise.” This standard has been met.

- i. *An estimation of the annual erosion rate at the site.*

**Finding:** Page 11 of the Report states, “A detailed discussion of recession and estimated erosion rates is in Section 4.0 above; Priest (1994) and Priest et al. (1994) have determined the average annual erosion rate for the bluff at the site as  $0.27 \pm 0.34$  feet per year. The rate used in our setback analysis was 0.6 feet per year.” The requirement to provide an estimate of the annual erosion rate at the site is met.

*Assessment of Potential Reactions to Erosion Episodes.*

- j. *Determination of legal restrictions of shoreline protective structures (Goal 18 prohibition, local conditional use requirements, priority for nonstructural erosion control methods).*

**Finding:** The legal restrictions regarding beach protective structures are covered on page 11 of the Report, where it states, “According to Lincoln County records, the site is not listed as an oceanfront property and is therefore not eligible for a shoreline protective structure. According to the Ocean Shores Viewer (<http://www.coastalatlant.net/oceanshores/>, accessed June 2022), the tax lots west of the site appear to be Goal 18 eligible for beachfront protective structures; however, the potential to receive a permit for oceanfront protection is dependent upon meeting certain regulatory requirements in addition to the Goal 18 eligibility requirement.” This standard has been met.

- k. *Assessment of potential reactions to erosion events, addressing the need for future erosion control measures, building relocation, or building foundation and utility repairs.*

**Finding:** Page 11 states, “Deep foundations, oceanfront protective structures, retaining walls, underpinning of foundations, vegetation management, relocation of structures, and bioengineering can all be potential reactions and control measures to erosion events.” The requirement to provide information on the assessment of potential reaction to erosion events, etc. is met.

- l. *An annual erosion rate for the property.*

**Finding:** Page 11 states, “A detailed discussion of recession and estimated erosion rates is in Section 4.0 above; Priest (1994) and Priest et al. (1994) have determined the average annual erosion rate for the bluff at the site as  $0.27 \pm 0.34$  feet per year. The rate used in our setback analysis was 0.6 feet per year.” The requirement to provide an estimate of the annual erosion rate at the site is met.

#### 4. *Recommendations.*

- a. *Based on results from the above analyses, recommended setbacks, building techniques, or other mitigation to ensure an acceptable level of safety and compliance with all local requirements.*

**Finding:** The Report gives conclusions and recommendations in section 8 for foundation design, excavation, and other building techniques to ensure a potential dwelling is constructed safely. The requirement to provide recommended setbacks, building techniques, and other mitigation is met.

- b. *A plan for preservation of vegetation and existing grade within the setback area, if appropriate.*

**Finding:** Page 18 states, “Exposed sloping areas steeper than 3 horizontal to 1 vertical (3H:1V) should be protected with a straw erosion control blanket (North American Green S150 or equivalent) to provide erosion protection until permanent vegetation can be established. Erosion control blankets should be installed as per the manufacturer’s recommendations.” The requirement to provide a plan for preservation of vegetation and existing grade is met.

- c. Consideration of a local variance process to reduce the building setback on the side of the property opposite the ocean, if this reduction helps to lessen the risk of erosion, bluff failure or other hazard.*

**Finding:** The request does not include consideration of a local variance process, nor does it request a variance.

- d. Methods to control and direct water drainage away from the ocean (e.g., to an approved storm water system), or, if not possible, to direct water in such a way so as to not cause erosion or visual impacts.*

**Finding:** On page 19 of the Report, it states, “Surface water should be diverted from building foundations and walls to approved disposal points by grading the ground surface to slope away a minimum of 2 percent for 6 feet towards a suitable gravity outlet to prevent ponding near the structures. Permanent subsurface drainage of the building perimeter is recommended to prevent extreme seasonal variation in moisture content of subgrade materials and subjection of foundations and slabs to hydrostatic pressures.” The requirement to provide methods to control and direct water drainage away from the ocean is met.

- C. Compliance. Permitted development shall comply with the recommendations in any required geotechnical report and any report required by the building code.*

**Finding:** As a condition of approval and pursuant to LCMC 17.47.020(C), all permitted development shall comply with the recommendations in any required geotechnical report, as well as any report required by the building code.

*At the time of footing inspection, or, if no footing inspection is required, at the time of the first building inspection, the author of the geotechnical report must certify that the development was constructed in accordance with the report’s recommendations.*

**Finding:** Pursuant to LCMC 17.47.020(C), permitted development shall comply with the recommendations in the Report and any report required by the building code. Additionally, at the time of the footing inspection, H.G. Schlicker & Associates Inc shall certify that the development was constructed in accordance with the Report’s recommendations.

- D. Bluff Setback. No bluff setback is required for public infrastructure, beach front protective structures, or natural means of beach protection. The footprint of any other new structure or any horizontal addition requiring at least one footing in ocean bluff areas must be set back from the bluff a distance of at least 60 times the average annual erosion rate (determined by the geotechnical analysis) plus five feet. The bluff, for this purpose, shall be determined by the city through inspection of aerial photos, the most recent LIDAR data, and the dividing line between the active and the high-risk erosion zones identified in the 2004 Priest maps referenced above. If the city cannot determine the location of a bluff, the geotechnical analysis, provided at the applicant’s expense, shall determine an appropriate site for the structure, if one exists. The bluff setback must be measured from the unaltered bluff edge, as based upon a recent (conducted within the 12 months prior to the date of the*

*geotechnical analysis) topographic survey performed by a land surveyor licensed in the state of Oregon. If damaged, an existing structure that does not conform to the setback may be rebuilt in conformance with Chapter 17.64 LCMC, Nonconforming Situations. Reconstruction shall comply with recommendations provided in a report from an engineering geologist licensed in the state of Oregon or a registered geotechnical engineer licensed in the state of Oregon, or both, as determined necessary by the building official.*

**Finding:** The submitted materials include a map of a topographic survey performed on November 29, 2022, by “Township and Land Surveys. The map was prepared by Lee A. Spurgeon, a licensed land surveyor in the state of Oregon. The Report uses an average annual erosion rate of 0.6 feet per year in the determination of oceanfront setbacks for the site. Using the annual erosion rate of 0.6 and multiplying by 60, then adding LCMC’s required additional 5 feet, gives a minimum setback of 41 feet from the unaltered bluff edge. Page 15 of the Report states “The western property boundary of the site is located approximately 100 east of the upper bluff edge; therefore, no additional geologic hazard setback from the bluff edge is required at this time.” This standard has been met.

*E. Other Policies That Apply. If structures to protect shorelands, beaches and dunes, or flood areas are proposed, comprehensive plan “Shorelands, Beaches, Dunes, Estuaries, and Ocean Resources” Policies 7, 8, 9, 21 and 22 also apply.*

**Finding:** The other policies do not apply to this request because no structures to protect shorelands, beaches and dunes, or flood areas are proposed.

#### *Chapter 17.76 Procedures*

##### *17.76.040 Type II procedure*

- A. General Description. Type II procedures apply to administrative permits and applications. Decisions on administrative applications are made by the director, based on reasonably objective approval criteria that require only limited discretion. Type II procedures require public notice and an opportunity for appeal, but do not require a public hearing or a public meeting.*
- B. When Applicable. Table 17.76.020-1 identifies Type II applications. Applications not listed in Table 17.76.020-1 may be identified as Type II by the director based on the general description in this section.*
- C. Pre-Application Conference. A pre-application conference is not required for Type II procedures.*

**Finding:** A pre-application conference is not required, nor was one held.

- D. Application Requirements. Type II applications shall:*
  - 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.*
  - 2. Be accompanied by the required fee as adopted by city council resolution.*
  - 3. Be subject to the completeness review procedure set forth in LCMC 17.76.110(D) and (E).*

**Finding:** The required application forms and materials were submitted, along with the required fee. The application was deemed complete in accordance with LCMC 17.76.110(D) and (E).

- E. Public Notice of Application and Comment Period. Type II applications require public notice of receipt of a complete application with an opportunity for area property owners and other interested parties to provide written comment prior to issuance of the decision.*
  - 1. After a Type II application has been accepted as completed under LCMC 17.76.110(E), the department shall mail a written public notice to the following:*

- a. *The applicant and applicant's representative;*
- b. *The owners of record of the subject property;*
- c. *Property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application, using the most recently provided property tax assessment roll of the Lincoln County assessor's office as provided to the city to determine property owners of record; and*
- d. *Any neighborhood or community organization or association recognized by the governing body and whose boundaries include the site.*

**Finding:** The Planning and Community Development Department mailed the public notice of a complete application to the parties noted in LCMC 17.76.040(E)(1)(a) through (d).

2. *The written public notice shall include the following:*
  - a. *A brief description of the request;*
  - b. *The applicable criteria from the ordinance and the comprehensive plan that apply to the application at issue;*
  - c. *The street address or other easily understood geographical reference to the subject property;*
  - d. *Statement that failure of an issue to be raised in writing prior to the expiration of the public comment period, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA);*
  - e. *The name of a department staff member to contact and the telephone number where additional information may be obtained; and*
  - f. *Statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.*
3. *The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent.*
4. *Public notices for receipt of complete Type II applications shall include a written comment period of 14 days from the date the notice was mailed for the submission of written comments before the decision is issued.*

**Finding:** The written public notice contained all the information required in LCMC 17.76.040(E)(2)(a) through (f). The written public notice included the written comment period of 14 days.

*F. Review Authority. The review authority for Type II applications shall be the director.*

**Finding:** The Director reviewed the submitted Type II application.

*G. Decision.*

1. *Based on the criteria and facts contained within the record, the director shall approve, approve with conditions, or deny the request. The decision shall address all relevant approval criteria and consider written comments submitted before the close of the comment period.*

**Finding:** The relevant approval criteria are addressed in detail throughout this staff report. Consideration of the written comments received, if any, is given at the beginning of this report.

2. *The decision is considered final for purposes of appeal on the date the notice of the decision is mailed. Within seven days after the director has issued the decision, a notice of the decision shall be sent by mail to the following:*

- a. *The applicant and applicant's representative;*
- b. *The owners of record of the subject property;*
- c. *Any person, group, agency, association, or organization who submitted written comments during the comment period; and*
- d. *Any person, group, agency, association, or organization who submitted a written request to receive notice of the decision.*

**Finding:** Within seven days after the Director has issued the decision, the notice of that decision shall be mailed by the Planning and Community Development Department, pursuant to LCMC 17.76.040(G)(2).

3. *The notice of the decision shall include the following:*
  - a. *A brief description of the request;*
  - b. *A statement of the decision and the applicable approval criteria used in making the decision;*
  - c. *The street address or other easily understood geographical reference to the subject property;*
  - d. *A statement that the decision is final, unless appealed as provided in LCMC 17.76.180;*
  - e. *The requirements for filing an appeal of the decision, including a statement of the date and time by which an appeal must be filed;*
  - f. *A statement that the complete file is available for review; and*
  - g. *The name of a department staff member to contact and the telephone number where additional information may be obtained.*

**Finding:** The Planning and Community Development Department will issue the notice of decision that shall contain all the information noted in LCMC 17.76.040(G)(3)(a) through (g).

#### *Chapter 17.77 Applications*

#### *17.77.090 Geologic hazard report and/or beach protective structure review – Natural resources development review*

- A. *Procedure. Geologic hazard report, beach protective structure review, and natural resources development review are subject to the Type II procedure as described in LCMC 17.76.040.*

**Finding:** A geologic hazard report was submitted for review. Pursuant to LCMC 17.76.040, the request is subject to the Type II procedure and has been processed accordingly.

- B. *Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.100, as well as Chapters 17.46 and 17.47 LCMC.*

**Finding:** The required documents were submitted.

- C. *Approval Criteria.*
  1. *See Chapter 17.47 LCMC for approval criteria for geologic hazard report and beach protective structure review.*

**Finding:** The submitted geologic hazard report has been analyzed against the applicable criteria in LCMC Chapter 17.47, as detailed earlier in this staff report.

2. *See LCMC 17.46.050 for approval criteria for natural resources development review.*

**Finding:** This standard is not applicable to this application for a geologic hazard report review.

*D. Conditions of Approval. The review authority may impose conditions of approval to ensure compliance with the approval criteria.*

**Finding:** Conditions of approval have been imposed to ensure compliance with applicable criteria.

**DECISION**

Based upon an analysis of the submitted application and accompanying materials against applicable criteria, the Director concludes that all criteria have been or will be met, and thus **APPROVES WITH CONDITIONS** the geologic hazard report review request, subject to the following conditions:

1. The developer, applicant, and or property owner are responsible for compliance and conformance with all city, state, and federal requirements, rules, regulations, standards, and ordinances.
2. The footprint (footprint is defined in LCMC Chapter 17.08 as the square footage of a building that rests, directly or indirectly, on the ground, including, for example, cantilevers, bay windows with floor space, and chimneys) of any new structure shall be placed to the east of the 41-foot bluff setback line, as measured from the unaltered bluff edge. The site plan for any structural permit shall clearly depict the unaltered bluff edge, the 41-foot bluff setback line, and the footprint in compliance with the 41-foot bluff setback line.
3. Any horizontal addition requiring at least one footing in ocean bluff areas must be to the east of the 41-foot bluff setback line as measured from the unaltered bluff edge. Any site plan for any structural permit shall clearly show and label the unaltered bluff edge and the 41-foot bluff setback line, with clear depiction of any horizontal addition in compliance with the 41 foot bluff setback.
4. The 41-foot bluff setback line, measured from the unaltered bluff edge, shall be flagged on the site by a licensed land surveyor, and the flagging shall remain in place until development is complete to help ensure that no development takes place to the west of the 41-foot bluff setback line.
5. A representative of H.G. Schlicker & Associates Inc shall observe and approve footing and slab excavations prior to placing fill, or forming or pouring concrete, as H.G. Schlicker & Associates Inc indicated in the Report.
6. Permitted development shall comply with the recommendations in any required geotechnical report and any report required by the building code.
7. Pursuant to LCMC 17.47.020(B), H.G. Schlicker & Associates Inc or the applicant must submit to the city, through ePermitting as an attachment to the structural permit file number, an updated report to reflect current conditions if the first building inspection occurs after July 7, 2023.
8. In addition to city requirements for proper drainage and erosion control, plans shall incorporate proper drainage and erosion control, as discussed in the applicable sections of the Report.
9. Development of the site shall adhere to and comply with all recommendations noted in the entire Report and subsequent updates.
10. If there are any conflicts in the conditions, the strictest shall apply.

Prepared by: Weston Fritz, Associate Planner

Approved by: **Anne Marie Skinner**  Digitally signed by Anne Marie Skinner  
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OU=Planning & Community Development, CN=Anne Marie Skinner  
Date: 2023.02.01 20:39:53-08'00'

Anne Marie Skinner, Director  
Planning and Community Development

Date