

CURRY COUNTY BOARD OF COMMISSIONERS

94235 Moore Street Gold Beach, Oregon (541) 247-3296

BOC_Office@co.curry.or.us www.co.curry.or.us

AGENDA BUSINESS MEETING

August 2, 2023 9:00 a.m.

Items may be taken out of sequence to accommodate staff availability and the public.

- 1. CALL TO ORDER & PLEDGE OF ALLEGIANCE
- 2. AMENDMENT AND APPROVAL OF THE AGENDA
- 3. PUBLIC COMMENTS

To make a public comment, please submit a Speaker's Slip to the Chair prior to the start of the meeting, or email public comments during the meeting to BOC_Office@co.curry.or.us. Public comments are limited to three (3) minutes per speaker.

4. CONSENT AGENDA

- A. Approve Minutes for Business Meeting on July 19, 2023
- B. Approve Minutes for BOC-DCO Meeting on July 13, 2023
- C. Approve Minutes for BOC-DCO Meeting on July 20, 2023
- D. Approve Minutes for BOC-DCO Meeting on July 27, 2023

5. DISCUSSION/ACTION ITEMS

- A. Approve contract with Salvadors Rock Work
 - i. Quotes
 - ii. Call list
- B. Ordinance, Retail Sale of Animals Second Reading
 - i. Proposed Ordinance
 - ii. Proposed County Code Provisions
 - iii. Proof of Publication
- C. Accept proposal from Nelson Research
 - i. Proposal
 - ii. Order

6. PUBLIC HEARING

- A. ODOT Application CP/GE-2301
 - i. August2, 2023 Staff Report to BOC
 - ii. June 15, 2023 Staff Report to PC
 - iii. ODOT Supplemental Finding
 - iv. ODOT Presentation Slides
 - v. Ordinance ODOT CP/GE-2301

7. ELECTED OFFICIAL UPDATES

8. COMMISSIONER UPDATES

- A. Commissioner Alcorn
- B. Commissioner Herzog
- C. Commissioner Trost

9. EXECUTIVE SESSION

A. 192.660(2)()

10. OTHER

ORS 192.640(1) provides that "... notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects."

11. ADJOURN





Commissioners' Hearing Room, Courthouse Annex 94235 Moore Street, Gold Beach, Oregon www.co.curry.or.us

BUSINESS MEETING MINUTES July 19, 2023

Please note: For detailed information on any agenda item refer to Audio/Video.

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

The meeting was called to order 9:00 a.m.; present were Chair John Herzog, Vice Chair Brad Alcorn, and Commissioner Jay Trost

Staff present: Director of County Operations and County Counsel Ted Fitzgerald

The Pledge was recited by all.

2. AMENDMENT AND APPROVAL OF THE AGENDA

Trost requested to remove Agenda Item 7-C to a later date.

Trost motioned to approve the agenda as amended. Alcorn seconded. Motion carried unanimously.

3. SERVICE AWARDS

A. Sergeant Jason Thien – 5 Years of Service

4. PUBLIC COMMENTS

John Naczkowski – Expressed opinion on Social Security Bar Rob Barrett – Expressed opinion on Social Security Bar Ken Cunningham – Expressed opinion on Social Security Bar

5. CONSENT AGENDA

- A. Approve Minutes for Business Meeting on July 5, 2023
- B. Approve Minutes for Meeting on July 7, 2023
- C. Approve Minutes for BOC-DCO Meeting on June 30, 2023
- D. Approve Minutes for BOC-DCO Meeting on July 6, 2023
- E. Approve Hire of Ida Swank Part Time Accounting Clerk
- F. Approve Reclassification of Brandy Allen
- G. Approve Economic Development Credit Card Changes

Alcorn motioned to approve the consent calendar. Trost seconded. Motion carried unanimously.

6. PRESENTATION

A. (1:00 p.m.) – Oregon State Fire Marshal & Fire Chiefs

7. DISCUSSION/ACTION ITEMS

A. Discuss LGPS Proposal – Presented by Julie Swift, Payroll and HR

Alcorn motioned to adopt the LGPS Proposal. Trost seconded. Motion carried unanimously.

B. Reverting TLT Ordinances

Alcorn motioned to rescind Ordinance 20-02 and revert County Code article eight, Division one and two accordingly. Trost seconded. Motion carried unanimously.

8. PUBLIC HEARING

- A. 2023 Community Development Block Grant Langlois Water District Ted Fitzgerald, County Counsel did reading
- B. CBDG Small Business and Microenterprise Grant Program Ted Fitzgerald, County Counsel did reading
- C. Ordinance, Retail Sale of Animals First Reading Ted Fitzgerald, County Counsel did first reading

9. EXECUTIVE SESSION (Moved from Agenda Item 11)

A. 192.660(2)(b)

Chair Herzog called an Executive Session at 10:00 a.m. Executive Session ended at 10:20 a.m. Regular Session proceeded.

Trost motioned to terminate the at will employment of Monica Ward. Alcorn seconded. Motion carried unanimously.

AMENDMENT OF AGENDA

Alcorn motioned to amend the agenda to add a motion to authorize the partial activation of the emergency operations center. Trost seconded. Motion carried unanimously.

Alcorn motioned to partially activate the emergency Operations Center of Curry County. Herzog seconded. Motion carried unanimously.

10. ELECTED OFFICIAL UPDATES

None

11. COMMISSIONER UPDATES

A. Commissioner Alcorn:

Provided update on flat fire.

B. Commissioner Herzog:

Commented on Commissioner Alcorn's statement. Gave kudos to Luke Martinez, Aquatic Safety.

C. Commissioner Trost:

Dated this 2nd day of August, 2023

Appreciates Commissioner Alcorn's role in emergency management.

Chair Herzog called meeting to break at 10:35 a.m. Regular session resumed at 1:00 p.m.

OREGON STATE FIRE MARSHAL & FIRE CHEIFS PRESENTATION

12. OTHER (ORS 192.640(1) "... notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.")

10. ADJOURN

John Herzog, Chair

Chair Herzog adjourned the meeting at 2:50 p.m.

Jay Trost, Commissioner

Brad Alcorn, Vice Chair

Minutes prepared by Natasha Tippetts, Administrative Assistant



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MINUTES

BOC - DCO MEETING

July 13, 2023 11:00 a.m.

The meeting was called to order at 11:26 a.m.

Topics discussed were:

General update regarding deed for the Hammond House from the County to Adapt Integrated Healthcare. No Motion made.

Discussion regarding wind energy presentations and current status. No Motion made.

Commissioner Trost gave an update regarding department head meetings and topics.

The meeting was adjourned at 12:01 p.m.



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MINUTES

BOC - DCO MEETING

July 20, 2023 1:00 p.m.

The meeting was called to order at 1:04 p.m. Commissioner Herzog was not present.

Topics discussed were:

Coordination between Curry County and Adapt Integrated Healthcare; possible meeting in the future.

Workshop regarding public health. Motion by Commissioner Alcorn to set a workshop for August 9, 2023; seconded by Commissioner Trost.

Workshop regarding Social Security Bar. Motion by Commissioner Trost to set a workshop for August 3, 2023; seconded by Commissioner Alcorn.

General discussion regarding scheduling of Department Head meetings. No Motion made.

The meeting was adjourned at 1:42 p.m.



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MINUTES

BOC - DCO MEETING

July 27, 2023 1:00 p.m.

The meeting was called to order at 1:02 p.m. Commissioner John Herzog appeared by phone.

Topics discussed were:

Potential refund credits. No Motion made.

Commissioner Alcorn gave an update regarding the Flat Fire.

Commissioner Trost and Commissioner Herzog discussed a potential USDA predator control program. No Motion made.

The meeting was adjourned at 2:13 p.m.



CURRY COUNTY BOARD OF COMMISSIONERS REQUEST FOR AGENDA ITEM *BUSINESS MEETING*

| Agenda Date: | Agenda Item Title: | | |
|--|--|---|--|
| 8/2/23 | Courthouse Cement wall repair and paint. | | |
| Time Needed: | | | |
| 5 Minutes | | | |
| Financial Impact: | Description and Backgr | round: | |
| Approximately 77,000.00 | Maintenance Department would | d like to ask Curry County to partnership | |
| Category: | with Salvadors Rock Work to re | epair concrete, stucco and paint the exterior | |
| | courthouse walls. | | |
| Consent | Facilities Director received 3 bi | ds and attempted to contact several other | |
| ☐ Executive Session | Contractors. | | |
| ☐ Hire Order | This should ensure that the buil | ding will be leakproof during the winter | |
| Presentation | storms. | | |
| Requested Motion: | | | |
| Approve the partnership with Curry Count | y and Salvadors Rock Work to s | start repairs. | |
| Attachments: | Instructions Once Appr | roved: | |
| 1. Quote. | | | |
| 2. Call List | | | |
| _ | *************************************** | *************************************** | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| Contact Person - Name and Dep | partment: | Date Submitted: | |
| Charles Buchanan – Facilities Director | | 7/21/23 | |

| Dustin Watson |
|-------------------------|
| CCB# 231036 |
| PO Box 4822 |
| Brookings, Oregon 97415 |
| |

| Bill | 3035 |
|------|------|
| | |

| Date : | 7/18/2023 |
|--------|-----------|
| | |

| Sold To: |
|---------------------------|
| Jay Trost |
| Curry County Commissioner |

Job Address :

Curry County Courthouse

| ITEM# | DESRIPTION | QUANITY | PRICE | AMOUNT |
|-------|---|-----------|-------|--------------|
| | | | | \$226,000.00 |
| | repair cracks in walls, paint, stucco entire | | | |
| | courthouse building, repair south roof entrance | е. | | |
| | All materials and labor included in this bid pric | e. | | |
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| | | | | |
| | 5 | | | |
| | | Total Due | e: | \$226,000.00 |

Jose Flores Salvador Gomez

Po Box 1437 Gold Beach, OR 97444 (541) 698-7797 **Courthouse remodel**

June 27, 2023

Salvadorgomez@contractor.net

PREPARED FOR

Charles Buchanan-Facilities/Maintenance Director

The Curry county courthouse is in need of repair for various cracks and broken old cement. The building is approximately 18,593 square feet.

Points of work.

- 1. The building needs to be power washed, and then scraped for preparation of the next step.
- 2. My company will apply cement to the exterior of the building, covering the previous work and repaint the whole building with exterior paint. It will revitalize the building and bring it back to former glory.

Salvadors Rock Work LLC

PO Box 1230 Gold Beach Oregon 97444 salvadorsrocking@gmail.com

Jose Salvador Flores Jr. 1 (541) 373-7512

Start Work Receipt

PREPARED FOR

PREPARED DATE June 12, 2023

Charles Buchanan-Facilities/Maintenance Director

Curry Co Courthouse-

Once again, thank you for your cooperation and continued partnership with Salvadors Rock Work LLC. To Start a three step process; we will powerwash the entire building, repair cement walkways and ready the building for parging. We are requesting \$25,000 to purchase materials and initiate the project. Thank you.

Jose Flores Jr.



Salvadors Rock Work LLC

PO Box 1230 Gold Beach Oregon 97444 salvadorsrocking@gmail.com

Jose Salvador Flores Jr. 1 (541) 373-7512

Work Proposal

PREPARED FOR

Charles Buchanan-Facilities/Maintenance Director

PREPARED DATE June 5, 2023

> **EXP. DATE** June 30, 2023

| ITEM | QTY | PRICE | TOTAL |
|--|--|---|------------|
| Cement Cost Non-discounted retail pricing for: Versabond gray, Versabond Blanco, hydraulic cement and Structural concrete. Will place.75 inch coat over cracks and rusted out places for approximately 320.57 feet of Curry County Courthouse (courtesy of google maps) building. Roughly 18,593 square feet. | 320.57ft/.75 inch covering the entirety Curry co courthouse. | \$21.49750 bs X60 \$26.99/10 bs | \$8,772.60 |



Parging Installation Labor

Basic labor to power wash the entire building and renovate flashings with favorable site conditions. Three coats of two separate parging cements. advanced textured finish. Includes planning, equipment and material acquisition, area preparation and protection, setup and cleanup. \$50/hr counting workers comp 730 hrs and insurance

\$36,000

Job Supplies

Cost of related materials and supplies typically required to parg the walls, texture and paint them including: acrylic additives, grinding discs, trowels, painting materials including paint and rollers. Acryl 60, exterior med sat pastel bs paint grinding discs and trowels \$59.99/25 gallonX6 \$259.99/5 gallon bucketX30

\$11,590.75



Legal fees

Taxes, insurance changes Cost of business and state/ federal expectations. .10 percent of 64,923.35 job / rounded off Saif insurance Oregon Corp. taxes on 64,923.35

\$6492.30

\$12,984.60

Subtotal + ten percent profit

\$69,347.95 + \$6934.79

Rounded up

\$77000.00



THIS QUOTATION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- Delivery of Materials will start within [14] days following Salvadors Rock Work LLC, receipt of payment.
- 2. Delivery will be made to a specified area agreed upon prior meeting.
- 3. The general terms and conditions of purchase apply.
- 4. This quotation may be accepted to form a perspective of costs and estimates associated with the construction of said projects and for explanation purposes.
- 5. Thank you for your consideration.



Contractor call list for courthouse project

- 1. Sage Bruce, 541-661-0985 Called left message no reply.
- 2. Brett Kamp, 541-619-6439 Called left message no reply.
- 3. Brett Hodges, 541-661-0776 Does not offer this service.



CURRY COUNTY BOARD OF COMMISSIONERS REQUEST FOR AGENDA ITEM BUSINESS MEETING

| Agenda Date: | Agenda Item Title: | |
|---|-----------------------------------|---|
| August 2, 2023 | Second Reading – Ordinance | Restricting the Retail Sale of Animals |
| Time Needed: | | |
| 5 minutes | | |
| Financial Impact: | Description and Backgr | ound: |
| None | This ordinance is designed to st | upport existing Curry County pet shops and |
| Category: | ensure that future businesses adl | nere to a humane business model. In addition, |
| Action/Discussion | this ordinance would prevent fra | ud against consumers due to misinformation |
| Consent | or lack of information regarding | an animal's health causing costly veterinary |
| ☐ Executive Session | | e hardship to the consumer. Commercially en kept in deplorable, inhumane conditions |
| ☐ Hire Order | | hysiological, as well as psychological issues, |
| Presentation | disease and abnormalities. | |
| □ Public Hearing | | |
| Requested Motion: | | |
| Approve proposed Ordinance and adopt Ar | ticle Four, Division Three of Cou | unty Code. |
| Attachments: | Instructions Once Appr | oved: |
| 1. Proposed Ordinance | None at this time | |
| 2. Proposed County Code provisions | | |
| 3. Proof of publication | | |
| 4 | | |
| 5 | | |
| Contact Person – Name and De | partment: | Date Submitted: |
| Ted Fitzgerald, DCO | | July 27, 2023 |

BEFORE THE BOARD OF COUNTY COMMISSIONERS IN AND FOR THE COUNTY OF CURRY, OREGON

| In the Matter of an Ordinance Adopting Article Four, Division Three of County Code | |
|---|--|
| (Restriction on the Sale of Animals in Retail Establishments) |)) |
| behavioral issues with animals, which many citiz | and kitten mill facilities can lead to health and tens are unaware of when purchasing animals from the issue and, in some cases, misleading tactics of |
| WHEREAS, the lack of enforcement resource inhumane animal mills to operate with impunity | es at local, state and federal levels allows many ; and |
| WHEREAS, due to growing awareness and ed counties have enacted regulations addressing the | ucation across the country, hundreds of cities and e sale of animal mill animals; and |
| animal welfare organizations is likely to i | and cats to only those sourced from legitimate ncrease demand for animals from legitimate abandoned animals and animal control costs; and |
| WHEREAS , the County finds it reasonable to sourced from legitimate organizations. | restrict the sale of dogs, and cats to only those |
| NOW, THEREFORE, THE BOARD OF CUI ORDAINS AS FOLLOWS: | RRY COUNTY COMMISSIONERS HEREBY |
| | No and may be cited as "Ordinance County Code regarding Restriction on the Sale of |

SECTION II AUTHORITY

This Ordinance is enacted pursuant to the authority of ORS 203.035 and any subsequent amendments thereto.

SECTION III PURPOSE

The purpose of this Ordinance is to codify a restriction regarding the sale of animals in retail establishments.

SECTION IV ADOPTION

The provisions of this Ordinance and the attached Article Four, Division Three, incorporated herein by reference, are hereby adopted and shall be effective ninety (90) days from the date of this Ordinance; and shall remain in force and effect until otherwise ordained by the Board of Curry County Commissioners.

SECTION V SEVERANCE CLAUSE

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or the attached Code, or any part thereof, is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The legislative body hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any provision be declared unconstitutional or otherwise invalid.

SECTION VI EFFECTIVE DATE

This Ordinance shall become effective on the 31st day of October, 2023.

| DATED this 2 nd day of August, 2023. | | BOARD OF CURRY COUNTY COMMISSIONERS | | |
|---|------------------|-------------------------------------|--|--|
| Approved as to Form: Michael E. Fitzgerald, OSB #950738 Curry County Legal Counsel | | John Herzog, Chair | | |
| | | Brad Alcorn, Vice Chair | | |
| | | Jay Trost, Commissioner | | |
| First Reading: | July 19, 2023 | | | |
| Effective Date: | October 31, 2023 | | | |

ARTICLE FOUR

DIVISON THREE RESTRICTION ON THE SALE OF ANIMALS IN RETAIL ESTABLISHMENTS

SECTION 4.03.010 PURPOSE

Due to the historical lack of enforcement resources at local, state and federal levels allowing many inhumane animal mills to operate with impunity, the County finds it reasonable to restrict the sale of dogs and cats to only those sourced from legitimate organizations in an effort to increase demand for animals from legitimate organizations, as well as reducing the number of homeless animals and animal control costs.

SECTION 4.03.020 DEFINITIONS

The following terms used in this Division shall have the meanings set forth below:

- "Animal Rescue Organization" means any non-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United State Internal Revenue Code, whose mission and practice, is in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.
- "Board" means the Curry County Board of Commissioners.
- "Breeder" means a person that maintains a dog, cat, or rabbit for the purpose of breeding and selling their offspring. This excludes any commercial breeder of dogs and cats.
- "Broker" means a person that transfers a dog or cat from a breeder for resale by another person.
- "Offer" for sale means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, or otherwise sell a dog or cat.
- "Online Sales" means a retail establishment operating as a "Pet Store" which also engages in the sale of dogs or cats via the internet.
- **"Pet Store"** means a retail establishment where dogs or cats are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail. Such definition shall not include any Animal Rescue Organization or Humane Society.

SECTION 4.03.030 RESTRICTION ON THE SALE OF ANIMALS

No pet store shall sell, deliver, offer for sale, barter, auction, give away engage in on-line sales, or otherwise transfer or dispose of dogs, cats, or rabbits. Nothing in this section prohibits pet stores from collaborating with legitimate animal rescue organizations to offer space for such entities to showcase adoptable dogs, cats or rabbits, provided the pet store does not have any ownership interest in the animals offered for adoption and does not receive a fee for providing space for the adoption of any of these animals. Nor does this section prohibit pet store sales of dogs, cats, or rabbits obtained from non-commercial breeders as long as the dogs, cats or rabbits have not been procured through a commercial broker.

SECTION 4.03.040 PENALTIES & ENFORCEMENT

4.03.041 Fine

Violation of any provision of this Division is punishable by a fine not less than \$1,000.00 nor more than \$3,000.00 for the first offense, and for the second and subsequent offenses, not less than \$2,000.00, nor more than \$5,000.00.

4.03.042 Separate Offenses

Each day that a violation occurs will be considered a separate offense. Each dog or cat offered for sale in violation of this chapter shall constitute a separate violation.

SECTION 4.03.050 NONEXCLUSIVE REMEDY

The remedies described in this chapter shall not be the exclusive remedies of the County for violations of this Division.

Country Media Inc. PO Box 670 Salem OR 97308 Tel: (503) 444-7924

Advertising Docket

Curry County Board of Commissioners

94235 Moore St, Suite 122

Gold Beach, OR

97444

Cust#: 36681

Tel #: (541) 247-3296

Ad #: 367024 Date: 07/03/23

Classification: PUBLIC NOTICES

Salesperson: House

| Edition | Insertion Date | | Amount |
|----------------------------|----------------|--------------|--------|
| South Coast ONLINE | 07/13/23 | | 0.00 |
| | | Online legal | 10.00 |
| South Coast ONLINE | 07/14/23 | | 0.00 |
| South Coast ONLINE | 07/17/23 | | 0.00 |
| South Coast ONLINE | 07/18/23 | | 0.00 |
| Pilot/Trip Classifieds WED | 07/19/23 | | 43.05 |
| South Coast ONLINE | 07/19/23 | | 0.00 |
| | | | |
| | | Sub Total | 53.05 |
| | | | 0.00 |
| | | | 0.00 |
| | | Grand Total | 53.05 |

Ad Text

PUBLIC LEGAL NOTICE On Wednesday, August 2, 2023, the Board of Curry County Commissioners will hold the final public hearing regarding the adoption of an ordinance implementing provisions of County Code regarding the retail sale of animals in the unincorporated areas of Curry County. The hearing will take place at the Commissioners Hearing Room, 94235 Moore Street, Gold Beach, Oregon. A copy of the proposed Ordinance is available at the Board of Commissioners Office, 94235 Moore Street, Gold Beach, Oregon. Published: July 19, 2023. Pilot & ONPA P367024



CURRY COUNTY BOARD OF COMMISSIONERS REQUEST FOR AGENDA ITEM BUSINESS MEETING

| Agenda Date: | Agenda Item Title: | |
|---------------------------------------|-----------------------------------|--|
| August 2, 2023 | Nelson Research Pre-Bond Survey | |
| Time Needed: | | |
| 5 minutes | | |
| Financial Impact: | Description and Backg | round: |
| \$19,700 | Nelson Research has propose | ed to conduct a survey of 390 people to |
| Category: | determine the potential success | of a bond in Curry County. The survey will |
| Action/Discussion | set out voter priorities and gaug | ge support. |
| Consent | Upon completion of the survey | , expected to take approximately one month, |
| Executive Session | Nelson Research will offer a pr | resentation of the results before the Board of |
| ☐ Hire Order | Commissioners. | |
| Presentation | | |
| Public Hearing | | |
| Requested Motion: | | |
| Accept proposal from Nelson Research. | | |
| Attachments: | Instructions Once App | roved: |
| 1. Proposal | File Order with County Clerk. | |
| 2. Order | | |
| 3 | | |
| 4 | | |
| 5 | | |
| Contact Person – Name and De | partment: | Date Submitted: |
| Ted Fitzgerald, DCO | | July 27, 2023 |



OR Curry County—Community Pre-Bond Research Proposal

Submitted: July 17, 2023

Overview

Curry County, OR is seeking community support for a finance measure that would fund County operations and programs and keep them whole from significant pending service cuts.

To better understand the sentiment of local voters, the priorities they place on County services and their willingness to keep County services whole through additional locally-generated tax revenues, it is recommended that Curry County conduct a pre-bond community 'priorities' survey among County voters to better understand voter understanding of county finance, support for programs and services, and preferred methods of revenue generation.

Description of Project

Nelson Research will conduct pre-bond survey research to gauge voter priorities and support for a prospective bond levy. The research will include a 12-minute phone/online hybrid survey of 390 likely County voters (+/- 5 % error rate) to measure:

- Voter sentiment on county performance & support for departments/services
- Voter sentiment on their own personal economic circumstances
- Voter prioritization for departments and services
- Willingness to support prospective bond measure and potential alternatives
- Initial messaging support for proposed measure

Timeline of Deliverables

| Deliverable | Detail | Target Date |
|-------------------|---|-------------------------------|
| Discovery Meeting | NR to lead a 60-minute Discovery meeting to go through a | Week of July 17 th |
| | series of questions to inform the research guide | or 24 th |
| 12-minute | NR to develop questionnaire to align with the goals of the | Week of July 24 th |
| Questionnaire | research | |
| Field Research | NR to field online and phone interviews with 390 likely County voters | Week of July 31 st |
| Topline Results | NR to submit topline results | August 7 th |
| Final Report | NR to submit final Report including topline, crosstab & open- | August 14 th |
| | ended report with Executive PowerPoint Summary | |

Fee

NR charges a one-time fee of \$19,700 for the Report upon completion and submission. Fee includes follow-up consultation and presentation of results.

Accepted by: Date



BEFORE THE BOARD OF COUNTY COMMISSIONERS IN AND FOR THE COUNTY OF CURRY, OREGON

| In the Matter of an Order Accepting Proposal from Nelson Research (Pre-Bond Survey) | g a) ORDER NO |
|---|---|
| WHEREAS, the Board of County Commis before the voters of Curry County; and | ssioners has expressed interest in placing a funding bond |
| WHEREAS, prior to adding the proposed the sentiments and opinions of County vot | bond to the ballot, it is prudent to more fully understand ers; and |
| WHEREAS, Nelson Research has submit voters regarding the potential funding bond | itted a proposal to conduct a survey of Curry County d. |
| NOW, THEREFORE, IT IS HEREBY in the sum of \$19,700.00, is accepted and | ORDERED THAT the proposal by Nelson Research, approved. |
| DATED this 2 nd day of August, 2023. | BOARD OF CURRY COUNTY COMMISSIONERS |
| | John Herzog, Chair |
| Approved as to Form: | Brad Alcorn, Vice Chair |
| Michael E. Fitzgerald, OSB #950738 Curry County Legal Counsel | Jay Trost, Commissioner |



CURRY COUNTY BOARD OF COMMISSIONERS REQUEST FOR AGENDA ITEM *BUSINESS MEETING*

| Agenda Date: | Agenda Item Title: | |
|---------------------------------------|------------------------------------|--|
| 8-2-2023 | 10:00 a.m Public Hea | aring - ODOT Application CP/GE-2301 |
| Time Needed: | | |
| 20 minutes | | |
| Financial Impact: | Description and Background: | |
| | Land Use Goal 18 Exception, C | Comprehensive Plan Change, Zoning Code |
| Category: | Amendment to allow ODOT to | place rock embankment below Highway |
| Action/Discussion | | all ODOT application, please visit the |
| Consent | Planning Commission website. | |
| ☐ Executive Session | | |
| ☐ Hire Order | | |
| Presentation | | |
| Requested Motion: | | |
| Public Hearing | | |
| Attachments: | Instructions Once Approved: | |
| 1. August 2, 2023 Staff Report to BOC | Schedule Adoption of Ordinance | te ODOT CP/GE-2301 for August 16, 2023 |
| 2. June 15, 2023 Staff Report to PC | Consent Agenda | |
| 3. ODOT Supplemental Findings | | |
| 4. ODOT Presentation Slides | | |
| 5. Ordinance ODOT CP/GE-2301 | | |
| | | |
| Contact Person – Name and Dep | partment: | Date Submitted: |
| Becky Crockett, Planning | | July 27, 2023 |

Curry County Board of Commissioners Staff Report August 2, 2023

Application: CP/GE – 2301. This application is for the purpose of allowing the Oregon Department of Transportation (ODOT) to place stone embankment on the beach below US Highway 101 at MP 304.05 (about 3 miles south of Port Orford where Hwy 101 is failing). The application includes:

- A Statewide Planning Goal Exception to Goal 18, Beaches and Dunes.
- A Comprehensive Plan Amendment to Plan Policy 15.10 (12), Coastal Shorelands and Beaches and Dunes.
- A Zoning Code Amendment to Section 7.040 (14b), Standards for Conditional Uses –
 Beaches and Dunes.

Applicant: Oregon Department of Transportation (ODOT)

Requested BOC Action:

August 2, 2023 – Public Hearing on Application; First Reading of the Ordinance to Adopt; August 16, 2023 – Adoption of Ordinance & Approval of Application CP/GE-2301

Legislative Review Process: A Statewide Goal Exception, Amendments to the Curry County Comprehensive Plan (CCCP) and the Curry County Zoning Ordinance (CCZO) requires a Legislative Review Process in accordance with Section 2.300 of the CCZO. Section 2.300(2)(a) states:

"The Planning Commission will conduct the first evidentiary hearing on the application and notice of the hearing will be prepared in accordance with ORS 215.503 as applicable".

Finding: The first evidentiary hearing was held on June 15, 2023 before the Citizens Committee for Involvement (CCI) and the Curry County Planning Commission (PC). Notice of the hearing was published in three newspapers within Curry County. The Pilot, The Port Orford News and the Curry Reporter. Notification was further provided to property owners of record within 500 feet of the site proposed for the stone embankment and interested parties of record.

Notification of the proposed Amendments (CP/GE-2301) were posted on the Department of Land Conservation and Development (DLCD) Post Acknowledgement Plan Amendment (PAPA) web site on June 12, 2023 with a Declaration of Emergency.

The purpose of the first evidentiary hearing before the CCI and PC was to:

"Consider the application, the Director staff report and recommendation, and the evidence presented at the public hearing, and then recommend the Board of Commissioners either approve, approve with conditions, or deny the application".

Finding: The CCI and the PC considered and discussed the proposed application CP/GE-2301, the Director's staff report, the applicant's testimony and evidence presented prior to and at the public hearing on June 15, 2023. The PC voted to approve and forward CP/GE-2301 to the Board of Commissioners for the second required public hearing and consideration of approval. The record of hearing of the June 15, 2023 joint CCI and PC public hearing is included in the record. No comments were received from the public prior to or during the public hearing. The Applicant (ODOT) submitted additional information about the project during the hearing which is included in the record.

CCZO Section 2.300 (3) states:

"The Board of Commissioners will conduct a public hearing on the application pursuant to the relevant procedures set forth in Section 2.300 (5). Upon receipt of a Planning Commission recommendation, the Board of Commissioners will hold at least one (1) public hearing before taking final action on the application. The Board will then take final action to approve, approve with conditions, or deny the application. The Board of Commissioners may either adopt or direct Planning Staff to modify the finding and recommendation of the Planning Commission as part of its action. Unless otherwise specified in the motion after deliberation, the Board of Commissioners will direct staff to bring back a final order at the next meeting on the consent agenda".

Finding: The second public hearing regarding Application CP/GE-2301 is scheduled before the Board of Commissioners on August 2, 2023 at 10:00 am. Notice of the hearing was published in three newspapers of record in Curry County. The purpose of the public hearing is to consider the recommend approval of Application CP/GE-2301 from the Curry County Planning Commission.

Planning Commission Recommendation: The Curry County Planning Commission recommends the Board of Commissioners approve Application CP/GE-2301, an application made by ODOT to place rock embankment below Highway 101 at MP 304.05 which includes an Exception to Statewide Planning Goal 18 Beaches and Dunes; a Comprehensive Plan Amendment to Plan Policy 15.10 (12), Coastal Shorelands and Beaches and Dunes; and a Zoning Code Amendment to Section 7.040 (14b), Standards for Conditional Uses – Beaches and Dunes.

CCZO Section 2.300 (4) states:

"Effective date of Legislative Land Use Decision. Notwithstanding any other provision of law specified in ORS 203.045, Legislative Land Use Decisions by the Board of Commissioners are effective upon adoption, subject to review pursuant to ORS Chapters 197 and 215".

Finding: The Ordinance to adopt the changes required to Statewide Planning Goal 18, the Curry County Comprehensive Plan and the Curry County Zoning Ordinance is included for consideration at the BOC Public Hearing. Final adoption of this Ordinance at the following BOC meeting set for August 16, 2023 by consent agenda will result in the changes becoming effective on that date of adoption by consent. These required changes will be in effect by reference of the adopted Ordinance. No specific Goal 18, Comprehensive Plan or Zoning Ordinance language will be adopted for inclusion to these documents for this one-time ODOT project to place rip rap on the beach below Highway 101 at MP 304.05.

Attachments: June 15, 2023 Planning Commission Staff Report
May 15, 2023 ODOT Application
June 15, 2023 Supplemental Findings from ODOT

These attachments can be found on the Curry County Planning Commission web site under Board of Commissioners August 2, 2023 Public Hearing.

Curry County Community Development Department Planning Commission Staff Report

June 15, 2023

Application CP/GE-2301 is a request for a Statewide Planning Goal Exception to Goal 18, Beaches and Dunes; a Comprehensive Plan Amendment to Plan Policy 15.10 (12), Coastal Shorelands and Beaches and Dunes; and a Zoning Code Amendment to Section 7.040(14b), Standards for Conditional Uses - Beaches and Dunes; to allow the Oregon Department of Transportation (ODOT) to place stone embankment (beachfront protective structure) on the beach below US Hwy 101 at MP 304.05.

Owner: State of Oregon – Parks and Recreation Department

725 Summer St., Suite C

Salem, OR 97465

Applicant: Janell Stradtner

Oregon Department of Transportation (ODOT)

3500 NW Stewart Parkway Roseburg, OR 97470

Land Use Review: Statewide Planning Goal 18 Exception/Comprehensive

Plan Amendment/Zoning Code Amendment

Property Description: Assessor's Map T.33, R.15 Section 15; Public Right of

Way (ROW) MP 304.05

Location: Located approximately 3.0 miles south of Port Orford at the

beach shoreline

Existing Development: None.

Zoning District: Beaches and Dunes Conservation (CON)

NOTE: Many of the findings contained within this staff report have been derived from the ODOT Application prepared by Janell Stradtner, ODOT which thoroughly addressed most of the applicable criteria.

US 101 MP 304.05 Slide Curry County



Taken 5.2.23

Applicable Review Criteria

To approve this proposed Comprehensive Plan Amendment, Curry County Zoning Code Amendment and Statewide Planning Goal Exception, the Planning Commission must determine that it complies with or there is sufficient justification for an exception to the following sections of the Curry County Comprehensive Plan (CCCP), the Curry County Zoning Ordinance (CCZO) and Oregon Administrative Rules (OAR) Chapter 660, Sections 660-004-000, 660-004-0015, 660-004-0020 and 660-004-0022 (12).

Oregon Administrative Rules

| OAR 660-004-0000 | Purpose |
|------------------|--|
| OAR 660-004-0015 | Inclusion as Part of the Plan |
| 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) |

Curry County Comprehensive Plan

| Applicable Statewide Planning Goals | Goal 1 – Citizen Involvement |
|--|-----------------------------------|
| | Goal 2 – Land Use Planning |

Goal 5 – Open Spaces, Scenic and Historic

Areas, and Natural Resources

Goal 6 - Air, Water, and Land Resources

Goal 7 – Areas Subject to Natural Disasters and

Hazards

Goal 8 – Recreational Needs Goal 9 – Economic Development Goal 11 – Public Facilities Goal 12 – Transportation

Goal 17 – Coastal Shorelands Goal 18 – Beaches and Dunes

Applicable Curry County Comp Plan (CCCP) Provisions

1.4 – Citizen Involvement

2.2 and 2.3 – Land Use Planning

12.8 – Plan Policies for Transportation 15.10 (12) – Policy for beachfront protective structures to Coastal Shorelands – Beaches and

Dunes

Applicable Curry County Zoning Ordinance (CCZO) Provisions

Section 2.300 – Legislative Hearings Section 3.212(10) – Beachfront Protective Structures Section 7.040(14b) – Beaches and Dunes Section 3.251 - Floodplain

Background Information

In September 2022 the Department of Land Conservation and Development (DLCD) revised the exception rules for Goal 18 to add a new reasons exception to the local goal exception process specific to public, ocean-fronting roads to allow these routes to continue to exist in the same location using structural shoreline armoring.

The Oregon Department of Transportation (ODOT) is requesting an exception to the Statewide Planning Goal 18: Beaches and Dunes pursuant to the new exception rules. The requested exception is necessary to allow ODOT to place a stone embankment on the beach in order to keep the highway from collapsing onto the beach area.

The embankment along the west side of US101 at M.P. 304.05 has recently failed, from the toe of the slope (at the edge of the ocean shore) up to the paved shoulder of the roadway. The current situation (as of 4/19/2023) has the guardrail posts at this location hanging in mid-air, and pavement cracking all the way into the centerline striping (between the southbound and northbound lanes). This situation is dynamic, and rapid acceleration could happen at any time.

The proposed repair will use stone embankment (placed at a steep 1.25 horizontal: 1.0 vertical). The stone embankment will be placed along a 120-foot section of slope, starting at the toe (edge of the ocean shore) and then built up to the roadway. This is the steepest slope that could be built for this situation. Normally, a 1.5 horizontal: 1.0 vertical slope is used. However, given the sensitive nature of the ocean shore below, this slope has been steepened to 1.25:1.

In addition, to mitigate for any visual impacts from the stone embankment, the stone embankment will be covered with a 6-inch layer of topsoil, and then planted/seeded/mulched, so that the outside of the repair will, ultimately, be vegetated. Fiber roll barriers (wattles) will also be installed, following the contours, at different locations along the slope, in order to aid in erosion control once the topsoil is placed.

Findings:

OAR 660-004-0000 (2) Purpose – An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local governments comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met.

Finding: The purpose of this staff report is to document the need for an exception to Statewide Planning Goal 18 – Beaches and Dunes to allow Highway 101 to be preserved in place at MP 304.05 using beachfront protective structures. The documentation herein addresses the required change to the Curry County Comprehensive Plan (CCCP) and the Curry County Zoning Ordinance (CCZO) and supports the conclusion that the standards for a Goal 18 exception have been met. This standard of OAR 660-004-0000 (2) is met.

OAR 660-004-0015 (1) Inclusion as Part of the Plan – A local government approving a proposed exception shall adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. The reasons and facts shall be supported by substantial evidence that the standard has been met.

Finding: The purpose of this staff report and inclusion of ODOT's application to the record of hearing for a Goal 18 exception herein addresses the required findings of fact and statements of reason that demonstrate that the standards for an exception have been met to amend the Curry County Comprehensive Plan (CCCP) and the Curry County Zoning Ordinance (CCZO) and supports the conclusion that the standards for a Goal 18 exception have been met. This standard of OAR 660-004-0015 (1) is met.

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

(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;

Finding: See analysis for OAR 660-004-0022(12). This standard is met.

- (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 that do not require a new exception. The area for which the exception is taken shall be identified;
 - (B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in

- determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:
- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?
- (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?
- (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?
- (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?
- (C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Finding: Because the proposed exception is necessary for the protection of a critical public infrastructure at Hwy 101 MP 304.05 the stone embankment can only be placed in the proposed location where the slide occurred. Locating the embankment elsewhere would not protect the roadway from failing at this site. There are no areas that do not require an exception that can reasonably accommodate the use. Therefore, there are no practical, reasonable, factual, or evidentiary reason to evaluate additional alternative sites for the protective structure or to otherwise 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 must be capable of reasonably providing the requested protection. There are no other locations.

The "economic" factor of losing US 101 or even narrowing the roadway down to one-lane of traffic would be catastrophic on a national, state and local level. US 101 is invaluable to national, state, and regional interests as it contains scenic, economic, emergency, and national defense attributes. US 101 is part of the National Highway System and Strategic Highway Network; is designated a Lifeline Route, Oregon Scenic Byway and Oregon Coast Bike Route per the Oregon Highway Plan; and is designated a National Scenic Byway. Users have depended on this highway since the 1930's and earlier.

(B)(i) – (iii): US 101 is a critical infrastructure necessary for the operations of the economy at a national, state and local level. US 101 has existed since the 1930's and the area is dependent upon the highway remaining functional. Resource zoned lands are located north, south and east of this area. A realignment of the highway inland would have impacts to resource zoned lands, necessitating a goal exception to Statewide Planning Goals 4 and/or 3; however, this site is not located within any resource zoned lands. It is worth noting that the highway existed long before any land use classifications were implemented, and any land use zone would be reliant on the use of the highway for access to the area. Regardless, the proposed embankment cannot "be reasonably accommodated on non-resource land that would not require an exception." The highway cannot be reasonably relocated, and the slide occurrence threatens the entire US 101 route as it provides a vital transportation link on a local, state and national level.

(B)(iv): The stabilization of Highway 101 is providing a public service by protecting a vulnerable public road. Therefore (B)(iv) is not applicable.

With regard to (C) the "alternative analysis" standard to demonstrate that there are not alternative locations for the proposed stone embankment 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, given the site-specific protections that are necessary and that are only afforded by the ocean shore embankment at these locations.

The public need is demonstrated through the economic costs of relocating the highway, including not only loss of tourism and scenic value but also the actual costs of moving the highway being prohibitively expensive. Given the importance of US 101 both economically and recreationally the need to fix this slide with measures that will prolong its life in its current alignment is crucial to the state. The goal exception is not for the benefit of a single property or user, it is for the benefit of everyone living and visiting Oregon. The economic impacts of closing US 101 would be felt on a local, state and national level. The actual costs of moving the highway or realigning this section, would be prohibitively expensive. Without the highway, the economy of the state would suffer and access to the beach would be extremely difficult. Until other measures are developed that would not cause adverse impacts this is the state's only option in order to keep the highway usable.

Failure of the highway could result in closure of US 101. Maintaining operation of this principal route is vital to federal and state highway objectives, and users of roadway. ODOT will do their due diligence in justifying a goal exception that balances public needs with the important assets and ecosystem services of the public beach by incorporating measures to mitigate visual impacts of the stone embankment by covering the stone with topsoil and seeding/mulching to create a vegetated slope. Fiber roll barriers (wattles) will also be installed, following the contours, at different locations along the slope, in order to aid in erosion control once the topsoil is placed.

ODOT finds that because the purpose of the proposed exception is the protection of the ocean-fronting highway on the subject properties, the stone embankment (i.e., beachfront protective structure) can only be placed on the beach fronting the road. Further, there are, by definition, no

alternative sites for the construction of a beachfront protective structure that would not be on a beach.

There are no practical, reasonable, factual, or evidentiary reason to evaluate additional alternative sites for the protective structure or to otherwise address "the location of possible alternative areas considered for the use that do not require a new exception" standard. The standards of OAR 660-04-0020 – Goal 2, Part II (c) 2(b) have been met.

(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:

Finding: A goal exception would be required for any section of Highway 101 that is subject to regulation by statewide planning Goal 18 if the highway needs structural shoreline armoring. While each individual section of roadway may have slightly different characteristics throughout Curry County, generally the impacts would be the same in each of the locations requiring a goal exception.

The Oregon Coast Highway (US 101) is a 363-mile highway located along the Oregon Coast from California to Washington. Given the importance of US 101 both economically and recreationally, the need to fix this slide with measures that will prolong its life is crucial to the state. US 101 is a vital economic and emergency lifeline that connects coastal communities and provides access to numerous coastal destinations for Oregonians and tourists. Many sections of this highway are highly susceptible to coastal hazards such as erosion, landsliding, wave action, storm surge, flooding, and rising sea levels. Structural mitigation of these susceptible areas is subject to the local goal exceptions process.

The age and coastal location of US 101 presents various factors that can accelerate deterioration of the highway, including, but not limited to:

<u>Construction Standards</u>: Highways, such as US 101, that were constructed during the 1930s to 1950s used steeper fill slopes which now makes them more susceptible to failure.

<u>Settlement</u>: Fill settlement over 50-70 years has caused pipe constrictions and separation, adversely affecting highway sections.

<u>Geology</u>: Previous highway construction with materials from highway cut slopes contained weathered sedimentary or volcanic rock that have degraded to clay materials in the marine environment.

<u>Subduction Zones:</u> According to the National Research Council, the Oregon coast is experiencing slight vertical uplift or sea level fall, with the southern coast of Oregon experiencing greater tectonic uplift than other areas of the coast; for example, an earthquake along the Cascadia subduction zone will suddenly raise the local sea level 1-2 meters.

<u>Climate</u>: The rate of sea-level rise will be greater in the future as a result of global warming. With the expected accelerated rates of sea level rise, the entire coast will, at some point, be submerging and experience significantly greater erosion and flooding impacts than at present day. Another long-term trend, important to the future coastal change and flood hazards along the Oregon coast, is the increasing intensity of major winter storms and generated wave heights creating further beach erosion.

Negative fiscal, environmental, and user impacts from emergency repairs can occur by not having time to thoroughly access variables and other repair options, often resulting in conservative design. Various costs include, but are not limited to:

Maintenance & Repair: Disruptions due to detours and major construction operations have been costly to the regional and local economies. In Region 2, Area 4, an estimated \$200,000 a year is spent maintaining US 101; however, when an emergency slide occurs, this cost can escalate to millions, depending on the nature of the slide.

<u>Environmental</u>: Emergency repairs can also result in more extensive environmental damage than 'preventive' structures at the same location. Emergency repairs often result in a larger footprint for the repair, and work that is performed in an emergency situation is often conducted under adverse climatic weather conditions, which entails greater risk to workers, and reduces the effective use of environmental controls to contain adverse residual effects on surrounding areas. A well thought out approach for preventative slide repair, along with continuing coordination with permitting agencies, will help minimize the need for these costly emergency repairs.

<u>User Impacts:</u> Emergency slide repair and ongoing maintenance activities can delay travel for users, including emergency services, tourists, and local residents.

The stone embankment will be placed at a steep 1.25 horizontal: 1.0 vertical, along a 120-foot section of slope, starting at the toe (edge of the ocean shore) and then built up to the roadway.

Steepening the embankment reduces the footprint on the beach. This is the steepest slope that could be built for this situation. Normally, a 1.5 horizontal: 1.0 vertical slope is used. However, given the sensitive nature of the ocean shore below, this slope has been steepened to 1.25:1. Every effort was considered to minimize any environmental and aesthetic impacts to the beach.

In addition, to mitigate for any visual impacts from the stone embankment, the stone embankment will be covered with a 6-inch layer of topsoil, and then planted/seeded/mulched, so that the outside of the repair will, ultimately, be vegetated. Fiber roll barriers (wattles) will also be installed, following the contours, at different locations along the slope, in order to aid in erosion control once the topsoil is placed.

The location of the slide is not moveable. The slide is occurring at M.P. 304.05 on US 101. The age and coastal location of US 101 presents various factors that can accelerate deterioration of the highway. The slide is occurring adjacent to the existing highway and is threatening the stability of the roadway. Either the highway fails and is closed to all users resulting in highway debris on the ocean shore along with economic and recreational impacts.

The relocation of US 101 to an inland route is not feasible since no other north/south corridors are realistic candidates. Creating a new alignment would have other environmental impacts as outlined in other parts of this application.

The goal exception is not for a single property or user, it is for the benefit of everyone living in and visiting Oregon. Without the highway, access to the beach would be extremely difficult. Until other measures are developed that would not cause adverse impacts, this is the state's only option in order to keep the highway usable at this time.

The no-build alternative would result in either the highway being permanently closed with the asphalt and other debris on the ocean shore. The standards of OAR 660-04-0020 – Goal 2, Part II (c) 2(c) have been met.

(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.

Finding: US 101 (The Oregon Coast Highway) is a 363-mile highway located along the Oregon Coast from California to Washington. The surrounding area relies on US 101 to provide access to and through the Oregon Coast. Built in the 1920's and 1930's, US 101 is invaluable to national, state, and regional interests as it contains scenic, economic, emergency, and national defense attributes. US 101 is part of the National Highway System and Strategic Highway

Network; is designated a Lifeline Route, Oregon Scenic Byway and Oregon Coast Bike Route per the Oregon Highway Plan; and is designated a National Scenic Byway.

Failure of the highway could result in closure of US 101. A stone embankment at this location is currently the most feasible option to preserve and keep the highway functioning. Other alternatives to the stone embankment would result in a temporary fix as environmental factors would continue to deteriorate the roadway. The stone embankment is the only known solution at this time for this type of slide.

Maintaining operation of this principal route is vital to federal and state highway objectives, and users of roadway. ODOT will do their due diligence in justifying a goal exception that balances public needs with the important assets and ecosystem services of the public beach by incorporating measures to mitigate visual impacts of the stone embankment. The stone embankment will be covered with topsoil and seeding/mulching to create a vegetated slope. Fiber roll barriers (wattles) will also be installed, following the contours, at different locations along the slope, in order to aid in erosion control once the topsoil is placed.

Given the importance of US 101 both economically and recreationally the need to fix this slide with measures that will prolong its life is crucial to the state. The goal exception is not for a single property or user it is for the benefit of everyone living and visiting Oregon. Without the highway access to the beach would be extremely difficult. Until other measures are invented that would not cause adverse impacts this is the state's only option in order to keep the highway usable. The standards of OAR 660-04-0020 - Goal 2, Part II (c) 2(d) have been met.

OAR-660-004-0022 (12) – Reasons Necessary to Justify an Exception Under Goal 2 - Beachfront Protective Structures – An exception may be taken to the requirements of Goal 18, implementation requirement 5 to permit beachfront protective structures for the primary purpose of protecting and stabilizing ocean-fronting public roads and highways that were developed on January 1, 1977. Only a public body that owns, operates, or maintains the public roadway may apply for an exception under this section. Reasons that justify why the requirements of Goal 18, implementation requirement 5 should not apply shall include the following:

(a) Justification that the beachfront protective structure will provide a significant public benefit by protecting and stabilizing the ocean-fronting public road or highway.

Finding: An elevated risk for severe accidents is present at this site due to the ongoing deformation of the roadway. Expected sudden movement of the slide could result in severe injury or fatality to a motorist traversing the highway at this location. The proposed buttress and shear key is designed to support the roadway prism of US 101 at this location. An ongoing landslide at the site is displacing the highway at a rate that presents a significant risk to highway users while imposing an excessive cost and effort to maintain for safe travel. The longer this landslide is allowed to progress, the higher the likelihood of catastrophic failure which would result in the soil and rock material falling onto the beach below the highway, and leaving behind

a large chasm that would trap a vehicle. The depth of the chasm would increase the severity of the crash and the unstable conditions would impair rescue efforts.

The shear key and buttress constructed from stone embankment material provides the most costeffective method for mitigating this landslide while at the same time, having the least impact with respect to the natural environment, accessibility, visual impact, and carbon neutrality. Once constructed, this feature will support the roadway into the future with minimal future maintenance requirements, user, environmental, or visual impacts.

The Oregon Coast has fewer alternative routes compared to other parts of Oregon due to physical barriers created by the Oregon Coast Range. Closures have the potential to require considerable out of direction travel to reach planned destinations. The South Coast Slides Study looked at detours for known landslides. One slide from the Study, Retz Creek South Slide US 101 M.P. 304.72 , is located just over .5 mile from the subject slide shows the community impact of the highway closing and that it is the most impacted detour route within the Study area, increasing travel time from .5 hour to 5.5 hours. The Study also examines alternate routes to OR 42 and I-5 and affirms that there are no viable options.

ODOT could consider rerouting US 101 away from the ocean beach shore, thus avoiding the potential need for beachfront protective structures in this location, however as shown in the DOGAMI SLIDO (State Landslide Inventory and Database for Oregon) map any inland route will encounter slide areas not to mention resource zoned lands that would require an extensive analysis for Statewide Planning Goals 3 and/or 4 for farm and forest impacts. Rerouting the highway inland from the beach would mean constructing a highway through either sensitive wildlife habitat or through steep landscapes as geologically unstable as the areas adjacent to the ocean. In addition, the economic costs of relocating the highway, including not only loss of tourism and scenic value but also the actual costs of moving the highway, would be prohibitively expensive. Realigning US 101 for this one-mile section is estimated to cost 23.2 million and rerouting using an alternate route is estimated to cost 96.6 million.

In February of 2022, ODOT's Transportation Planning Analysis Unit (TPAU) completed an analysis to provide an estimate of the user costs associated with the closure of known landslides on US 101. One of these slide locations is approximately six miles south of the subject slide and is known as the Arizona Inn slide, M.P. 310. This analysis is a fair comparison of what the economic impact would be for a road closure at the subject slide because the detour route would be the same

US 101 is a critical infrastructure necessary for the operations of the economy at a national, state and local level. US 101 has existed since the 1930's and the area is dependent upon the highway remaining functional. Given the importance of US 101 economically and recreationally the need to fix this slide to prevent an injury or fatality with measures that will prolong its life is crucial to the state. Consideration was made regarding the slope to minimize impacts to the ocean shore as well as for accessibility. US 101 is part of the National Highway System and Strategic Highway Network; is designated a Lifeline Route, Oregon Scenic Byway and Oregon Coast Bike Route per the Oregon

Highway Plan; National Scenic Byway; and part of the Oregon Coast Trail. US 101 is a vital economic and emergency lifeline that connects coastal communities and provides access to numerous coastal destinations for Oregonians and tourists. Much of US 101 runs along high cliffs, beaches, and State Park lands, including pristine natural resource areas. Many sections of this highway are highly susceptible to coastal hazards such as erosion, land sliding, wave action, storm surge, flooding, and rising sea levels. Limited space between the roadway and the shoreline reduces the maintainability of the roadway and restricts repair or protection options. Detours for this highway are very limited due to geography and out of the way travel. Detours often result in a narrow one-lane temporary road through the slide area. The standards of OAR 660-04-0022(12)a have been met.

(b) Feasibility Assessment: Evaluation of alternatives to a beachfront protective structure that would not require an exception and that shows there are no reasonable alternatives to the proposed activity or project modifications that would better protect public rights, reduce or eliminate the detrimental effects on the ocean shore, or avoid long-term costs to the public. This feasibility assessment shall describe why alternatives are not achievable, or if tried, why they were not successful. Relevant factors may include topographic limitations, environmental constraints, limits of area for relocation, or cost. If, and only if, the feasibility assessment does not identify a viable option that would not require an exception, then the assessment shall also include a description and justification of the preferred erosion mitigation technique that does require an exception. This feasibility assessment shall evaluate, at a minimum, the following alternatives:

(A) Hazard avoidance options, including removing, moving, or relocating the road or highway;

Finding: Several alternatives were considered for landslide avoidance in this location. Many landslides affect this highway segment and a project to realign the roadway to avoid all of them at once is an attractive option from a potential cost-savings standpoint. However, the steep topography makes any amount of realignment very costly. The high, steep slopes on the east side of the highway would require a large quantity of earthwork to accommodate a new alignment. These slopes are themselves subject to landslide movements and the realignment would necessitate additional measures for stabilization. Other large historic or ancient landslides are also known to exist in this area that could be triggered by earthwork construction. Essentially, more new landslides could be triggered than the number of slides avoided while at the same time spending significant funds on a very large, earthworks project that would have a very high environmental impact. Realigning the highway to the west and placing it on a viaduct structure would be cost-prohibitive. The viaduct structure footings would be founded on the beach and would need protection from wave impact and scour. The structure would also have severe visual impacts.

Relocation of US101 has been considered at this and various other locations to avoid landslide problems. In every evaluation, the cost for relocation is prohibitive and the environmental impact

trade-off is very unfavorable on the side of the relocation. The cost and impact for repairing landslides in-situ can be high, but the costs and impacts for relocating a highway to some new alignment inland is several orders of magnitude higher. Impacts to the shoreline would be traded for significant environmental disruption at the new location that would be on previously undeveloped land. These new alignments are also subject to the same landslide problems as the current locations near the shoreline. The conditions that facilitate landslides; steep slopes, weak soil and rock, heavy rainfall, and unfavorable geology that are found at the existing alignment would also be encountered at whatever new alignment is chosen. Landslides are prevalent all throughout the coastal area.

The ODOT South Coast Slides Study produced prospectus sheets for specific slide areas. The prospectus sheet shows that a land slide causing a partial or full road closure at Retz Creek South Slide (US 101 M.P. 304.72) located just over .5 mile south of the subject slide would impact an estimated 1,000 commuters; an estimated 2,400 to 5,000 daily trips, including 560 to 1,000 freight trips; tourists, the Coastal Express transit route, and emergency services. And that using 1-5, via OR 42 and US 199, as a detour route would increase travel time from approximately 0.5 hours to 5.5 hours. The most impacted trip for the southern Oregon Coast is between Port Orford and Gold Beach.

US101 is the only through-going route that serves coastal Coos and Curry Counties, and the only feasible route for passenger cars and commercial motor vehicles. There are no alternatives to Highway 101 to serve the transportation needs along the Southern Oregon Coast. At the same time, there are no East-West routes to serve these communities. Removing US101 in this location would preclude surface transportation between Port Orford and Gold Beach and isolate the communities in between. Access to the coastline and State Parks would also be greatly diminished.

No alternative sites can be considered because of the nature of the slide affecting the highway at this site. The location cannot be changed. The embankment is failing and needs to be stabilized in order to preserve the highway. The only other alternatives concern the types of embankments. Other types of embankments were considered but ultimately rejected due to the nature of the embankment material and geography of working in this area.

ODOT has actively been researching effective alternatives to beachfront protective structures on several high-risk sites and preparing conceptual designs for a range of coastal protection options in an effort to comply with Goal 18. The challenge is that even with the sites identified as "highly vulnerable" areas of concern for erosion and wave attack along the coastal highway new sites are continuously emerging. Oregon is known to have one of the most active and dynamic coastal landscapes in North America. US 101 is particularly vulnerable to rising sea-levels, increasing storm frequency and intensity, storm surge, and wave scour that cause coastal bluff erosion and trigger slides. Wave intensity has increased on the Oregon coast and impacts from storm surge, bluff and dune erosion, and coastal flooding has become more frequent and severe.

Sea levels are rising globally and are projected to rise through this century. Funding to study the entire Oregon coast is limited and result in piecemeal fixes.

Improvements to US 101 are limited due to environmental considerations, topography, and the risk of creating new landslides or activating existing landslides. Rising seas and extreme coastal weather events pose significant risks for the safety, reliability, and effectiveness of ODOT infrastructure and operations along the coast. Coastal erosion is particularly sensitive to the effects and variability of climate drivers, including storm frequency and intensity, wave runup and scour, current and future projections of precipitation, as well as sea level rise.

ODOT could consider rerouting US 101 away from the ocean beach shore, thus avoiding the potential need for beachfront protective structures in this location, however as shown in the DOGAMI SLIDO (State Landslide Inventory and Database for Oregon) map any inland route will encounter slide areas not to mention resource zoned lands that would require an extensive analysis for Statewide Planning Goals 3 and/or 4 for farm and forest impacts. Rerouting the highway inland from the beach would mean constructing a highway through either sensitive wildlife habitat or through steep landscapes as geologically unstable as the areas adjacent to the ocean. In addition, the economic costs of relocating the highway, including not only loss of tourism and scenic value but also the actual costs of moving the highway, would be prohibitively expensive. Realigning US 101 for this one-mile section is estimated to cost 23.2 million and rerouting using an alternate route is estimated to cost 96.6 million.

(B) Non-structural stabilization methods (e.g., foredune enhancement, beach nourishment, vegetation plantings, cobble berms)

Finding: The standard ODOT design procedure for all projects includes an evaluation of potential solutions with emphasis on their safety, cost, feasibility, effectiveness, and environmental impacts. Potential solutions evaluated range from "Do Nothing" to the highest level of service. Every conceptual measure considered receives an evaluation with respect to these criteria in combination with an analysis of constructability, service life, and lifecycle cost.

"Environmental Stabilization" measures such as beach nourishment, foredune enhancement, and cobble berms (dynamic revetments) are always considered first when evaluating measures to slow landslide movements along the coastline. These are generally a low-cost, low-impact solution when they can be applied. At this location, neither method is considered practical or effective. No foredune exists at this location so there is not a feature to enhance, and the rocky beach area is largely starved for sand already. Any nourishment would be eroded before it's effect could be realized. Cobble berms were considered as slightly more beneficial than beach nourishment as their effect would last longer, but their overall contribution to slope stability is negligible for the state of failure in the existing landslide.

Construction of these less intrusive environmental stabilization measures at this site would be challenging, and probably detrimental overall. Access to the beach to construct these measures would be difficult and would necessitate the construction of an access point from the slope

above. Such construction would be equally impactful as the existing landslide as a considerable amount of earthwork would take place in the marginally stable bluff area. Active equipment on the beach to place these features introduces additional risk for environmental degradation from ground disturbance or spills. Whether an access point is used to move material into place or material is end-dumped from the highway shoulder, equipment on the beach would be necessary. End-dumping also introduces an unacceptable risk to safety during construction. This is always a last resort during normal construction, but at this site the slope stability carries too much potential for accidents as loaded trucks wouldn't be supported by the weak materials comprising the bluff crest.

Use of vegetation and Biostabilization measures were evaluated as long and short-term mitigations for the site. Vegetation, even when coupled with more positive, rigid vegetative features would not provide enough support to reduce slide movement or improve overall stability. This evaluation considered ideal conditions for plant establishment and growth. However, the conditions at this site are unlikely to support the type of deep-rooted vegetation necessary for shallow slope stabilization. The soil forming the slopes in this area is comprised of saprolitic materials derived from the decomposed, highly sheared bedrock. These soils are barren and won't support plant growth without substantial and continued soil amendments which would be impractical on the steep slopes. Ground movement is also too rapid to allow root growth.

This is an active, moving landslide mass that will not stop moving until the driving forces are in equilibrium with the resisting forces. When a landslide reaches this state, significant earthwork or structural repair is necessary to prevent failure. Nonstructural or environmental stabilization measures intended to slow erosion would have no effect on slope stability apart from slowing bluff erosion that would accelerate landslide movement. Landslide movement at this site has already accelerated to the point that failure is imminent. Reducing the rate of bluff erosion would have a negligible effect on overall stability at this point.

(C) Site modifications for the control of erosion such as vegetation management, drainage controls, lope regrading, and structure reinforcements; and

Finding: Alteration of the site with respect to slope geometry, erosion control, drainage control and enhancement, vegetation applications, and structural reinforcement has been considered if not already incorporated into the design. Vegetation and surficial drainage measures have already been implemented. Erosion control measures to prevent soil loss in the form of straw bales and wattles in conjunction with seeding and mulching of the exposed soils to the degree practicable have negligible affects. Surface water control has been enhanced by channeling runoff away from the open landslide scarps and into the previously established drainage areas. These measures have had a modest effect on landslide movements but cannot arrest the ongoing movement.

Additional surface water control has been considered via the use of trench drains to intercept the near-surface groundwater, curbs, sandbags, and dikes to divert surface water, and horizontal

drains to extract deeper groundwater. The deformation caused by ongoing slide movement precludes installation of groundwater control measures as the piping installed is soon constricted and subsequently sheared off by ground movements. Asphalt curbs were installed by ODOT Maintenance and are maintained as much as possible to prevent additional surface water from entering the slide mass through the scarps and fissures formed in the slide body. These features are also subject to deformation and failure with ongoing movement.

Site geometry is highly constrained by the steep bluff on the West side of the highway and the high, steep slopes on the East side. The steep slopes contribute to stability problems at this location. Regrading these slopes to a more stable angle is mostly impractical due to the amount of earthwork necessary to achieve these angles. A cut slope on the East side of the highway would have to be 1.5H:1V or flatter for global stability. This would result in an exceedingly high slope with a large surface area of bare mineral soil that would be highly susceptible to surface erosion. Due to the soil composition, Biostabilization would be ineffective. The highway at this location already has a substandard width according to AASHTO (American Association of State Highway and Transportation Officials) guidelines so any slope flattening to the West would require filling toward the ocean. The fill slope would need to be 2H:1V or flatter if constructed from common borrow, and the toe would require riprap protection. The proposed stone embankment buttress can be constructed at an angle of 1.25H:1V so the encroachment on the beach is lessened.

Structural reinforcement via soil nailing, Mechanically Stabilized Earth (MSE) walls, and Reinforced Soil Slopes (RSS) were evaluated for use at this site. A soil nail feature was recently installed adjacent to the North side of the existing slide. The performance of this feature is questionable with visible cracking in the shotcrete face and the formation of a void behind the shotcrete. These structures would need to extend the full slope height to be effective in this material which would expose the steel members directly to corrosion, and the shotcrete to wave action at certain times of the year. Soil nails are generally too small to be constructed with the necessary sacrificial section for the corrosive marine environment. Shotcrete tends to be very brittle (since it has fiber reinforcement rather than higher-strength rebar) and cannot withstand very much direct impact. The depth of the slide here is also an obstacle to using reinforced walls or soils. The high, narrow area impedes this type of construction, creates an unsafe work environment, and would require full highway closure during construction.

Driven sheetpile, soldier pile, or pile-supported cast-in-place (CIP) walls have also been considered. Driven sheetpile walls have been ruled out since the piles wouldn't penetrate far enough into the rock to provide the necessary lateral support. Soldier pile and other pile supported walls are possible solutions for the site but are very costly, have a reduced lifespan in the marine environment, require full and prolonged highway closure during construction, and are out of context with the surrounding environment.

Alteration of the site has been considered if not already incorporated into the design. Vegetation and surficial drainage measures have already been implemented. Erosion control measures to

prevent soil loss in the form of straw bales and wattles in conjunction with seeding and mulching of the exposed soils to the degree practicable have negligible affects. Surface water control has been enhanced. The highway is now threatened and will erode away if measures are not taken to protect it.

(D) Bio-engineered structures (e.g., clay burritos and vegetated terraces).

Finding: These features were evaluated by themselves and in conjunction with other environmental stabilization methods. Common Biostabilization methods such as root-reinforced soil slopes, log crib walls, and vegetated terraces were reviewed. These methods generally have the same drawbacks as the structural solutions but don't provide the stability. They are also just as constrained by the site geometry. In this regard, significant grading would be needed which would in turn, require full, lengthy highway closure. US 101 is a vital economic and emergency lifeline that connects coastal communities and provides access to numerous coastal destinations for Oregonians and tourists. These methods also place workers at higher risk due to the amount of direct labor necessary for construction. Sourcing the materials is also an impediment for some of these techniques because sources of specific species for vegetated walls are difficult.

Most of the material placement for this type of construction is "by hand" which triggers trenching and shoring requirements. We can't place workers in any excavation unless wall stability is mitigated. In this case the back slope angles would need more width at highway grade as the vegetated/biostabilized structure is built. If we were to use a vegetated terrace or similar structure, then we would need much more mass to retain the landslide which would require a wider structure that would project out from the existing slopes. Biostabilization methods generally have the same drawbacks as the structural solutions but don't provide the stability.

660-04-0022(12) b continued: If, and only if, the feasibility assessment does not identify a viable option that would not require an exception, then the assessment shall also include a description and justification of the preferred erosion mitigation technique that does require an exception.

Finding: Relocating US 101 would not require a Goal 18 exception. In every evaluation, the cost for relocation is prohibitive and the environmental impact trade-off is very unfavorable on the side of the relocation. The cost and impact for repairing landslides in-situ can be high, but the costs and impacts for relocating a highway to some new alignment inland is several orders of magnitude higher. Impacts to the shoreline would be traded for significant environmental disruption at the new location that would be on previously undeveloped land. These new alignments are also subject to the same landslide problems as the current locations near the shoreline but would not require an exception to Goal 18. Highway 101 is a vital economic and emergency lifeline that connects coastal communities and provides access to numerous coastal destinations for Oregonians and tourists. The economic costs of relocating the highway, including not only loss of tourism and scenic value but also the actual costs of moving the highway, would be prohibitively expensive.

The tradeoff of relocating US 101 would that it would not require a Goal 18 exception but would have far reaching detrimental economic and recreational effects to the entire Oregon Coast. Closing any portion of US 101 has a direct impact to all users of the highway whether it be recreationally or economically. For the coastal communities it is akin to cutting off a lifeline. The standards of OAR 660-04-0022(12)b have been met.

- (c) Demonstration that the proposed beachfront protective structure will:
 - (A) Minimize visual impacts;

Finding: The highway itself is a National Scenic Byway. Without the roadway the coast and beach would be very difficult to access. To balance the need to protect the roadway, which is itself a scenic benefit, and the need to minimize visual impacts for beach goers that would otherwise not be able to access the beach without the road is, to say the least, tricky. The federal government spends millions of dollars preserving US 101 that provides access (amongst other noted attributes) for the preservation of this important highway. The final grade of the stone embankment allows the bare rock to be vegetated so that it will blend in with the surrounding environment, while at the same time preserves this important infrastructure. Visual impacts will be addressed by covering the stone embankment with topsoil and seeding/mulching to create a vegetated slope. This standard is met.

(B) Maintain access to and along the ocean shore, including access to the Oregon Coast Trail;

Finding: The proposed grade of the rock embankment will allow for access to the beach below, that would otherwise be very difficult given the loose material and the steepness of the existing embankment. The proposed 1.25:1 slope angle is traversable by some people whereas other methods such as retaining walls or vegetated structures would make the beach completely inaccessible from the roadside. The existing embankment is unstable and could give way to someone trying to access the beach. Using natural rock products reduces the carbon footprint of the mitigation as it is constructed without concrete or steel. This section of the Oregon Coast Trail is located on the highway. The Rocky Point Beach parking lot is south of the slide at M.P. 304.21 and provides beach access via a very narrow trail that terminates on the beach just over 800 feet south of the slide. This area has no amenities and is described as a remote, out-of-the way rocky beach with a tiny, unsigned parking area. Just north of the slide at M.P 304 is a pullout for viewing. The embankment is quite steep, there does not appear to be any trails to the beach. For those who want to access the beach the grade of the stone embankment would be less than the current grade. The Oregon Coast Trail is located on US 101 at the subject location. This standard is met.

(C) Minimize negative impacts on adjacent property;

Finding: It is in the best interest of the state to not negatively impact adjacent property as US 101 runs the entire length of the Oregon Coast. ODOT does not want to incur more

problem areas on the coastline as their obligation is to preserve the public facility. This standard is met.

(D) Minimize adverse impacts on water currents, erosion, and accretion patterns;

Finding: Rising seas and extreme coastal weather events pose significant risks for the safety, reliability, and effectiveness of ODOT infrastructure and operations along the coast. ODOT has actively been researching effective alternatives to beachfront protective structures on several high-risk sites and preparing conceptual designs for a range of coastal protection options in an effort to comply with Goal 18. The challenge is that even with the sites identified as "highly vulnerable" areas of concern for erosion and wave attack along the coastal highway new sites are continuously emerging. Oregon is known to have one of the most active and dynamic coastal landscapes in North America. US 101 is particularly vulnerable to rising sea-levels, increasing storm frequency and intensity, storm surge, and wave scour that cause coastal bluff erosion and trigger slides. Wave intensity has increased on the Oregon coast and impacts from storm surge, bluff and dune erosion, and coastal flooding has become more frequent and severe. Sea levels are rising globally and are projected to rise through this century. Funding to study the entire Oregon coast is limited and result in piecemeal fixes.

Coastal erosion will not stop. The roadway is threatened. A rock embankment is the only fix at this particular location. Normally, a 1.5 horizontal: 1.0 vertical slope is used. However, given the sensitive nature of the ocean shore below, this slope has been steepened to 1.25:1. The stone embankment will be covered with a 6-inch layer of topsoil, and then planted/seeded/mulched, so that the outside of the repair will, ultimately, be vegetated. Fiber roll barriers (wattles) will also be installed, following the contours, at different locations along the slope, in order to aid in erosion control once the topsoil is placed. This standard is met.

(E) Account for the impacts of local sea level rise and climate change for the design life of the structure; and

Finding: A well-designed stone embankment can provide protection from waves. They are efficient at absorbing wave energy and can be completed with available funds. Some of the oldest coastal structures in the world are rubble-mounds. They have the inherent ability to survive storms in excess of their design. This ability to continue to provide some function even after experiencing storms that are more severe than their design storm is valuable in a coastal environment where costs often preclude selection of extremely rare design storms. It is in the best interest of the state to select an option that will best meet the needs of the beach and the highway. The rock embankment should provide stability for the road while minimizing impacts to the ocean shore. This standard is met.

- (F) Avoid or mitigate long-term and recurring costs to the public. As used in this subsection, "mitigate" means the reduction of adverse effects of a proposed beachfront protective structure on beach habitats and beach access by evaluating, in the following order:
 - (i) Avoiding the effect altogether by not taking a certain action or parts of an action;
 - (ii) Minimizing the effect by limiting the degree or magnitude of the action and its implementation;
 - (iii) Rectifying the effect by repairing, rehabilitating, or restoring the affected ocean shore area:
 - (iv) Reducing or eliminating the effect over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures:
 - (v) Compensating for the effect by creating, restoring, enhancing, or preserving beach habitat, beach access to and along the ocean shore, or both, and within the same general vicinity of the proposed beachfront protective structure. Compensation should consider the Oregon Parks and Recreation Department's Ocean Shore Management Strategy.
 - (d) Assessment of how the exception requirements of OAR 660-004-0020 are met.

Finding: This finding is met in the documentation and analysis provided in the findings of AOR 660-04-0022(12)a-d.

Statewide Planning Goal 1 – Citizen Involvement

Finding: Curry County has combined the Citizen Committee for Involvement (CCI) requirement set forth in the Comprehensive Plan with the Planning Commission (PC) for the purpose of providing citizen involvement opportunities for this Comprehensive Plan change. Public notification of the PC/CCI hearing for this application was published in the local newspapers of record. Public notification and a public hearing will also occur during the review process before the Board of Commissioners (BOC). The Citizen Involvement requirements of Goal 1 have been met.

Statewide Planning Goal 2 - Land Use Planning

Finding: Goal 2 defines a "minor change" in the comprehensive plan as one which does not "... have a significant effect beyond the immediate area of the change, should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established." By adopting the plan amendment procedure, Curry County has established an "implementation measure" as that term is defined by Statewide Planning Goal 2. The County has established an acknowledged land use planning process and policy framework under which the Applicants' proposal has been reviewed. That process and framework assures an adequate evidentiary foundation for the decision. The

Comprehensive Plan change and Zoning Code Amendment required will be conducted in accordance with Section 2.300, Legislative Hearings process of the CCZO. The request for exceptions will properly follow the Goal 2 exception process. The proposal is consistent with Goal 2.

Statewide Planning Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources

Finding: Goal 5 requires the County to identify, inventory and provide protective measures in its land use code, if appropriate, for specific resources. The project is in an area of scenic views, open spaces and natural resources. The Conservation Zone overlay requirements are addressed and appropriate conditions will be applicable to this application that are set forth in the recommendations section of this report. With conditions, the proposed project will not impact Goal 5 resources.

Statewide Planning Goal 6 - Air, Water, and Land Resources Quality

Finding: Goal 6 requires the maintenance and improvement of the quality of the air, water, and land resources of the state. The integrity of the water and land resources at the site will be maintained by employing erosion control measures that will protest the public's investment in the highway. There is no anticipated change in air quality as a result of this project. The quality of air, water, and land resources of the project site will be maintained. Without the project and the maintenance of Hwy 101 travel could require up to an additional five (5) hours of driving time to go around the slide area. This would substantially increase the impacts to air quality. The proposed stone embankment is consistent with Goal 6.

Statewide Planning Goal 7 - Areas Subject to Natural Disasters and Hazards

Finding: Goal 7 requires the protection of life and property from natural disasters and hazards. The slide is a natural hazard that could potentially cause harm to the traveling public on US 101 as well as to the ocean shore if the pavement collapses. The proposed stone embankment will stabilize the roadway and embankment. Requirements of protecting life and property from natural disasters and hazards will be achieved by installing the stone embankment to stabilize the existing embankment. The proposed stone embankment is consistent with Goal 7.

Statewide Planning Goal 8 - Recreational Needs

Finding: "To satisfy the recreational needs of the state and visitors." US 101 is a part of the State of Oregon Bicycle Route System and is the most heavily traveled bicycle route in the state. The stone embankment will allow for this section of highway to be fixed for all users. US 101 provides access to the Oregon Coast. In order to preserve this route in its entirety this section of the highway must be preserved. Recreation is one of the primary economic drivers of the economy of Curry County. Tourists drive from the state's urban areas (Portland, Salem, Eugene) to fish, enjoy the beaches, hike, kayak, camp, etc. The loss of Hwy 101 would require a minimum of an additional five (5) hour drive time for most out of town recreation users and likely deter them from recreating in Curry

County altogether. The proposed project to fix Hwy 101 and keep the road open for recreation users meets the requirements of Goal 8.

Statewide Planning Goal 9 - Economic Development

Finding: "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's cities." This goal addresses the supply of land for industrial and commercial land uses. It is not specific, nor applicable to a public works project such as the stone embankment. That being said there are substantial economic impacts that would result should US 101 be closed. Goal 9 is not applicable.

Statewide Planning Goal 11 - Public Facilities

Finding: "To plan and develop timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." Although transportation is addressed under Goal 12 the installation of the rock embankment is to preserve a public facility, US 101. The rock embankment will protect US 101, a public facility, from future embankment erosion and potentially catastrophic damage to the highway in this area. Without the highway access to the coast would be difficult at best and most likely prohibited for most potential travelers due to the significant cost and time required to take alternative routes to get to a coastal destination in Curry County. The proposed project is consistent with Goal 11.

Statewide Planning Goal 12 - Transportation

Finding: 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). The project goal is to continue the function of the Oregon Coast Highway in this area and to meet existing and future transportation needs for statewide, regional, and local users while respecting, incorporating, and enhancing the unique characteristics of the coastal corridor. The stone embankment will protect US 101, a public facility, from future embankment erosion and potentially catastrophic damage to the highway in this area. Without the highway access to and along the coast would be prohibitive. Not allowing the stone embankment would "significantly affect" the existing highway and be catastrophic to the constituents that live and work in Curry County. The stone embankment is consistent with Goal 12.

Statewide Planning Goal 17 - Coastal Shorelands

Finding: "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 shore land 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 shore lands." Goal 17 directs local governments to identify coastal shorelands and to adopt comprehensive plan and zoning provisions consistent with the Goal. Curry County has completed this. US 101 was built, in the 1920's and 1930's, well before the planning rules and laws. It is invaluable to national, state, and regional interests as it contains scenic, economic, emergency, and national defense attributes. US-101 is part of the National Highway System and Strategic Highway Network; is designated a Lifeline Route, Oregon Scenic Byway, and Oregon Coast Bike Route per the Oregon Highway Plan; and is designated a National Scenic Byway. The highway provides a public benefit to access the coastal shorelands. It makes the most economic sense to fix the highway in its current location while keeping environmental impacts to a minimum. While Goal 17 is not applicable it still complies.

Statewide Planning Goal 18 - Beaches and Dunes

Finding: "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." This proposal is requesting an exception to the recently amended Goal 18 rule that pertains to the protective structures to stabilize ocean-fronting public roads and highways. Under the amended Goal 18 rule US 101 is eligible for consideration of an exception to Goal 18. This application addresses the reasons exceptions process and the Oregon Administrative Rule (OAR) 660-004-0022(12) (a-d) lists the criteria to be addressed for a goal exception. The analysis and findings provided in this staff report and ODOT's application for an exception to Goal 18 provide the documentation required to meet all of the applicable standards of OAR 660-004-0022.

Curry County Comprehensive Plan Policy 1.4 – Citizen Involvement. Curry County advocates and encourages citizen involvement in comprehensive plan development and revision by holding public input meetings in various local communities of the county where feasible.

Finding: Curry County has combined the Citizen Committee for Involvement (CCI) requirement set forth in the Comprehensive Plan with the Planning Commission (PC) for the purpose of providing citizen involvement opportunities for this Comprehensive Plan change. Public notification of the PC/CCI hearing for this application was published in the local newspapers of record which invites citizens in all three geographic areas of the county (Brookings, Gold Beach and Port Orford) to provide input and participate in the public process for this application. Public notification and a public hearing will also occur during the review process before the Board of Commissioners (BOC). The Citizen Involvement requirements of Policy 1.4 have been met.

Curry County Comprehensive Plan Policies 2.2 & 2.3 – Land Use Planning. Policy 2.2 Curry County has implementing ordinances to carry out the intent of the plan which are administered either by the Board of Commissioners or Planning Commission in a public hearing or administratively by the Planning Director after public notice. Policy 2.3 Curry County shall make all land use decisions on a factual basis with findings of fact and conclusions of law supporting each decision.

Finding: The Curry County Zoning Ordinance sets forth a Legislative Process (CCZO Section 2.300) to review and conduct public hearings before the Planning Commission and the Board of Commissioners for this proposed Goal 18 exception, Comprehensive Plan Amendment and Zoning Code Amendment. The factual basis for these proceedings is contained within ODOT's application and the staff report prepared by the Planning Director (administrative). These documents provide the analysis of the application, findings of facts and conclusions of law required. The Land Use Planning requirements of Policies 2.2 and 2.3 have been met.

Curry County Comprehensive Plan Policy 12.8.14 & 18 – Transportation. Policy 12.8.14 Operation, maintenance, repair, and preservation of existing transportation facilities shall be allowed without land use review, except where specifically regulated. Policy 12.8.18 Curry County shall protect the function of existing or planned roadways or roadway corridors through the application of appropriate land use regulations.

Finding: Historically, operations, maintenance, repair and preservation of road projects in Curry County have not been the subject of land use review. Many road projects have required permits from other agencies to protect sensitive environmental and archeological resources but have not required local land use review. The requirement that is the subject of this land use review is the placement of structural shoreline arming along the beach which has been done in Curry County in accordance with this transportation policy exemption which was last reviewed and adopted by the Board of Commissioners in September 2017.

However, in September 2022 DLCD revised the rules for Goal 18 – Beaches and Dunes to add a new reasons exception to the local goal exception process specific to public, ocean-fronting roads to clarify that stone embankments on the beach cannot be exempt from the local or state land use review. This action clarifies that consistent with Comprehensive Plan Policies 12.8.14 & 18, the action is now regulated and requires land use review. Therefore, the analysis herein, ODOT's application and the administrative staff report have been prepared to address this requirement for a land use review of the proposed transportation project. This policy is met.

Curry County Comprehensive Plan Policy 15.10.12 – Plan Policies Relating to Coastal Shorelands – Beaches and Dunes. Curry County will permit beach front protective structures only under provisions of ORS 390.605 to 390.770 for development existing prior to January 1, 1977. 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 construction on active dune, conditionally

stable dune or interdune areas has been approved. Where allowed protective structures shall be required to receive a review by all affected agencies and local review by the County to determine that they a) minimize visual impact, b) do not impair beach access, c) do not create negative impact on adjacent property, and d) do not create long term or recurring costs to the public.

Finding:

Historically, operations, maintenance, repair and preservation of road projects in Curry County have not been the subject of land use review. Many road projects have required permits from other agencies to protect sensitive environmental and archeological resources but have not required local land use review. The requirement that is the subject of this land use review is the placement of structural shoreline arming along the beach which has been done in Curry County in accordance with this transportation policy exemption which was last reviewed and adopted by the Board of Commissioners in September 2017.

However, in September 2022 DLCD revised the rules for Goal 18 – Beaches and Dunes to add a new reasons exception to the local goal exception process specific to public, ocean-fronting roads to clarify that stone embankments on the beach cannot be exempt from the local or state land use review. This action clarifies that consistent with Comprehensive Plan Policies 12.8.14 & 18, the action is now regulated and requires land use review. Therefore, the analysis herein, ODOT's application and the administrative staff report have been prepared to address this requirement for a land use review of the proposed transportation project. This land use review includes an analysis and conditions herein to provide that the structural armoring will a) minimize visual impact, b) do not impair beach access, c) do not create negative impact on adjacent property, and d) do not create long term or recurring costs to the public. This policy is met.

Curry County Zoning Ordinance Section 2.300 2b – Legislative Hearings. A legislative hearing will be conducted for all types of amendment applications listed in Section 2.300(1). Notice of the hearing will be prepared in accordance with ORS 215.503, if applicable.

Finding:

Curry County has combined the Citizen Committee for Involvement (CCI) requirement set forth in the Comprehensive Plan with the Planning Commission (PC) for the purpose of providing citizen involvement opportunities for this Comprehensive Plan change. Public notification of the PC/CCI hearing for this application was published in the local newspapers of record which invites citizens in all three geographic areas of the county (Brookings, Gold Beach and Port Orford) to provide input and participate in the public process for this application. Public notification and a public hearing will also occur during the review process before the Board of Commissioners (BOC).

The Curry County Zoning Ordinance sets forth a Legislative Process (CCZO Section 2.300) to review and conduct public hearings before the Planning Commission and the Board of Commissioners for this proposed Goal 18 exception, Comprehensive Plan Amendment and Zoning Code Amendment. The factual basis for these proceedings is contained within ODOT's application

and the staff report prepared by the Planning Director (administrative). These documents provide the analysis of the application, findings of facts and conclusions of law required. The Land Use Planning and Legislative Hearings process of CCZO Section 2.300 have been met.

Curry County Zoning Ordinance Section 3.212(10) 14b – Conditional Uses Subject to Administrative Approval by the Director - Beachfront Protective Structures. Beach front protective structures shall be permitted only under provisions of ORS 390.605 to 390.770 for development existing prior to January 1, 1977. 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 construction on active dune, conditionally stable dune or interdune areas has been approved. Where allowed protective structures shall be required to receive a review by all affected agencies and local review by the County to determine that they a) minimize visual impact, b) do not impair beach access, c) do not create negative impact on adjacent property, and d) do not create long term or recurring costs to the public.

Finding:

Historically, operations, maintenance, repair and preservation of road projects in Curry County have not been the subject of land use review. Many road projects have required permits from other agencies to protect sensitive environmental and archeological resources but have not required local land use review. The requirement that is the subject of this land use review is the placement of structural shoreline arming along the beach which has been done in Curry County in accordance with this transportation policy exemption which was last reviewed and adopted by the Board of Commissioners in September 2017.

However, in September 2022 DLCD revised the rules for Goal 18 – Beaches and Dunes to add a new reasons exception to the local goal exception process specific to public, ocean-fronting roads to clarify that stone embankments on the beach cannot be exempt from the local or state land use review. This action clarifies that consistent with Section 3.21 (10) 14b the action is now regulated and requires land use review. Therefore, the analysis herein, ODOT's application and the administrative staff report have been prepared to address this requirement for a land use review of the proposed transportation project. This land use review includes an analysis and conditions herein to provide that the structural armoring will a) minimize visual impact, b) do not impair beach access, c) do not create negative impact on adjacent property, and d) do not create long term or recurring costs to the public. This standard is met.

Curry County Zoning Ordinance Section 3.251 – Floodplain. Portions of zones may be subject to flooding. Restrictions, conditions and regulations for the construction of buildings and use of land lying in the floodplain zone are subject to the Flood Damage Prevention ordinance of Curry County. Flood Hazard Development Permits under the Flood Damage Prevention Ordinance are subject to administrative approval by the Director.

Finding: The area identified for the placement of structure on the beach below the Hwy 101 MP 304.05 slide is identified on the FEMA Flood Insurance Rate Maps (FIRM) as being within the "V" Zone. This designation denotes a coastal area with an increased chance of flooding and subject to velocity wave action from wind driven waves. The applicant (ODOT) has submitted a separate application to be reviewed by the Planning Director to address this Special Hazard requirement for the proposed project. This standard is met with a condition of this staff report that the applicant obtain an approved Floodplain Development Permit.

Staff Recommendation and Conditions of Approval

Staff recommends approval of this request for a Statewide Planning Goal Exception to Goal 18, Beaches and Dunes; a Comprehensive Plan Amendment to Plan Policy 15.10 (12), Coastal Shorelands and Beaches and Dunes; and a Zoning Code Amendment to Section 7.040(14b), Standards for Conditional Uses - Beaches and Dunes; to allow the Oregon Department of Transportation (ODOT) to place stone embankment (beachfront protective structure) on the beach below US Hwy 101 at MP 304.05 with the following conditions:

- 1. A FEMA Floodplain permit shall be submitted for review and approval by the Planning Director prior to development of the structural shoreline armoring/stone embankment.
- 2. The project detailed engineering plans shall be subject to review by the Curry County Community Development Department (Building and Planning) under a Planning Clearance Application.
- 3. An Erosion and Sediment Control Plan (ESCP) shall be submitted for review and approval by the Curry County Planning Director. This ESCP can be the same ESCP required by DEQ pursuant to the NPDES requirements.
- 4. The stone embankment covering including the planting and seeding plan shall be reviewed and approved by the Curry County Planning Director.

Submitted by ODOT on June 15,2023

US 101 MP 304.05
Supplemental Findings for Goal 18 Exception Application

OAR 660-04-022(12)(c)(F)

- (c) Demonstration that the proposed beachfront protective structure will:
 - (F) Avoid or mitigate long-term and recurring costs to the public. As used in this subsection, "mitigate" means the reduction of adverse effects of a proposed beachfront protective structure on beach habitats and beach access by evaluating, in the following order:
 - (i) Avoiding the effect altogether by not taking a certain action or parts of an action;
 - (ii) Minimizing the effect by limiting the degree or magnitude of the action and its implementation;
 - (iii) Rectifying the effect by repairing, rehabilitating, or restoring the affected ocean shore area;
 - (iv) Reducing or eliminating the effect over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures;
 - (v) Compensating for the effect by creating, restoring, enhancing, or preserving beach habitat, beach access to and along the ocean shore, or both, and within the same general vicinity of the proposed beachfront protective structure. Compensation should consider the Oregon Parks and Recreation Department's Ocean Shore Management Strategy.

Finding

The proposed fix to the slide and highway is locationally dependent. Rerouting the highway would not address the current need and using another method is not effective due to the geology at this location. Adverse effects of the proposed embankment are being mitigated by the application of topsoil on the rock embankment which will then be planted/seeded/mulched, so that the outside of the repair will ultimately be vegetated to blend in with the ocean shoreland. Fiber roll barriers (wattles) will also be installed, following the contours, at different locations along the slope, in order to aid in erosion control once the topsoil is placed. The proposed grade of the rock embankment will allow for access to the beach below, that would otherwise be very difficult given the loose material and the steepness of the existing embankment. Normally, a 1.5 horizontal: 1.0 vertical slope is used. However, given the sensitive nature of the ocean shore below, this slope has been steepened to 1.25:1 to lessen the impacts to the beach. Using natural rock products reduces the carbon footprint of the mitigation as it is constructed without concrete or steel. The Oregon Coast Trail is on the highway at this location (Exhibit D). A well-designed stone embankment can provide protection from waves. They are efficient at absorbing wave energy and can be completed with available funds.

Conclusion

Coastal erosion will not stop. The roadway is threatened. A rock embankment is the only fix at this particular location. Normally, a 1.5 horizontal: 1.0 vertical slope is used. However, given the sensitive nature of the ocean shore below, this slope has been steepened to 1.25:1. The

stone embankment will be covered with a 6-inch layer of topsoil, and then planted/seeded/mulched, so that the outside of the repair will, ultimately, be vegetated. Fiber roll barriers (wattles) will also be installed, following the contours, at different locations along the slope, in order to aid in erosion control once the topsoil is placed. The slope will be traversable by pedestrians to access the beach. It is in the best interest of the state to select an option that will best meet the needs of the beach and the highway. The rock embankment should provide stability for the road while minimizing impacts to the ocean shore. The effects of the rock embankment will be minimized by the steepened slope, which will still be traversable and mitigated by a vegetated embankment.

OAR 660-04-022(12) (a-d)

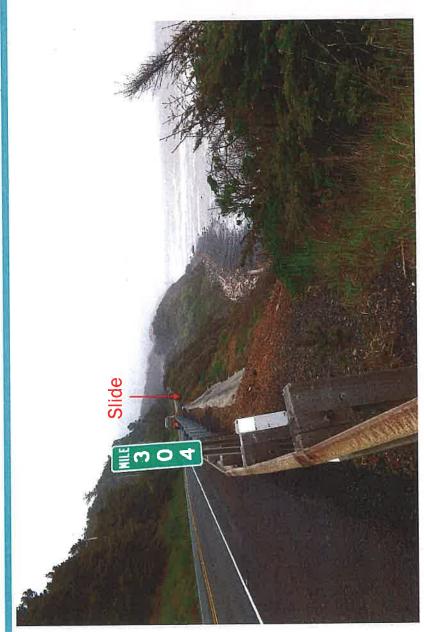
(d) Assessment of how the exception requirements of OAR 660-004-0020 are met. See analysis above below for OAR 660-004-0020(2)(a-d) 660-04-022(12) (a-d)

US 101 M.P. 304.05 Slide Repair Goal 18 Exception

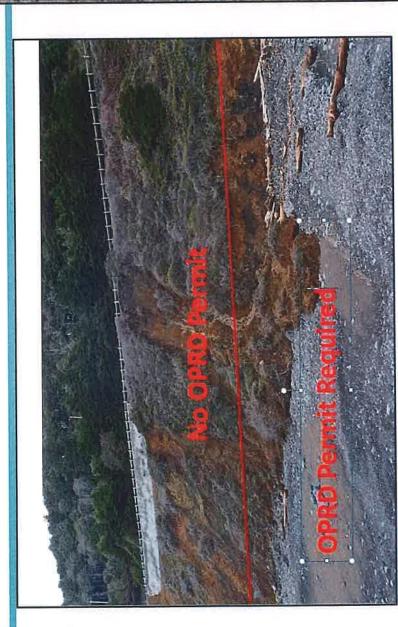




Location: US 101 M.P. 304.05



Exception Goal 18: Beaches and Dunes



Approximate location of 16-foot elevation



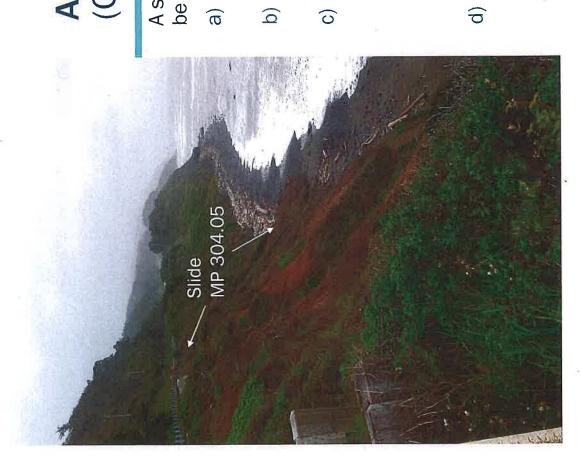
Exception (Specific Reasons Criteria) Goal 18: Beaches and Dunes

OAR 660-04-022(12)(a-d)

- Justification that shoreline armoring will provide a significant public benefit.. . Ю
- Feasibility Assessment requires evaluation of alternatives to shoreline armoring that do not require a goal exception and why they will not work. Ď.
- Demonstration of how the proposed addition of shoreline armoring for road protection will minimize its impacts on the public beach and adjacent properties. ပ
- Assessment of how the exception requirements of 660-004-0020 are met. ن







Application of OAR 660-04-020 (General Reasons Criteria)

A summary of the four standards in Goal 2 Part II(c) required to be addressed when taking a goal exception follows:

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



Specific Reasons Criterion OAR 660-04-022(12) (a)

Justification that shoreline armoring will provide a significant public benefit.

 Allowing more shoreline armoring has long term impacts to beaches.
 Therefore, a clear reason to justify this addition, such as protecting an essential lifeline transportation route, must be provided.

Specific Reasons Criterion OAR 660-04-022(12) (b)

Feasibility Assessment requires evaluation of alternatives to shoreline armoring that do not require a goal exception and why they will not work.

The applicant must evaluate options other than hard armoring, including road relocation or vegetative plantings to mitigate erosion.







Demonstration of how the proposed addition of shoreline armoring for road protection will minimize its impacts on the public beach and adjacent properties.

This provision requires demonstration not only that the negative impacts of armoring will be minimized (especially to public access of the beach and to adjacent properties) but how the design of the structure accounts for the impacts of sea level rise.

Specific Reasons Criterion OAR 660-04-022(12) (d)

Assessment of how the exception requirements of OAR 660-004-0020 are met.

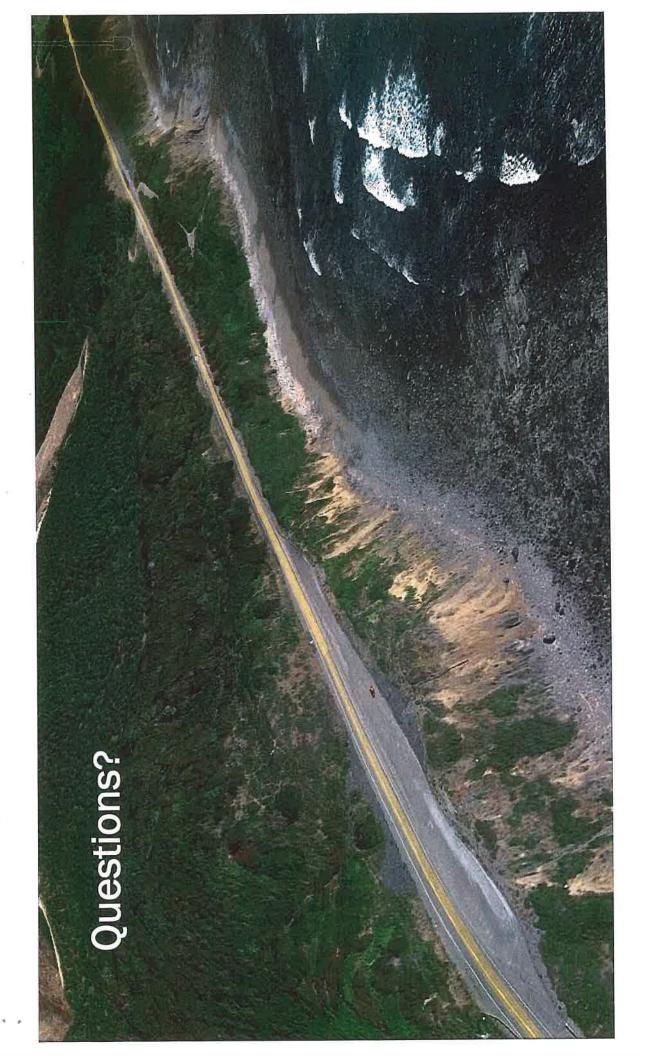




Application of OAR 660-004-0020 (General Reasons Criteria)

A summary of the four standards in Goal 2 Part II(c) required to be addressed when taking a goal exception follows:

- a) Reasons justify why the state policy embodied in the applicable goals should not apply."
- Areas that do not require a new exception cannot reasonably accommodate the use" Q
- significantly more adverse than would typically result from the with measures designed to reduce adverse impacts are not The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site same proposal being located in areas requiring a goal exception other than the proposed site and, 0
- The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts



BEFORE THE BOARD OF COUNTY COMMISSIONERS IN AND FOR THE COUNTY OF CURRY, OREGON

| In the Matter of an Ordinance Allowing |) | |
|--|---------------|--|
| and Adopting a Statewide Planning Goal |) | |
| Exception, a Comprehensive Plan | ORDINANCE NO. | |
| Amendment, and a Zoning Code |) | |
| Amendment |) | |
| (ODOT CP/GE-2301) |) | |

WHEREAS, this matter came before the Curry County Citizens Committee for Involvement and the Curry County Planning Commission on June 15, 2023. The application (CP/GE-2301) sought public input and Planning Commission approval to authorize the Oregon Department of Transportation (ODOT) to place stone embankment on the beach below US Highway 101 MP 304.05 to secure a highway failure on property identified on Curry County Assessor's Map No. 33-15-15, Public Right of Way (ROW). The property is designated as a State Highway and is a critical public infrastructure as the only north/south highway route through Curry County; and

WHEREAS, an evidentiary public hearing in accordance with the Curry County Zoning Ordinance (CCZO) Section 2.300 was held before the Planning Commission as a matter duly set upon the agenda of a regular meeting on June 15, 2023, after giving public notice to affected property owners, publication in the local newspapers as set forth in Section 2.070 of the CCZO and notification on the Department of Land Conservation and Development Post Acknowledgement Plan Amendment web site on June 12, 2023 with a Declaration of Emergency; and

WHEREAS, at the conclusion of review and consideration of the evidence in the record and upon a motion duly made and seconded, the Planning Commission voted to Recommend Approval of CP/GE-2301 to the Board of Commissioners (BOC) based on findings of fact and conclusions of law; and

WHEREAS, the Curry County Board of Commissioners held a second evidentiary public hearing in accordance with the CCZO Section 2.300 on August 2, 2023 for the Application (CP/GE-2023) after giving public notice to affected property owners and publication in the local newspapers as set forth in Section 2.070 of the CCZO.

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION 1 TITLE

This Ordinance shall be known as ODOT CP/GE-2301.

SECTION 2 AUTHORITY

This Ordinance is being adopted under the authority of ORS Chapters 197 and 215, OAR 660-004, the Statewide Planning Goals, Curry County Zoning Ordinance Article IX Amendments to the Comprehensive Plan and Zoning Ordinance and Section 2.300 Legislative Hearings. These provisions which are set forth in state law and the Curry County Zoning Ordinance establish specific public participation requirements which have been followed and include public notifications for the hearings of record before the Citizen Committee for Involvement, the Planning Commission, and the Board of Commissioners.

SECTION 3 PURPOSE and ADOPTION

The purpose and adoption of this Ordinance is to approve application CP/GE-2301 submitted by the Oregon Department of Transportation (ODOT) to place stone embankment on the beach below US Highway 101 at MP 304.05. This approval includes:

- A Statewide Planning Goal Exception to Goal 18, Beaches and Dunes.
- A Comprehensive Plan Amendment to Plan Policy 15.10 (12), Coastal Shorelands and Beaches and Dunes.
- A zoning Code Amendment to Section 7.040 (14b), Standards for Conditional Uses Beaches and Dunes.

This Ordinance hereby carries out these land use changes by reference and not by specific language changes to the above documents for Application CP/GE-2301.

SECTION 4 FINDINGS of FACT

After its own careful consideration of all facts and evidence in the record and based on its own review of the applicable law, the Board adopts as findings of fact, reasons and conclusions of law, the Planning Commission's findings, conclusions and recommendation set forth from their June 15, 2023 public hearing and attached as Exhibit 1.

SECTION 5 SEVERANCE CLAUSE

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

SECTION 6 EFFECTIVE DATE

This Ordinance is being adopted pursuant to ORS Chapter 197 and ORS Chapter 215, and the Curry County Zoning Ordinance Section 2.300 (4) and is therefore effective immediately on adoption.

SECTION 7 EMERGENCY CLAUSE

The Curry County Board of Commissioners deems the adoption of this Ordinance to be necessary for the immediate preservation and protection of public health, safety, and general welfare; and in order to conduct County business in a timely manner. Therefore, it is declared that an emergency exists, and this Ordinance shall be in full force and effect upon its adoption.

| DATED this 16 th day of August, 2023. | | BOARD OF CURRY COUNTY COMMISSIONERS | |
|---|-----------------|-------------------------------------|--|
| | | John Herzog, Chair | |
| Approved as to Form: | | Brad Alcorn, Vice Chair | |
| Michael E. Fitzgerald, OSB #950738 Curry County Legal Counsel | | Jay Trost, Commissioner | |
| First Reading: | August 16, 2023 | | |