



Community Development

Coos County Community Development

Mailing Address: 250 N. Baxter, Coquille, Oregon
60 E. Second St., Coquille OR 97423
Planning, Building and Enforcement
Phone: 541-396-7770
Fax: 541-266-1146

www.co.coos.or.us

TDD (800) 735-2900

COOS COUNTY PLANNING COMMISSION NOTICE OF DECISION

Re: HBCU-24-001 OCEAN RIVER LLC

This application seeks approval for a Conditional Use Permit to establish an 18-hole regulation golf course with accessory uses in the Exclusive Farm Use (EFU) zone. The proposed accessory facilities include a clubhouse/restaurant, agronomy center/maintenance facility, a turn-stand with restrooms and vendor space, at least two stand-alone restrooms, a caddy shack, a driving range, a practice course, and necessary parking and drop-off areas. The entire tract encompasses 342 acres, with approximately 165 acres designated for the golf course, practice course, and driving range. Of this, about 115 acres will feature tees, greens, and fairways, maintained with vegetated turf (fescue grass). Additionally, 50 acres will serve as intermediate areas (roughs) that also function as safety corridors, featuring open sand dunes, tall grasses, and native vegetation with minimal maintenance. The remaining 134 acres will consist of open space, including natural dune formations, 20 acres of wetlands, and 23 acres of flood areas, which, while not used for golf, enhance the Scottish Links-style setting and support native vegetation and wildlife habitat.

This is an official Coos County Planning Commission Notice of Decision for the above-referenced application. The Planning Commission held a public hearing on August 1, 2024, and made the following decision:

- Approved
- Approved with Conditions (see Attachment "A")
- Denied

COOS COUNTY PLANNING COMMISSION

Joe Aguirre
Joe Aguirre, Planning Commission Chair

August 13, 2024
Date

The Planning Commission's decision is final unless appealed in writing to the Board of Commissioners within 15 days from the Date of Mailing as noted below. This means appeals must be received in the Planning Department by 5:00 p.m. on August 24, 2024, in order to be considered. The Notice of Appeal (NOA) shall be filed pursuant to CCZLDO Article 5.8, and shall be accompanied by a written statement of the grounds for the appeal and the required filing fee. Appeals before the Board of Commissioners are limited to the record and no additional testimony or evidence will be considered. If this is recommendation of approval then there will be a second chance to provide testimony.

For detailed information on this matter and the decision, see the attached report.

Date of Decision: August 1, 2024 **Date of Mailing:** August 14, 2024

ATTACHMENT A

REVIEW CRITERIA:The applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) 4.6.200 Table 2 identifies the uses and activities in the Exclusive Farm Use zone. The tables describe the use, type of review, applicable review standards. Table 2 of CCZLDO Section 4.6.200.67 defines the relevant criteria for Golf Courses not on high-value farmland as defined in ORS 195.300 subject to an HBCU, Section 4.6.200 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses (2)(5)(20). Development shall also comply with Section 4.6.210 Development and Use Standards for the Exclusive Farm Use Zone. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. This proposal is subject to review under Natural Hazards Section 4.11.

I. STAFF REPORT – WITH RECOMMENDATIONS AND PROPOSED FINDINGS

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

SECTION 4.2.400 OPEN SPACE AND NATURAL RESOURCE ZONING DISTRICTS

Open Space and Natural Resource Districts are intended for especially sensitive areas where wildlife habitat or special scenic values have been identified or where natural hazards totally preclude any development.

Minor Estuary and Shorelands (MES)

The purpose of the “MES” district is to regulate uses within the inventoried minor estuaries and adjacent shorelands within unincorporated Coos County. The estuaries within the district are treated as “natural management units” per LCDC Goal 16. There are no hearings body applications or development standards with the exception of road standards found in Chapter VII.

SECTION 4.2.500 RESOURCE ZONES

Exclusive Farm Use (EFU)

These include all inventoried “agricultural lands” not otherwise found to be needed (excepted) for other uses.

The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the “Agricultural Lands Inventory” was land identified on the agricultural lands based on soils, Class I-IV soils or “other lands” suitable for agricultural use, with the following exceptions:

- 1. Committed rural residential areas and urban growth areas.*
- 2. Proposed rural residential areas as per the Exception to Goals #3 and #4.*
- 3. Proposed industrial/commercial sites.*
- 4. Existing recreation areas (e.g., golf courses) [Recreation designation]*

5. *Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).*
6. *Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].*

The secondary criterion for establishing the “Agricultural Lands Inventory” was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.

• **GOLF COURSE CRITERIA AND FOREST SITING STANDARDS**

ARTICLE 4.6 – Resource zoning districts

AS USED IN TABLES I and II.

- (1) “P” means the use is permitted and requires no review from the Planning Department
- (2) “CD” means the use is allowed subject to compliance determination review with clear and objective standards (Staff review or Type I process). Permitted uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance.
- (3) “ACU” means it is subject to Administrative Conditional Use (Planning Director’s Decision or Type II Process)
- (4) “HBCU” means the use is a Hearing Body Conditional Use (Planning Commission Decision or Type III Process)
- (5) “PLA” means Property Line Adjustments subject to chapter 6.
- (6) “L” means Land Division is required (Partition, Subdivision, Planned Unit Development) subject to Chapter 6. These reviews are subject to notice requirements as an ACU, Type II Process.
- (7) The “Subject To” column identifies any specific provisions of Section X.07 to which the use is subject.
- (8) “N” means the use is not allowed.
- (9) “TR” Type of Review
- (10) “HV” means High Value Farm Land
- (11) “All Other” Means lands considered not High Value Farm Land

SECTION 4.6.200 EXCLUSIVE FARM USE – USE TABLES

Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone. The tables describe the use, type of review, applicable review standards and Section 4.6.210 Development and Siting Standards. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.

Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone

As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and

sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3). Agricultural Land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

	Use	HV	All Other
<p>215.203 Zoning ordinances establishing exclusive farm use zones; definitions. (1) Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only when such zoning is consistent with the comprehensive plan. The following uses are permitted in lands designated as agricultural lands (EFU) pursuant to OAR 660- 033-0120. ***</p>			
	FARM/FOREST RESOURCES AS LISTED	HV	All Other
67.	Golf courses not on high-value farmland as defined in ORS 195.300. (new golf course prohibited on High Value)	HBCU (2), (18)(a) or (18)(d)	HBCU (2), (5), (20)

The criteria requires that a determination of high-value farmland is made. This determination sets which criteria is applicable to the review. The ordinance is based on the table in OAR 660-033-0120. Golf courses can be permitted with a review on land determined not be high-value farmland as defined in ORS 195.300.

ORS 195.300 (10) "High-value farmland" means:

(10) "High-value farmland" means:

- (a) High-value farmland as described in [ORS 215.710 \(High-value farmland description for ORS 215.705\)](#) that is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in [ORS 215.710 \(High-value farmland description for ORS 215.705\)](#) (2), (4) and (6) are December 6, 2007.
- (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in [ORS 215.710 \(High-value farmland description for ORS 215.705\)](#) (1) and the following soils:
 - (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;
 - (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam; and

- (C) Subclassification IVw, specifically Huffling Silty Clay Loam.
- (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:
 - (A) Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;
 - (B) Within the boundaries of a district, as defined in [ORS 540.505 \(Definitions\)](#); or
 - (C) Within the boundaries of a diking district formed under ORS chapter 551.
- (d) Land that contains not less than five acres planted in wine grapes.
- (e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within:
 - (A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;
 - (B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or
 - (C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.
- (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within:
 - (A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is within the State of Oregon;
 - (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;
 - (C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is within the State of Oregon;
 - (D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that is within the State of Oregon; or
 - (E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that is within the State of Oregon.

FINDING: High-value farmland has different meanings depending on the use and sections they reference. The applicable portion of ORS 195.300 to golf courses would be subsections (b) and (c). ORS 215.710 is only applicable for dwellings described in ORS 215.705; however, subsection (b) does require consideration of defined soils in ORS 215.705. Subsections (d) through (f) apply to grapes and viticultural areas.

- (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (High-value farmland description for ORS 215.705) (1) and the following soils:*
 - (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;*
 - (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam;*
and
 - (C) Subclassification IVw, specifically Huffling Silty Clay Loam.*
- (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:*

- (A) *Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;*
- (B) *Within the boundaries of a district, as defined in ORS 540.505 (Definitions); or*
- (C) *Within the boundaries of a diking district formed under ORS chapter 551.*

Additional Soils in ORS 215.705 (described in ORS 215.710)

- (a) *Irrigated and classified prime, unique, Class I or Class II; or*
- (b) *Not irrigated and classified prime, unique, Class I or Class II.*

Tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, “specified perennials” means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa.



Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
2C	Bandon-Blacklock complex, 0 to 12 percent slopes	0.1	0.0%
5B	Blacklock fine sandy loam, 3 to 7 percent slopes	2.4	0.7%
8B	Bullards sandy loam, 0 to 7 percent slopes	0.4	0.1%
8C	Bullards sandy loam, 7 to 12 percent slopes	17.4	5.1%
8E	Bullards sandy loam, 30 to 50 percent slopes	5.8	1.7%
16	Dune land	128.3	37.4%
28	Heceta fine sand	40.5	11.8%
29B	Heceta-Waldport fine sands, 0 to 7 percent slopes	24.7	7.2%
34	Langlois silty clay loam	10.8	3.1%
59D	Waldport fine sand, 0 to 30 percent slopes	44.4	13.0%
59E	Waldport fine sand, 30 to 70 percent slopes	11.8	3.4%
60D	Waldport-Dune land complex, 12 to 30 percent slopes	20.5	6.0%
61D	Waldport-Heceta fine sands, 0 to 30 percent slopes	36.0	10.5%
Totals for Area of Interest		343.1	100.0%

The first step is to consider the soil types then look at the water rights, irrigation districts and the diking districts. This property is not within an irrigation district or a diking district.

The soils that are in the prime, unique or Class I or II are:

- *2C and 5B Bandon-Blacklock complex (2.5 acres)*
- *8B and 8C Bullards sandy loam (17.8)*
- *28 – Heceta fine Sand (40.5)*
- *29B – Heceta-Waldport fine sands (24.7)*
- *34-Langlois Silty Clay loam (10.8)*

These soils represents 96.3 acres of the total study area.

The soils that have been identified as not prime, unique or Class I or II farmland are:

- *8 E Bullards sandy loam (5.8)*
- *16 Dune land (128.3)*
- *59D and 59E Waldport fine sand (56.2)*
- *60D Waldport-Dune land complex (20.5)*
- *61D Waldport-Heceta fine (36)*

These soils represent 246.8 acres of the total study area.

The total tract is 342 acres the study area provided was just a little over that with 343.1 acres. It is very difficult to use the tool and come up with the exact number without going over.

The next criteria to consider for high-value farmland is to look at the water rights. The map below was used to determine there are two points that appear to be permitted, have a certificate, or a decree for the use of water for irrigation issued by the Water Resources Department in the project area. However, they are not in the footprint of the golf course. The applicant has further addressed the water rights by providing a memo from CwM-H20; however, this seems to pertain to future water rights and not current but does give a discussion for anyone that is concerned about impacts to existing water rights. See applicants exhibit "F".



Therefore, using aerial images, assessment records, soil maps, zoning maps and water right maps illustrates that the overall area is not considered high-value farmland. About 28% of the project area is classified as high-value, while the rest consists of other lands.

The soil determines the appropriate review process. In this case the table states Section 4.6.200(2), (5) and (20) shall be addressed.

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. For each section of this rule, the corresponding section number is shown in the table. Where no numerical reference is indicated on the table, this rule does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the table, as authorized by law.***

(2) (a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

FINDINGS: The first criterion to address is the design capacity of the structures developed for the golf course. The design capacity is limited due to the location of the development near the Urban Growth Boundary unless the proposal is approved based on ORS 197.732 (Statewide Goal Exception process). A goal exception is not part of this request. The applicant has chosen to show compliance with the criteria.

Furthermore, this rule includes a density requirement. It means that any building or group of buildings designed to hold 100 people must be at least half a mile apart. This does not mean that all buildings within a tract will need to be counted if they are more than half a mile apart. The last part of the criteria states that existing facilities within the farm use zone may be maintained, enhanced, or expanded on the tract as long as they comply with the relevant law.

The primary enclosed structure subject to the 100-person design standard is the combined clubhouse and restaurant, located on the northern segment of the golf course within three miles of the City of Bandon Urban Growth Boundary.

There are a few important Land Use Board of Appeals (LUBA) cases regarding proposed golf courses within three miles of a city's Urban Growth Boundary. These cases include Oregon Coast Alliance vs. Curry County, LUBA No. 2015-006, and Oregon Coast Alliance vs. Curry County, LUBA No. 2015-080. Additionally, the applicant provides another relevant case: Young v. Jackson County, 58 Or LUBA 64 (2008), aff'd 227 Or App 290 (2009).

The adoption of the 100-person limit was triggered by a court decision that applied a federal law prohibiting state and local governments from regulating churches more strictly than secular places of assembly [Young v. Jackson County, 58 Or LUBA 64 (2008), aff'd 227 Or App 290 (2009)]. To ensure equal regulation of all places of assembly, the agency adopted this rule, which applies the same 100-person design capacity limit to all enclosed structures within three miles of a UGB, including churches, schools, parks, and golf courses.

The term "design capacity" is not defined by statute or administrative rule. However, a 2015 appellate decision from LUBA helps clarify its meaning. In Oregon Coast Alliance vs. Curry County, 71 Or LUBA 279 (2015), it was determined that design capacity, while similar, is not synonymous with maximum occupancy under fire and safety codes. LUBA found that while the intended use and design capacity of a structure influence the maximum occupancy, the two concepts are distinct.

LUBA also concluded that the "intended use" of a structure may play a role in determining design capacity, but estimates of how many people are likely to use a structure at any given time are not sufficient to establish its design capacity. LUBA determined that plans are likely necessary to ensure that the buildings do not exceed a total design capacity of more than 100 people.

In the 2015 LUBA case, the final opinion stated that "at the time of conditional use permit approval, the county may approve the permit only if it finds that the total 'design capacity' of all enclosed structures will not exceed 100 persons. To make that finding, a design of some sort is likely a prerequisite. That finding also likely requires evidentiary support in the form of testimony from the architect or building designer, and calculations or explanations establishing the designed capacity of the structure."

LUBA also noted in a prior case: "as we understand it, the clubhouse has not yet been designed, and there are no plans or other specific information in the record regarding the design or capacity of the restaurant, lounge, and other areas of the clubhouse or other structures. It may well be that plans of some sort, beyond the general description of the proposed clubhouse, will be needed for an architect or building designer to provide testimony or other evidence to establish that the proposed buildings do not have a 'total design capacity of more than 100 people.' Absent such plans, testimony, and information, the county has no basis on which to determine that the proposed structures comply with OAR 660-033-230130(2)(a)."

The applicant has responded to the criteria with guidance from the caselaw by submitting a design for the proposed clubhouse, which includes the restaurant and pro shop (see Applicant's Exhibit "G"). The design was initially created for the Bandon Trails Golf Course at the Bandon Dunes Golf Resort, and the property owner has decided to apply this design to the current proposal. Although the size of the facility remains the same (3,900 square feet), the building will have a total occupancy of 80 at one time which includes staff. The Planning Commission may condition the capacity of the building.

Regarding other structures throughout the facility, there will be a partially enclosed greeting facility to provide direction and information for arriving golfers and a partially enclosed starter shack to send golfers onto the course at the appropriate time. Two independent restrooms will be located at strategic points throughout the course, and there will be a turn-stand midway through the course with restrooms and a snack bar with catered food and drinks. Additionally, there will be a caddy shack near the clubhouse for managing and deploying caddies.

The maintenance operations for the golf course will occur from an agronomy center consisting of pole buildings to house equipment and offices for management staff. Nearly all management/office staff oversee maintenance operations throughout the golf course, and the number of individuals occupying offices and other structures at any one time would normally not exceed five employees.

The applicant has provided the total breakdown as follows:

<u>General Occupancy for Enclosed Structures</u>	
<i>Clubhouse Restaurant</i>	
<i>Patrons (Maximum seating)</i>	60
<i>Waiters</i>	3
<i>Kitchen Staff</i>	4
<i>Sales (Pro-shop staff)</i>	1
<i>Pro-shop (Customers)</i>	4
<i>Caddy Shack</i>	8
<i>Turn-Stand</i>	
<i>Staff</i>	1
<i>Agronomy</i>	
<i>Management (general, agronomy)</i>	3
<i>Maintenance (equipment)</i>	2
<i>Independent restrooms</i>	4
<u>Total</u>	90

The applicant has provided a letter from architect Scott Edwards of Scott Edwards Architecture, supporting the design capacity analysis. Mr. Edwards concludes that "the proposed enclosed structures for the New River Dunes Golf Course should adequately comply with the required design capacity of 100 persons or less." Furthermore, if employees providing service to patrons are not included, as suggested by LUBA, the overall design capacity would equate to approximately 77 people.

The applicant has addressed the criteria by providing the design capacity of the enclosed structures. Therefore, the Planning Commission can determine compliance with these criteria. The development is subject to additional criteria as explained in the report.

(5) *APPROVAL CRITERIA* Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- (b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

FINDINGS: These criteria are set out to consider impacts to surrounding farm and forest uses.

History of Protection for Farm and Forest Practices (Oregon Department of Agriculture)
Legislation adopted in 1993 and updated in 1995 and 2001 declares farm and forest practices as critical to the welfare of the Oregon economy and establishes a right-to-farm law. This law protects growers from court decisions based on customary noises, smells, dust, or other nuisances or trespasses. It also limits local governments and special districts from administratively declaring certain farm and forest products to be nuisances or trespasses (ORS 30.930).

Protected practices include farming and/or forest practices characterized by all of the following:

- Are or may be used on a farm or forestland of similar nature.
- Are generally accepted, reasonable, and prudent methods for the operation to obtain profit in money (commercial).
- Comply with applicable law.
- Are performed in a reasonable manner.

The lawful and proper use of pesticides is considered a protected farming or forest practice. The law also provides protection for the movement of farm vehicles and livestock on public roads. Local government and special district ordinances and regulations now in effect or subsequently adopted, which are contrary to this law, are invalid.

The new golf course should not force significant changes in accepted farm or forest practices on surrounding lands devoted to farm and forest uses. Additionally, the development should not increase the cost of accepted practices for these farms and forests.

When looking at surrounding lands devoted to farm and forest use examples to keep in mind of farm and forest practices with determining a significantly impact:

Farm Commercial Practices:

1. **Crop Cultivation:** Planting, growing, and harvesting various crops such as grains, vegetables, fruits, and nuts.
2. **Livestock Management:** Raising animals for meat, dairy, eggs, and wool, including feeding, breeding, and veterinary care.
3. **Irrigation:** Installing and maintaining irrigation systems to ensure crops receive adequate water.
4. **Pest Management:** Using pesticides and other methods to control pests and diseases affecting crops and livestock.
5. **Soil Management:** Applying fertilizers and soil amendments to maintain soil fertility and structure.
6. **Equipment Operation:** Using tractors, plows, harvesters, and other machinery for various farming tasks.

7. **Marketing and Distribution:** Selling farm products through local markets, wholesale distributors, and direct-to-consumer channels.
8. **Land Conservation:** Implementing practices like crop rotation, cover cropping, and contour plowing to prevent soil erosion and maintain land health.

Forest Commercial Practices:

1. **Timber Harvesting:** Cutting down trees for lumber, pulp, and other wood products.
2. **Reforestation:** Planting new trees to replace those that have been harvested.
3. **Forest Management:** Thinning, pruning, and controlled burning to maintain forest health and productivity.
4. **Pest and Disease Control:** Monitoring and controlling pests and diseases that can damage trees.
5. **Wildlife Habitat Management:** Creating and maintaining habitats to support local wildlife species.
6. **Recreational Management:** Developing and maintaining trails, campsites, and other facilities for recreational use.
7. **Fire Prevention:** Implementing measures like creating firebreaks and managing underbrush to reduce the risk of forest fires.
8. **Harvest Planning:** Planning the timing and method of tree harvesting to ensure sustainable forest use.

From looking at aerial photos, assessment records, online records and permit history there are no Forest Uses occurring in the surrounding areas. For surrounding areas staff uses the 750-foot notification buffer but that the applicant may choose a larger area. There are mainly farm, residential recreational uses occurring. These criteria only take into account impacts for forest and farming. The application provided the following assessment for Farm Uses.

The lands surrounding the proposed golf course to the south and west do not contain any type of commercial farm use. The land to the west is owned by Oregon State Parks, is entirely undeveloped, and is currently maintained as open space land for recreational use. The land south of the proposed golf course is privately owned open space land.

The lands to the north and east have historically been utilized to varying degrees for commercial agriculture. There are several independent farm operations to the north and east that are addressed individually below (see Applicant's Exhibit "E").

- **LOST LAKE CRANBERRY FARMS LLC**

The portion of Lost Lake Cranberry Farms containing farm use (cranberry bogs) is located at the southern end of the proposed golf course, along its eastern boundary. The eastern boundary of the proposed golf course is 750 feet from the western edge of the Lost Lake bogs. There is a vegetated dune formation owned by the applicant that is located between the playable area of the golf course and the cranberry bogs. The dune formation is elevated 30 feet above both properties and acts as a natural buffer between the golf course and farm use. This means activities associated with the golf course will be physically and visually shielded from the adjacent agricultural use, and vice versa.

The portion of the golf course adjacent to the Lost Lake bogs consists of three fairways (7, 8, and 9) and associated greens and tees. Once the golf course is operational, the activities associated with its care and maintenance will include irrigation, fertilizing, mowing, and other nominal maintenance, such as mechanical weed-eating and occasional hand-spraying for invasive weeds. These activities are very similar to standard farm practices occurring in conjunction with the Lost Lake cranberry operations, which also include irrigation, fertilizing, harvesting, pruning, as well as weed-eating or spraying along dikes surrounding the bogs.

There is also a turn-stand proposed centrally between the three fairways (7, 8, and 9) that will function as a restroom and snack bar with pre-prepared food and beverages. There will be no cooking facilities or indoor seating available at this comparatively small structure. The turn-stand will not be visible from the property and will not emit odors, noise, smoke, or lighting.

- **KRANICK CRANBERRY FARM**

The Kranick property is directly adjacent to and centrally located on the east side of the proposed golf course. The westernmost edge of the Kranick bogs is approximately 200 feet from the eastern edge of the proposed golf course. The Kranick property parallels fairways 2, 3, 4, and 5, and their associated greens and tees. There is a north-south vegetated dune formation between the golf course and the Kranick cranberry bogs. The ridge of the dune formation varies in elevation, generally rising 10 to 20 feet above the fairways and 30 to 40 feet above the Kranick bogs. This vegetated dune acts as a physical and visual buffer, separating the farm uses from the golf course. Thus, activities conducted in conjunction with the golf course will be shielded from adjacent agricultural uses and vice versa.

Once the golf course is operational, the activities associated with its care and maintenance will include irrigation, fertilizing, mowing, and other nominal maintenance, such as weed-eating and occasional hand-spraying for invasive weeds. These activities are very similar to standard farm practices occurring in conjunction with the cranberry operations, which also include irrigation, fertilizing, harvesting, pruning, and weed-eating or spraying along dikes surrounding the bogs.

The agronomy and maintenance facility is proposed to be located south of the Kranick property, approximately 500 feet from their southernmost bogs. This facility will be used to store equipment and supplies necessary for the care and maintenance of the golf course. The facility will essentially function in the same manner as a barn used for farm activities. There is a heavily vegetated (wooded) buffer between the facility and the Kranick bogs. The agronomy/maintenance facility will not be visible from the Kranick property, and it will not emit excessive odors, noise, smoke, or lighting.

- **MCSPADDEN AND BOAK CRANBERRY FARMS**

As reflected in 2023 aerial photographs (Google Earth) and confirmed by a site visit, both the McSpadden and Boak cranberry farms have ceased operations and have not been managed for several years. Because the bog structures (dikes and beds) still exist and could potentially be reestablished, compatibility is addressed below.

Both the McSpadden and Boak cranberry bogs are located directly north and adjacent to the applicant's property. The bog location is separated from the proposed golf course by both Two Mile Creek and the Boak Lane access easement, which provides ingress and egress to both cranberry parcels. The southern edges of the McSpadden and Boak bogs are located a thousand feet north of the

developed golf course. There is a vegetated dune formation elevated an average of 40 feet above both the proposed golf course (to the south) and the cranberry parcels (to the north). This vegetated dune acts as a physical and visual buffer, separating the farm uses from the golf course. Thus, activities conducted in conjunction with the golf course will be shielded from distant agricultural uses, and vice versa.

The portion of the golf course closest to the McSpadden/Boak bogs consists of the 18th fairway and its associated greens and tees. Once the golf course is operational, the activities associated with its care and maintenance will include irrigation, fertilizing, mowing, and other nominal maintenance, such as weed-eating and occasional hand-spraying for invasive weeds. These activities are very similar to the activities associated with the farm practices performed in conjunction with the McSpadden/Boak cranberry operations, which include irrigation, fertilizing, harvesting, vine pruning, as well as weed-eating or spraying along dikes surrounding the bogs.

- **FUGATE CRANBERRY FARM**

Fugate Farms is located a minimum of 2000 feet from the proposed golf course and is separated by a north-south ridgeline, as well as the Two Mile Creek valley, which consists of pastureland. The pasture is currently owned by Bandon Biota and is managed for the production of grass hay. The owner states that the proposed golf course will not interfere with the continued farm use of the pasture. The vegetated dune separating the golf course from the easterly farm uses acts as a physical and visual buffer. Thus, activities associated with the golf course will be shielded from the subject agricultural uses, and vice versa.

Once the golf course is operational, the activities associated with its care and maintenance will include irrigation, fertilizing, mowing, and other nominal maintenance, such as weed-eating and occasional hand-spraying for invasive weeds. These activities are very similar to both the pasture and cranberry farm activities, including mowing, irrigating, fertilizing, harvesting, and pruning, as well as weed-eating or spraying along dikes surrounding the bogs.

The various uses associated with the golf course will not be visible from the Fugate bogs, and the facility will not emit excessive odors, noise, smoke, or lighting at night.

- **ARRIOLA CRANBERRY FARM**

The easternmost Arriola cranberry bogs are over 1600 feet from the golf course. The Arriola property is separated from the golf course by a segment of the applicant's ownership that is not proposed for golf and currently contains remnants of cranberry bogs that are no longer in production. The Arriola property parallels fairways 5 and 6 and their associated greens and tees. A north-south vegetated dune formation lies east of those fairways, shielding the golf course from farm uses to the east. The ridge of the dune formation varies in elevation but is generally elevated 20 feet above the subject fairways and 30 feet above the Arriola property. This vegetated dune acts as a physical and visual buffer, separating the farm uses from the golf course. Therefore, activities conducted in conjunction with the golf course will be shielded from agricultural uses occurring on Arriola, and vice versa.

Once the golf course is operational, the activities associated with its care and maintenance will include irrigation, fertilizing, mowing, and other nominal maintenance, such as weed-eating and occasional hand-spraying for invasive weeds. These activities are very similar to the farming activities performed

in conjunction with the Arriola cranberry operation, including irrigation, fertilizing, harvesting, and vine pruning, as well as weed-eating or spraying along dikes surrounding the bogs.

The golf course will not be visible from the Arriola bogs, and it will not emit excessive odors, noise, smoke, or lighting at night.

- **LEFF OWNERSHIPS**

The Leff ownership lies east of the Kranick and north of the Arriola cranberry operations, which were thoroughly addressed above regarding significant impacts. Aerial photographs indicate that the Leff ownership primarily contains pasture with a segment (approximately 4 acres) of what appears to be blueberry production. The blueberry segment of the ownership is approximately 2000 feet, and the pasture segment is 2500 feet east of the proposed golf course. Both uses are buffered by the dune formation along the course's eastern boundary.

As outlined above, there will be no significant impact on the farm uses directly adjacent to the golf course. Therefore, it is reasonable to conclude that farm uses located further to the east will also not experience significant impacts from the proposed development.

The applicant also provided additional information based on the practices that the golf course will engage in for development and ongoing maintenance. It is important to address all potential impacts to farm uses that could reasonably occur from the proposed golf course. Below, the applicant addresses several golf course activities that, if not managed responsibly through Best Management Practices (BMPs), could potentially have negative impacts on adjacent or nearby farm uses.

- **SPRAY DRIFT AND RUNOFF**

The applicant intends to utilize BMPs to control the potential for drift during the application of fertilizers and chemical sprays used in the management of the golf course. Fertilizer and chemical applications are most effective when applied during optimal conditions. Fertilizers are applied as foliar feeding (rather than root saturation) during the early morning hours. Early morning applications are intended to avoid sun and wind exposure, which allows for better plant absorption. Chemical applications are similarly applied when winds are calm, using direct hand or machine application. The foliar method of application for fertilizers and chemicals eliminates the opportunity for runoff. Impending weather conditions are also considered when applying fertilizers or chemicals. Rain events following application can wash vegetation and reduce effectiveness. It is important to understand that fertilizers and chemicals are expensive, and proper application is necessary to achieve affordable management of the golf course and avoid waste and runoff.

- **DRAINAGE**

While it is common to have a drainage system located within the golf course to quickly disperse water from low-lying fairways during heavy rain events, all stormwater runoff will be collected and maintained within the golf course. As mentioned above, the golf course fairways are generally surrounded by elevated dune formations that separate the course from adjacent properties and naturally direct runoff internally.

There are various wetlands throughout the proposed course that currently act as stormwater drainage basins. The continued use of existing wetlands as drainage basins for stormwater runoff is practical for the golf course and beneficial to the wetlands.

In conjunction with the development of the course and to ensure future stability, it will be required that the project receive a DEQ 1200-C Erosion Control Permit. This permit will address stormwater management both during development and after the completion of the course.

By implementing these BMPs, the applicant aims to mitigate potential negative impacts on nearby farm uses, ensuring responsible and sustainable management of the golf course.

- **IRRIGATION AND WATER MANAGEMENT**

There is no question that the development of a golf course depends on the availability of water for irrigation. However, approving a golf course is not contingent upon the availability of water, as it is not a specified requirement or criterion under state or county regulations. Nevertheless, the applicant must demonstrate that the proposed golf course will not adversely impact surrounding lands devoted to farm use. If the golf course's water usage were to interfere with the availability of water for adjacent or nearby agricultural use, an adverse impact could result. It is the applicant's contention that there will be no adverse impacts on water use for nearby agricultural uses based on the permitting requirements of the Oregon Department of Water Resources. The property owner is engaged in a water transfer of water rights. This means, if approved, they are not developing new water rights but will be using water that has already been allocated in this area.

A memorandum has been submitted by the applicant's consultant, Bob Long, who is acting in his capacity as a Registered Geologist, Licensed Hydrologist, and Certified Water Rights Examiner (see Applicant's Exhibit "F"). In his narrative, Mr. Long explains the comprehensive process for obtaining a water use permit through the Oregon Department of Water Resources.

Oregon water rights law is based upon the "Doctrine of Prior Appropriation." In other words, with regard to permitted water use, senior water rights trump junior rights, or essentially, first come, first served. Under this doctrine, the proposed golf course will not impact the viability of existing agricultural uses through its water usage.

The Planning Commission also conditioned the application to obtain permits for Oregon Water Resources including installing and monitoring wells to avoid impacts.

Therefore, with regard to water use, it is reasonable to conclude that the proposed golf course will not force a significant change in accepted farm practices on surrounding lands devoted to farm use.

- **APPLICANT'S REQUIRED COVENANT**

As a condition of approval, the applicant will be required to sign and record, with the Coos County Clerk, a notarized agreement stating that he/she will not object to standard farm or forest practices occurring on adjacent or nearby lands. This agreement will become a deed restriction that will run with the golf course tract in perpetuity.

In conclusion the applicant has addressed the impacts criteria at this time it is reasonable to conclude that the proposed golf course will not significantly impacts farm and forest uses. However, if issues arise at the hearing the applicant is amenable to reasonable conditions of approval that the Planning Commission determines are necessary to ensure the use will be compatible.

- (20) *GOLF COURSE* - "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
- (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
 - (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
 - (c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;
 - (d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:
 - (A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
 - (B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
 - (C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

FINDINGS: The application states that approximately 150 acres will contain the regulation golf course, practice course, and driving range. Of this, approximately 90 acres will feature tees, greens, and fairways, consisting of meticulously maintained (mowed and irrigated) vegetated turf (fescue grass).

Another 60 acres will consist of intermediate areas (roughs) that also act as safety corridors. These intermediate areas are initially contoured and then minimally maintained with dune sand, tall grasses, and selected native vegetation.

There will be approximately 148 acres of open space land within the tract containing natural dune formations and native vegetation. While not utilized for golf, these open space areas provide the appropriate setting for a Scottish Links style golf course, while supporting natural dune land vegetation, wetlands, and wildlife habitat.

At the north end of the ownership, Two Mile Creek is contained within a Coastal Shoreland Boundary based on the existing flood zone. There are also scattered wetlands across the golf course that have been identified and avoided during the course design. No development or fill/removal is proposed in these areas of special consideration.

The applicant has provided some additional information to show this will be a regulation 18-hole golf course. The following explanation has been provided:

When interpreting a portion of a provision, particularly a subjective one, it is important to consider the provision in its entirety. In this case, the subjective standard defines a regulation golf course as having a playable distance of 5,000 to 7,500 yards with a par of 64 to 73 strokes. The average width for golf course fairways (maintained turf) is generally 200 to 300 feet (100 yards). A course 7,500 yards long (100 yds. x 7,500 yds.) would consume 150 acres. This does not include intermediate areas and safety corridors, access roads, or cart paths. The 150 acres of playable area also does not consider amenities such as a clubhouse, maintenance facility, irrigation reservoirs, driving ranges, practice courses, or parking, all of which are allowed under the Administrative Rule definition for a golf course on EFU land.

The proposed golf course, including maintained turf and secondary or intermediate areas, spans approximately 140 acres. The practice course and driving range, allowed alongside a regulation course, cover an additional 25 acres of maintained surface. An extra 10 acres will be dedicated to the clubhouse, parking, and maintenance facility. Altogether, the approximately 175 acres used for the golf course and permitted amenities fit well within the subjective parameters for a regulation golf course.

As detailed throughout this application, the golf course facility will include accessory uses such as a clubhouse/pro-shop, restaurant, turn-stand, parking, restrooms, practice course, driving range, agronomy/maintenance center, and office space. There are no proposed uses that are not accessory to the golf course, nor are there any retail facilities aimed at the non-golfing public. Since the accessory uses are intended only to serve golfers utilizing the golf course, it is practical and cost-effective to limit their size and orientation to the intended use. The pro shop, the only retail facility, will be located in the clubhouse, which also contains the restaurant.

Additionally, a strategically located turn-stand on the golf course route will include restrooms and a vendor's station offering catered food and various beverages. The turn-stand will not have a formal kitchen, as it is intended to provide snacks and beverages midway through the course. To promote continuous play, the facility will serve as a convenient pit-stop. This accessory service is clearly incidental to the operations of the golf course.

The applicant has addressed these criteria.

Section 4.6.210 Development and Use Standards for the Exclusive Farm Use Zone.

Development Standards All dwellings and structures approved shall be sited in accordance with this section.

1. *Minimum Lot Size: The minimum parcel size shall be at least 80 acres. Land divisions involving a house that existed prior to June 1, 1995 see § 4.6.210(5)(a). For land divisions where all resulting parcels are at least 80 acres, a conditional use is not required. However, the applicable standards in Chapter VI must be met. [OR96-06-007PL 9/4/96]*

New lots or parcels for dwellings not in conjunction with farm use may be allowed when the requirements of § 4.6.210(3), § 4.6.210(4)(a or b) and § 4.6.210(5) are met. In addition, the creation of new parcels for nonfarm uses may be allowed only when such new parcel is the minimum size needed to accommodate the use in a manner consistent with other provisions of the Ordinance.

The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.

FINDINGS: No land division is being proposed at this time; therefore, this is not relevant criteria for this proposal.

2. *Setbacks*

a. Road: All buildings or structures with the exception of fences shall be setback a minimum of thirty five (35) feet from any road right-of-way centerline or five (5) feet from any right-of-way line, whichever is greater.

b. Firebreak: New or replacement dwellings on lots, parcels, or tracts abutting the "Forest" zone shall establish and maintain a firebreak for a distance of at least 30 in all directions. Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs, and other dead vegetation should be removed from beneath trees.

FINDINGS: There are no proposed dwellings on the property. Therefore, this is not applicable to the request.

3. *Structure Height: Farm-related structures are exempt from height limits unless subject to Airport Overlay zone or Urban Growth Boundary requirements.*

FINDINGS: None of the subject properties are within the Airport Overlay or Urban Growth Boundary. Therefore, this criterion is not applicable with this proposal.

4. *Lot Coverage: No requirements.*

FINDINGS This is not relevant to the current proposal as there are no required lot coverage requirements in the zone.

5. *Fences, Hedges and Walls: No requirement except for vision clearance provisions of § 7.1.525 apply.*

FINDINGS The applicant stated that the golf course development will comply with any vision clearance requirements of 7.1.525.

6. *Off-street parking and Loading: See Chapter VII.*

FINDINGS: All parking and loading areas throughout the golf facility will comply with the standards of Chapter VII, CCZLDO.

7. *Minimum Road Frontage/Lot Width unless waived by the Planning Director in consultation with the County Surveyor due to creating an unsafe or irregular configuration:*
- a. *Within UGB's – 50 feet*
 - b. *Outside UGB's – 20 feet*

FINDINGS: No land divisions are proposed in this application. Therefore, these criteria are not applicable with this proposal.

8. *Access: Access to new dwellings shall meet road design standards in Chapter VII.*

FINDINGS: No new dwellings are proposed in this application. Therefore, this criterion has been addressed.

9. *Minimizing Impacts: in order to minimize the impacts of dwellings in agricultural lands, all applicants requesting a nonfarm dwelling shall acknowledge and file in the deed records of Coos County, a Farm Practices Management Easement. The Farm Practices Easement shall be recorded in the deed records of the county prior to any final county approval for a single family dwelling. [OR96-06-007PL 9/4/96]*

FINDINGS: No new dwellings are proposed in this application. Therefore, this criterion has been addressed.

10. *Riparian Vegetation Protection within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife Habitat Inventory maps shall be maintained except that:*
- a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
 - b. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
 - c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*

- d. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
- e. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
- f. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps; or*
- g. *The 50 foot riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure's "footprint".*
- h. *Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
- i. *The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.*

FINDINGS: All applicable riparian setbacks will be met and maintained.

- **ARTICLE 4.11 SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS**

SECTION 4.11.125 Special Development Considerations:

The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed In the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site.

4.11.129 Beaches and Dunes (Policy 5.10)

The Beaches and Dunes map has inventoried the following:

- *Beaches and Dunes*
 - o *Suitable for most uses; few or no constraints (Does not require a review)*
 - o *Limited Suitability; special measures required for most development*
 - o *Not Suitable for Residential, commercial or Industrial Structures Purpose Statement:*

Coos County shall base policy decisions for dunes on the boundaries for these areas as identified on the plan map titled "Development Potential within Ocean Shorelands and Dunes" and the boundaries delineates following specific areas "Suitable", "Limited Suitability" and "Not Suitable" areas of development potential.

a. Limited Suitability: "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding. The measures prescribed in this policy are specifically required by Statewide Planning Goal #18 for the above-referenced dune forms; and that this strategy recognizes that designated mitigation sites must be protected from other uses.

Implementation shall occur through an Administrative Conditional Use process, which shall include submission of a site investigation report that addresses this subsection, by a qualified registered and licensed geologist or engineer.

i. Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" only upon the establishment of findings that consider at least:

- a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;*
- b) The need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;*
- c) The need for methods for protecting the surrounding area from any adverse effects of the development; and*
- d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.*

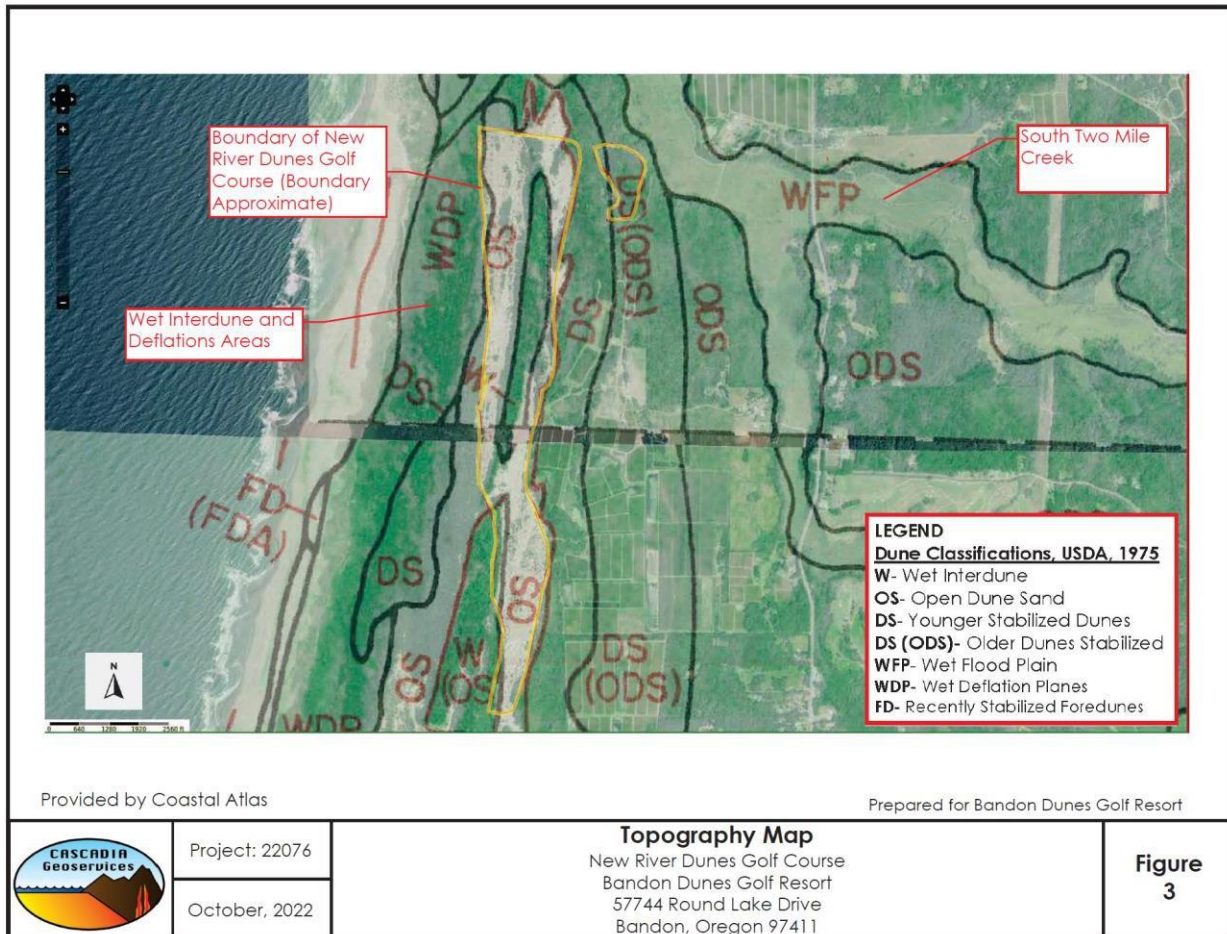
ii. Further, Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown, which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies. Coos County shall cooperate with state and federal agencies in regulating the following actions in the beach and dune areas with limited development potential:

- a) Destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage);*
- b) The exposure of stable and conditionally stable areas to erosion;*
- c) Construction of shore structures which modify current air wave patterns leading to beach erosion; and*
- d) Any other development actions with potential adverse impacts.*

FINDINGS: The proposed golf course and requested structural development is located within the Beaches and Dunes with Limited Development Suitability Special Development Consideration. The relevant criteria has been included above and the map shows the area in gold.



According to the applicant's submitted technical memorandum, the proposed golf course is located in Open Dune Sand (OS), Wet Interdune (W), and Older Dunes Stabilized (DS-ODS).



The County's Beaches and Dunes overlay zone derives from the Oregon Planning Goal #18. Goal #18 specifically directed local governments to "begin the beach and dune inventory with a review of Beaches and Dunes of the Oregon Coast, USDA Soil Conservation Service and OCCDC, March 1975, and determine what additional information is necessary".

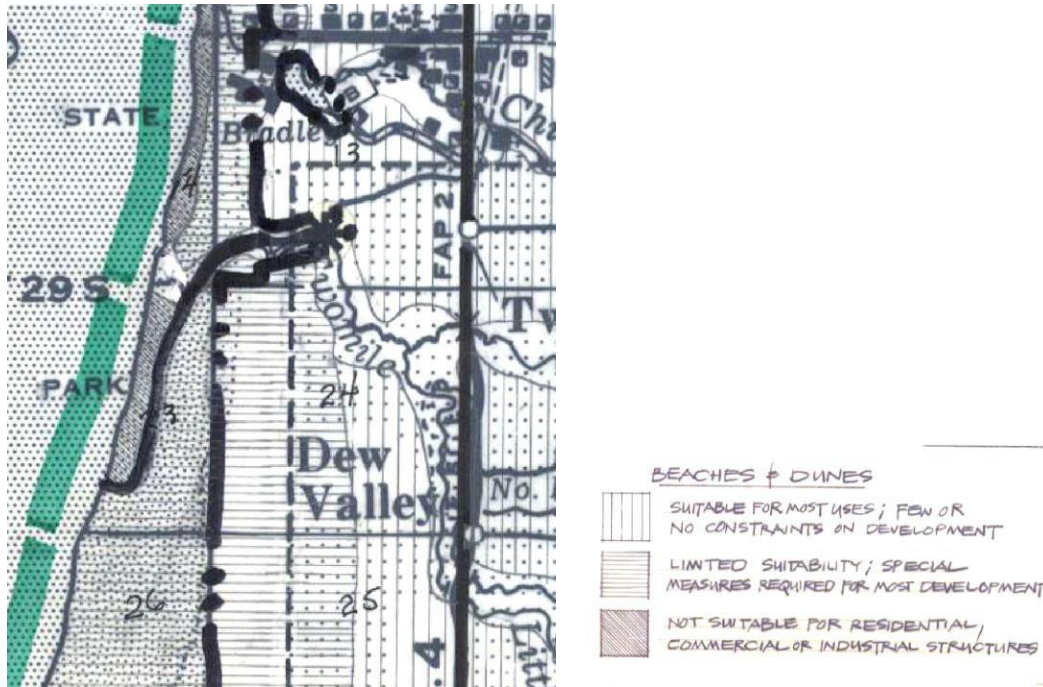
Below is the reference table that relates to the USDA mapping classifications compared to the Goal 18 dune classifications.

TABLE 2 A
SAND DUNE MAPPING UNITS AND DUNE FORMS

ASSOCIATED DUNE CATEGORIES	MAPPING UNIT		ABBREVIATED DESCRIPTION
	NAME	SYMBOL	
Active Dunes	Open Dune Sand	OS	Wind drifted sand in the form of dunes and ridges, that are essentially bare of vegetation.
	Active Dune Hummocks	H	Partly vegetated circular and elevated mounds of sand.
	Active Foredunes	FDA	A growing barrier ridge of sand paralleling the beach which lies immediately above the high tide line.
Recently Stabilized Dunes	Foredunes	FD	An active foredune that has become conditionally stable with regard to wind erosion.
	Open Dune Sand Conditionally Stable	OSC	A sand dune presently in wind stable condition but vegetated by fragile plantings.
	Dune Complex	DC	Various patterns of small dunes with partially stabilized intervening areas.
	Younger Stabilized Dunes	DS	A youthful wind stable dune landform.
Older Stabilized Dunes	Older Stabilized Dunes	ODS	A wind stable dune landform that has soils with weakly cemented nodules and lenses to strongly cemented nodules or strongly cemented B ₁ horizons.
	Older Foredunes	OFD	A wind stable former foredune landform that lies approximately parallel but back away from the beach.

January 1975

Below is the County's adopted Mylar maps for Beaches and Dunes.



Even with the differences between the USDA 1975 map and the County's Beaches and Dunes map. The proposed golf course is located within the Beaches and Dunes zones that require reviews.

The applicant did submit a technical memorandum from Eric Oberbeck, CEG #1332, with Cascadia Geoservices.

The technical report states the area proposed for development consists primarily of open dune sand areas. Based on the site evaluation and his experience working in this region, it was his opinion that developing the site into a golf course will not have an adverse impact on either the site or adjacent areas. Furthermore, he stated by providing and maintaining permanent vegetation in conjunction with the golf course, will stabilize the younger open dunes from further wind erosion. This permanent stabilization will occur after final shaping, eliminating the need for temporary stabilization measures. As with other development projects in windy areas, erosion and sediment control measures should be adopted during the clearing and shaping of the site in accordance with DEQ's Best Management Practices.

The technical report goes on to explain that there will be no hazards to life, public and private property, or the natural environment posed by the proposed development. Finally, it is Mr. Oberbeck's professional opinion that the proposed development will not cause excessive destruction of desirable vegetation, including inadvertent destruction by moisture loss or root damage, exposure of stable and conditionally stable areas to erosion, or modification of current air wave patterns leading to beach erosion.

As part of the proposed golf course development, a restaurant and clubhouse will be constructed, along with other ancillary structures. These will be wood-framed structures supported on conventional shallow foundations. We have observed these building sites and it is our opinion that the sites are suitable for the proposed development. Prior to finalizing the design, CGS should be retained to perform site-specific geotechnical evaluations of the sites. These evaluations should include subsurface explorations, laboratory testing, and, if required, a slope stability analysis. The report should provide geotechnical design parameters for the soils encountered and recommend special siting measures, including setbacks.

The report addresses the impacts to the land and does not specifically address the structural impacts that may need to be completed. Therefore, the applicant has suggested a conditional use application addressing "structural development" will be required when designed and exact location is determined. Staff finds this acceptable and would suggest that condition of approval.

- **4.11.130 Non-Estuarine Shoreland Boundary (Balance of County Policy 5.10)**

The Coastal Shoreland Boundary map has inventoried the following:

- Coastal Shoreland Boundary
- Beach Erosion
- Coastal Recreation Areas
- Area of Water-Dependent Uses
- Riparian Vegetation
- Fore Dunes
- Head of Tide
- Steep Bluffs over 50% Slope
- Significant wetland wildlife habitats
- Wetlands under agricultural use
- Areas of Exceptional Aesthetic or Scenic Quality and Coastal Headlands
- Headland Erosion Purpose Statement:

Protection of major marshes (wetlands), habitats, headlands, aesthetics, historical and archaeological sites: Coos County shall provide special protection to major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources, and historic and archaeological sites located within the Coastal Shorelands Boundary of the ocean, coastal lakes and minor estuaries. This strategy shall be implemented through plan designations and ordinance measures that limit uses in these special areas to those uses that are consistent with protection of natural values, such as propagation and selective harvesting of forest products, grazing, harvesting wild crops, and low intensity water-dependent recreation. This strategy recognizes that special protective consideration must be given to key resources in coastal shorelands over and above the protection afforded such resources elsewhere in this plan.

FINDING: The proposed use and structural development is not within the Coastal Shoreland Boundary. There is an existing single lane bridge that currently crosses Twomile Creek and is contained within the Coastal Shore/and Boundary (CSB). The applicant recognizes the importance of protect the creek and adjacent wetlands and are proposing to utilize the existing bridge for access to the golf course. There is a detailed memo from David Evans found at applicant's Exhibit J that explains the condition of the bridge and the adequacy of the compacity. Therefore, there is no proposed development at this time in the CSB.

- SECTION 4.11.132 NATURAL HAZARDS (BALANCE OF COUNTY POLICY 5.11)

Pursuant to the Coos County Comprehensive Plan inventory maps, the golf course is located within numerous identified Natural Hazard areas. Each of the hazard types is addressed below.

- Flood Hazard, Riverine Flooding, Coastal Flooding

FINDING: The golf course is not in the mapped flood hazard, but there is an area at the north and northeast end of the golf tract. The floodplain overlay includes a portion of the road and the bridge crossing Twomile Creek. There is no development proposed within or near the flood zone, and therefore, no flood application process is required.

- Landslides and Earthquakes, Landslide Susceptibility

FINDING: According to the Coos County Comprehensive Plan inventory maps, the proposed golf course is located within areas with moderate and high landslide susceptibility. Coos County only regulates development within areas subject to very high landslide susceptibility, and therefore landslide susceptibility is not applicable to this application.

- Liquefaction Potential

- Earthquakes: Coos County shall promote the protection of life and property in areas potentially subject to earthquake hazards. New development or substantial improvements in mapped areas identified as potentially subject to earthquake-induced liquefaction shall be subject to a geologic assessment review as set out in this section. Such areas shall include lands subject to "very high" and "high" liquefaction identified in DOGAMI Open File Report

O-13-06, "Ground motion, ground deformation, tsunami inundation, co-seismic subsidence, and damage potential maps for the 2012 Oregon Resilience Plan for Cascadia Subduction Zone Earthquakes."

FINDING: According to the Coos County Comprehensive Plan inventory maps, portions of the proposed golf course are located within a high liquefaction potential area. All new structures developed within a high liquefaction area shall be subject to a Geologic Assessment.

- **SECTION 4.11.155 GEOLOGICAL ASSESSMENT REVIEW**

GEOLOGIC ASSESSMENT REVIEW:

The applicant(s) shall complete the following review to determine compliance with this section. This type of review requires a conditional use application and shall follow the administrative procedures for conditional uses found in Article 5 of the CCZLDO.

FINDING: The applicant states they do not have the details needed for the location of the structures. Therefore, as a condition of approval a geological hazard assessment report requirements will be addressed through an additional conditional use review prior to siting any structural development.

- **Tsunamis: Coos County shall promote increased resilience to a potentially catastrophic Cascadia Subduction Zone (CSZ) tsunami through the establishment of a Tsunami Hazard Overlay Zone (THO) in the Balance of County Zoning. See Sections 4.11.260-4.11.270 for the requirements of this overlay zone.**

4.11.265 Tsunami Hazard Overlay (THO) Zone (Definitions) Definitions applicable to the tsunami hazard overlay zone.

As used in tsunami hazard overly zone Section 4.11.270:

1. "Essential Facilities" means:
 - a. Hospitals and other medical facilities having surgery and emergency treatment areas;
 - b. Fire and police stations;
 - c. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
 - d. Emergency vehicle shelters and garages;
 - e. Structures and equipment in emergency preparedness centers;
 - f. Standby power generating equipment for essential facilities; and
 - g. Structures and equipment in emergency preparedness centers.
2. "Hazardous facility" means structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released.
3. "Special occupancy structures" means:
 - a. Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons;
 - b. Buildings with a capacity of greater than 250 individuals for every public, private or parochial school through secondary level or child care centers;
 - c. Buildings for colleges or adult education schools with a capacity of greater than 500 persons;

- d. Medical facilities with 50 or more resident, incapacitated persons not included subsection (a);
 - e. Jails and detention facilities; and
 - f. All structures and occupancies with a capacity of greater than 5,000 persons. *See* ORS 455.466
4. “Substantial improvement” means any repair, reconstruction, or improvement of a structure which exceeds 50 percent of the real market value of the structure.
 5. “Tsunami vertical evacuation structure” means a building or constructed earthen mound that is accessible to evacuees, has sufficient height to place evacuees above the level of tsunami inundation, and is designed and constructed with the strength and resiliency needed to withstand the effects of tsunami waves.
 6. “Tsunami Inundation Maps (TIMs)” means the map, or maps in the DOGAMI Tsunami Inundation Map (TIM) Series, published by the Oregon Department of Geology and Mineral Industries, which cover(s) the area within Coos County.

FINDING: According to the Coos County Comprehensive Plan inventory maps, the golf course is located within a tsunami zone. Currently, Coos County has regulations on covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons. However, the applicant is not proposing a structure with this capacity. The majority of the other regulation relate to essential or hazardous facilities. Therefore, no additional review is required.

- **Erosion, Riverine Streambank Erosion, Coastal, Shoreline and Headlands, Wind**

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Erosion

Coos County shall promote the protection of property from risks associated with shoreline, headland, and wind erosion and deposition hazards. The county shall also promote protection from risks associated with bank erosion along rivers and streams through necessary erosion-control and stabilization measures, preferring nonstructural solutions when practical.

Any proposed structural development within a wind erosion/deposition area, within 100 feet of a designated bank erosion area, or on a parcel subject to wave attack, including all oceanfront lots, will be subject to a geologic assessment review as set out in Section 4.11.150. There is a setback of 100 feet from any rivers or streams that have been inventoried in the erosion layer. If a variance is requested, a geologic assessment will be required.

FINDING: The proposed golf course development will adhere to Coos County's policies regarding erosion. Structural developments will be evaluated for potential wind erosion, shoreline, and headland erosion, as well as streambank erosion risks. The project will incorporate necessary erosion-control and stabilization measures, favoring nonstructural solutions when practical.

Any proposed structures within identified erosion-prone areas or within 100 feet of a designated bank erosion area will undergo a geologic assessment review as required. Additionally, a setback of 100 feet from any inventoried rivers or streams will be maintained unless a variance is granted, in which case a geologic assessment will be conducted. This ensures compliance with Section 4.11.150 and promotes the protection of property and natural resources in Coos County.

There are no structures proposed within 100 feet of the existing Twomile Creek stream bank. No portion of the golf course will be developed within 100 feet of a designated bank erosion area or on a parcel subject to wave attack, including an oceanfront lot. While the proposed golf course is not subject to this specific provision, erosion control measures will be implemented as necessary.

- **Wildfire**

Coos County shall promote the protection of property from risks associated with wildfires. New development or substantial improvements shall, at a minimum, meet the following standards on parcels designated or partially designated as "High" or "Moderate" risk on the Oregon Department of Forestry 2013 Fire Threat Index Map for Coos County or as designated as at-risk of fire hazard on the 2015 Coos County Comprehensive Plan Natural Hazards Map.

FINDING: The proposed golf course is identified as being located within a High-Risk Wildfire Hazard area. The primary cause for fire hazard throughout the area is the presence of the invasive species, gorse, which exists on the subject property and on surrounding lands, primarily state park lands to the west.

The development of the golf course will result in the removal of gorse within the applicant's ownership designated for golf. The golf course will primarily consist of fine fescue grasses that will be irrigated and manicured for the establishment of tees, fairways, greens, and open space. The development of the course will reduce wildfire risk by replacing flammable gorse with less flammable, well-maintained turf. This approach will enhance fire safety for the property and surrounding areas by mitigating one of the primary wildfire hazards. The firebreak requirements will apply to all structural development and shall be complied with through the building process.

- **SECTION 7.1.250 MATERIALS REQUIRED FOR AN APPLICATION:**

A traffic plan (item 1) will be required for all rezones, recreational vehicle parks, campgrounds, mobile home parks, land divisions, industrial developments, commercial developments and high intensity development plans. The Roadmaster in consultation with the Planning Director will have discretion to waive items 2 through 4 based on the findings that the increase in development is diminimus to the existing development.

1. Traffic Plan - A parking/traffic plan shall be submitted to address all of the following
 - a. Property boundaries;
 - b. Location of all structures on the subject property;
 - c. Required parking spaces;
 - d. Current utilities and proposed utilities;
 - e. Roadmaster may require drawings and specs from the Oregon Standards Specification Manual (OSSC) (current edition);
 - f. The location and design of bicycle and pedestrian facilities shall be indicated on the site plan if applicable;
 - g. Pedestrian access and circulation will be required if applicable. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of walkways, landscaping, accessways, or similar techniques;
 - h. All plans (industrial and commercial) shall clearly show how the internal pedestrian and bicycle facilities of the site connect with external existing or planned facilities or systems;

- i. Location of existing and proposed access point(s) on both sides of the road where applicable;
- j. Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;
- k. Number and direction of lanes to be constructed on the road plus striping plans;
- l. All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.); and
- m. Parking and internal circulation plans including walkways and bikeways, in UGB's and UUC's.
 1. Traffic Study completed by a registered traffic engineer.
 2. Access Analysis completed by a registered traffic engineer
 3. Sight Distance Certification from a registered traffic engineer.

FINDING: The boundaries of the golf course, subject to traffic and parking plans, have been submitted in the revised New River Dunes Conceptual Master Plan (Applicants Exhibit "C") and the Preliminary Clubhouse Site Plan (Applicants Exhibit "D"). A conceptual plan for the proposed structures is reflected on the revised master plan and preliminary clubhouse plan. These documents have been provided to the Roadmaster to determine compliance.

The parking facility has not yet been designed, and the county ordinance does not appear to have a specific parking space requirement for a golf course. The applicant plans to construct at least one parking lot with approximately 70 to 80 spaces. Prior to development, the applicant will submit a parking plan to the county for processing through a compliance determination. Potable water will be provided through an on-site well, and sanitation services will be handled through on-site septic systems approved by the Oregon Department of Environmental Quality.

The only public services to the golf course will be electrical service from Coos-Curry Electric or the City of Bandon, and potentially cable service for internet and Wi-Fi. The installation and location of these services will be determined by agreements with the service providers and the location of existing improvements.

The Oregon Department of Transportation has standardized plans for deceleration lanes and intersections, which will provide the necessary information to develop the only substantial intersection applicable to the project. The 1/2 mile of Boak Lane (half public and half private) providing ingress and egress to the proposed golf course currently consists of a well-maintained gravel road with a substantial base from years of use and maintenance. The proposed 24-foot paved road will be constructed over the existing road surface, with any necessary improvements to meet county standards.

The private driveway currently exists but will require some widening to meet the proposed 24-foot, two-lane, paved surface. The proposed ingress and egress will occur over improved rural roads that require no special design or drawings to meet county standards. No bicycle or pedestrian facilities are required in conjunction with rural roads.

The proposed golf course does not include commercial, office, or multi-family residential development. However, pedestrian access and circulation are reflected on the preliminary

clubhouse site plan. There are seven dwelling parcels with driveways on the north side and one dwelling parcel with a driveway on the south side of Boak Lane. Wobbler Road extends north from Boak Lane and serves about half a dozen dwelling parcels. There are no access points from the private driveway crossing the applicant's property.

The applicant could not find rural road standards for distances between residential driveways for rural roads. The applicant's driveway that will provide access to and from the golf course is one-half mile from US Highway 101. There are no proposed traffic signals, other than a stop sign at the intersection of the applicant's driveway with Boak Lane. Boak Lane, as well as the private driveway to the golf course, will be improved to 24-foot paved surfaces. Striping will be provided as required by the Roadmaster. No sidewalks, bikeways, or auxiliary lanes are proposed. Parking and internal circulation plans, including walkways and bikeways, will be addressed in UGBs and UUCs.

The applicant has addressed the traffic plan requirements. The applicant has also addressed the following:

- The applicant will be working with ODOT and will provide any required design drawings for improvements at the intersection of Boak Lane and Highway 101.
- **Design Drawings:** The applicant will provide design drawings to the Coos County Road Department for improvements at the intersection of the applicant's driveway and Boak Lane, as well as for the roundabouts proposed within the first half mile of Boak Lane.
- **Access:** Access to the proposed development is from US Highway 101 to Boak Lane, which consists of a public right-of-way for 1300 feet and a private easement for an additional 1300 feet, leading to the applicant's property.
- **ODOT Consultation:** The applicant has met on-site with the ODOT District 7 Permit Specialist and discussed the proposed access location with the Region 3 Senior Transportation Planner. It has been determined that there are no line-of-sight conflicts in either direction, and the only required improvements may be a southbound deceleration lane on Highway 101, along with the relocation of utility poles and lines along the highway.
- **ODOT Feedback:** ODOT does not provide official comments until notice is received in conjunction with the processing of the application. They will respond with comments and any requirements during the application process. Based on available information and their site visit, ODOT did not believe that a formal traffic study would be required. Since the Boak Lane intersection with Highway 101 is the only significant public intersection directly affected by the proposed use, it is premature to require a traffic plan, study, or analysis unless requested by ODOT.
- **Road Improvements:** The applicant proposes to improve the one-half mile of gravel road (Boak Lane) and the private driveway to the golf course with a 24-foot, two-lane paved surface. The road is relatively straight with excellent visibility.
- **Traffic Generation:** There are 16 residential uses that currently utilize Boak Lane for ingress and egress. Using the standard of 10 trips per day for each residence, this equates to 160 trips. The proposed golf course, based on a maximum of 150 rounds per day, could potentially generate 150 to 200 trips per day, considering caddy and employee traffic. An intersection with 1000 trips or below per day maintains an "A" classification on an A to F scale. The total residential and golf trip generation per day will not exceed 350 to 400 trips, well below the 1000 trips necessary to maintain an "A" classification.

- **Shuttle Service:** The proposed golf course will act as a satellite course for the Bandon Dunes Resort. Reservations and tee times will be booked by the Bandon Dunes Resort, and a large percentage of the golfers playing the proposed course are expected to be resort patrons. The resort will provide a shuttle service (16-person capacity) to and from the resort, reducing the number of trips per day calculated above.
- **Traffic Distribution:** Based on the type of use, the trips generated will be spread evenly throughout the day as golfers arrive and depart according to standardized tee times. The staggered traffic patterns will reduce stacking at the applicable intersections.
- **Deceleration Lane:** A deceleration lane will be constructed adjacent to the southbound lane of Highway 101 at its intersection with Boak Lane. There will be no left turn lane for northbound traffic.
- **Utility Relocation:** Relocation of utility poles, utility lines, and mailboxes will be required.
- **Road Paving:** Boak Lane will be improved from its current gravel surface to a 24-foot paved surface. Striping will be provided as required by the Roadmaster. No sidewalks, bikeways, or auxiliary lanes are proposed.
- **Roundabouts:** There are two roundabouts proposed within the first half mile of Boak Lane (county road and private easement) as speed control and turnaround features. The centers of the roundabouts will be landscaped with signage.
- **Private Driveway:** The private driveway across the applicant's property to the golf course will also consist of a 24-foot, two-lane paved road, improved in the same general location as the existing gravel road. This road will provide access to the north end of the golf course and the proposed parking lot.
- **Single-Lane Bridge:** One exception to the two-lane private driveway is where it crosses a single-lane bridge over Two Mile Creek and its associated wetlands. This location will remain a single-lane road with pullouts on both sides of the bridge, with visual clearance between the pullouts. David Evans and Associates, Structural Engineers, inspected the bridge and found it suitable for all levels of truck traffic (see Applicant's Exhibit "J").

By all standards, the proposed golf course will generate an acceptable level of traffic based on the level of improvements proposed. The necessary improvements (deceleration lane and intersection improvements) can be designed using standardized information from ODOT and Coos County Road Standards.

There is no logical reason to require a Traffic Study when the road and intersections will remain at the highest level of classification. ODOT will conduct an access analysis for the intersection of Boak Lane with their state highway and determine whether there is adequate sight distance at the Boak Lane and Highway 101 intersection.

Because the classification of the road and intersections will not change, the proposed impact is minimal. Therefore, the applicant requests that the Planning Director and the Roadmaster waive subsections (2), (3), and (4) pursuant to Section 7.1.150, based on the factual information provided above.

The Roadmaster has not requested the applicant provide any additional information.

SUMMARY OF TESTIMONY RECEIVED AND RESPONSE:

1. The applicant will collaborate with the Oregon Department of Transportation (ODOT) on implementing traffic control measures as necessary to ensure safe access to the site. A request for comments was made and ODOT replied they would provide comments a later time. As a condition of approval staff suggested that the applicant comply with any ODOT requirements as cooperation will be part of the overall efforts to meet safety requirements and ensure compliance with any ODOT guidelines.
2. The applicant is required to comply with any comments or requirements provided by the Department of State Lands (DSL). These comments will need to be addressed as part of the approval process.
3. The Oregon Department of Fish and Wildlife (ODFW) has been notified and requested to provide comments regarding bird habitat concerns, particularly in relation to the Goal 5 inventoried Bird Site. Any compliance with ODFW's comments will be required, but this obligation applies specifically to inventoried bird habitats as identified in the Comprehensive Plan.
4. Brett Johnson supports the proposal, particularly highlighting the removal of gorse as a positive aspect. However, his support is based on general approval and the benefits of gorse removal, rather than addressing any specific criteria relevant to the decision-making process.
5. Vickie Crowley provided comments expressing concern about the protection of the snowy plover. However, this issue is already addressed through the request for comments with the Oregon Department of Fish and Wildlife (ODFW). The relevant criteria for this application focus on the impacts to Farm and Forest uses, not recreational or wildlife considerations, so her concerns, while important, fall outside the scope of the criteria being evaluated in this process.
6. Oregon Coast Alliance – Several issues raised and addressed:
 - a. **Lawfully Created Property:** The property in question was lawfully created through a prior land use action involving Property Line Adjustments, as consistent with CCZLDO Section 6.1.125(b). This confirms the legal status of the property, and the issue raised by the Oregon Coast Alliance regarding the legality of the property's creation has been addressed appropriately.
 - b. **Geologic Assessment Review:** The concern about the geologic assessment is not applicable at this stage, as the assessment is specifically tied to structural development. The use impacts under discussion pertain to the entire project, not just the structures. A geologic assessment can be applied for through a subsequent permit, which means that this issue does not undermine the current application and is not a valid argument against the proposal.
 - c. **Golf Course on High-Value Farmland:** The property has been carefully evaluated and isolated to ensure that it does not meet the criteria for classification as high-value farmland. The opponent appears to be relying on outdated tax lot data to make this argument. Staff has addressed this by confirming that the land in question does not constitute a tract of high-value farmland, and therefore, the issue has been resolved.
 - d. **Impacts to Surrounding Farmland:** The proposed golf course is a listed use under

- ORS 215.283, which permits such uses in exclusive farm use zones in non-marginal lands counties, subject to review standards. The Oregon Coast Alliance's concern about cumulative impacts on surrounding farmland lacks supporting evidence. As noted in *Van Dyke v. Yamhill County*, 80 Or LUBA 348 (2019), an evaluation of cumulative impacts on all farm practices is not required. Additionally, increased human activity does not automatically equate to adverse impacts.
- e. **Regarding water concerns**, the Oregon Water Resources Department is responsible for conducting a negative impact analysis during the water right transfer process. The County can accept this analysis as sufficient proof that there will be no adverse impacts from the proposed use. The opponent has not provided sufficient evidence to demonstrate any specific adverse impacts on a property-by-property basis, making it difficult for the applicant or the planning commission to address these objections. Broad statements without detailed evidence may preclude an appeal on this issue to the Land Use Board of Appeals. The use is permitted under ORS 215.283, and siting the golf course will not alter the farmland designation or remove the land from the agricultural inventory.
 - f. **Golf Course Acreage Limitation:** OAR 660-033-0130(20) defines a "golf course" as typically being around 120 to 150 acres, but this is not a strict standard. The applicant's concern about the tract of land exceeding this size does not constitute a violation. The rule does not set a strict acreage limit that would automatically result in the application's denial for exceeding the typical size. The argument presented by the opponent lacks a basis in the applicable regulations.
 - g. **Use by Non-Golfing Public:** The concern about the use of the golf course by the non-golfing public has been addressed by conditioning the accessory uses to be available to golfers only. This condition ensures compliance with the intended use and addresses the opponent's concerns.
 - h. **Beaches and Dunes:** The Beaches and Dunes application can be submitted at any time and is not required to be part of the initial use request. As a condition of approval, all related hazards, including those associated with Beaches and Dunes, will be addressed through a separate conditional use application. This process ensures that all relevant environmental concerns will be adequately reviewed and managed.
7. Ms. Richie raised concerns with water mainly but also raises negative impacts to the local ecosystem, property values, and agricultural operations, leading to the loss of productive family farms. She points out the lack of consideration for alternative crops or other agricultural uses that could be more sustainable. Furthermore, she raises issues related to the management of high-value farmland (HVF) and questions the legality and appropriateness of converting such land into a golf course. While Ms. Richie raises several concerns, her statements lack supporting evidence and rely heavily on speculation.

Ms. Richie claims that the proposed water usage will drain the entire basin and impact local wells and water bodies, but she does not provide scientific data or studies to support these assertions. Without detailed hydrological studies or aquifer tests, it is difficult to accurately predict the impact on water resources. Ms. Richie references the lack of comprehensive studies on the mid-level aquifer and outdated data from the 1980s. However, she does not provide any recent studies or alternative data to substantiate her claims. The applicant may have conducted more recent assessments that should be considered.

The arguments made by Ms. Richie are based on generalizations about water usage and agricultural impacts. She assumes that the proposed development will have the same negative effects as past projects without considering potential mitigation measures or differences in project design.

Ms. Richie asserts that high-value farmland cannot be converted into a golf course, but she does not reference specific legal precedents or regulations to support this claim. This is a use listed under ORS 215.283 for uses that may be permitted in the farm use zones.

Ms. Richie fails to acknowledge any potential mitigation measures that the applicant might implement to reduce water usage, protect local aquifers, or address agricultural concerns. This omission weakens her argument, as it assumes a worst-case scenario without considering possible solutions.

Ms. Richie's concerns about the economic impact on local farms are speculative and not backed by economic analysis or studies. The proposed development may also bring economic benefits to the area, which she does not address.

In conclusion, while Ms. Richie raises valid concerns about water usage, her arguments lack the necessary evidence and detailed analysis to substantiate her claims. A more balanced assessment would require reviewing the applicant's studies, mitigation plans, and compliance with local regulations before drawing conclusions about the potential impact of the proposed development.

8. The Oregon Department of Transportation (ODOT) did not require a Traffic Impact Study for this proposal, but they have indicated that a turn lane or other mitigation measures may be necessary. As a condition of approval, the applicant will be required to comply with all ODOT requirements to ensure that any potential traffic impacts are adequately addressed.
9. Eileen Duffy opposes the plan, speculating that it will ruin fertile farmland. However, her opposition is based on speculation, and she does not provide additional information or evidence to substantiate her claims. As a result, her concerns lack the necessary detail to allow for an adequate response or consideration within the context of the relevant criteria and standards.
10. Robert and Jacquelyn Dillman express opposition to the development, questioning the necessity of additional golf courses and advocating for preserving space for other uses. However, their testimony is based on personal opinion and does not address any specific or valid criteria relevant to the decision-making process. As such, their concerns, while reflective of their viewpoint, do not engage with the legal or regulatory standards that guide the approval process.
11. Ryan Sherman expresses support for the proposal, particularly highlighting its potential to assist in the eradication of the invasive species *Ulex*, also known as gorse. He also offers a positive opinion on the proposed water usage. However, it is important to note that these comments, while supportive, do not address any specific or valid criteria relevant to the decision-making process. They are based on personal opinion rather than an analysis of the applicable standards or regulations.

12. Brett Perkins provides favorable comments in support of the applicant, asserting that the applicant has met the required criteria and standards. However, it should be noted that his letter does not directly address any specific criteria or provide evidence to substantiate these claims. Instead, the letter simply endorses the applicant's assertion that the criteria have been met, without offering a detailed analysis or independent verification of the compliance with the relevant standards.
13. Marie Richie – In response to the issue raised regarding the timing of the notice, it is important to clarify the following:

The original notice was properly prepared, delivered, and deposited in the mail on June 21, 2024, in accordance with the required procedures. An amended notice was sent seven days later, correcting the applicant's information. While the postmark on the notice Ms. Richie received indicates it was processed on July 2 in Portland and received by her on July 8, it is essential to note that once the notice is deposited with the postal service, the County is no longer responsible for any delays or routing issues that may occur within the postal system.

Ms. Richie - In response to the issue raised regarding the timing of the notice, it is important to clarify the following:

The original notice was properly prepared, delivered, and deposited in the mail on June 21, 2024, in accordance with the required procedures. An amended notice was sent seven days later, correcting the applicant's information. While the postmark on the notice Ms. Richie received indicates it was processed on July 2 in Portland and received by her on July 8, it is essential to note that once the notice is deposited with the postal service, the County is no longer responsible for any delays or routing issues that may occur within the postal system.

Ms. Richie has not specified which notice she is referring to—the original or the amended one. However, staff has fulfilled all obligations by ensuring that the notices were mailed in a timely manner as required by the regulations. The timing of receipt is beyond the County's control and falls under the purview of the postal service. Therefore, this issue does not affect the validity of the notice or the process, as staff adhered to all required procedures. Furthermore, the record was left open to provide additional time for comments.

Ms. Richie raised some issues with noxious weed management or absence of management that is occurring on lands within Bandon Biota's ownership. This property is not within that ownership of Bandon Biota anymore. She fails to make an argument of how this is related to the criteria.

Traffic concerns have been addressed by having the applicant comply with ODOT's requirements as the access onto 101 is a state facility. Any traffic improvements or traffic compliance under the county's jurisdiction will be handled through Coos County Road Department and will be required as a condition of approval.

She reiterates a lot of water concerns as addressed in Exhibit 7 above.

14. Sean T. Malone, Oregon Coast Alliance – Reiterates a lot of the same arguments as presented in Exhibit 6. Citing to case law regarding high-value land does not provide the facts as to why

ORCA is stating this is actually high-value farmland. The applicant addresses the issue in the application and staff explained using the appropriate criteria that using aerial images, assessment records, soil maps, zoning maps and water right maps illustrates that the overall area is not considered high-value farmland. About 28% of the property is classified as high-value, while the rest consists of other lands or not high-value farmland. The opposition fails to explain what the findings presented are inadequate but instead make statements and references the case law.

The next argument is in regards to golf course and design capacity. The applicant has two dwellings on the tract of land but not within the project area identified. The dwellings are not short-term rentals as that is current prohibit in the local ordinance based on the zoning. They are long term rentals and are not proposed to be used accessory to the proposed golf course. OAR 663-033-0130(20)(d)(A) provides a list of uses but it is not inclusive or exclusive on uses. If the dwellings were to be use as an accessory use to a golf course the applicant would have to show that they meet the definition and would be required to count the improvement into the density. However, this request was not made and Mr. Malone fails to make a case that they have to be included. The applicant has not requested a larger design compacity and will be within the 100-person design capacity.

Mr. Malone argues that the applicant has not satisfied the farm impacts test due to a failure to conduct a cumulative analysis. He suggests that the cumulative impacts test should consider more than just the aggregate of multiple less-than-significant impacts on each farm. However, this argument is not consistent with the legal precedents set by the Land Use Board of Appeals (LUBA). Specifically, LUBA has stated in its headnotes (3.3.1 EFU Statute/Ordinances – Nonfarm Uses – Generally) that while the impacts of nonfarm uses on surrounding farmland must be evaluated on a farm-by-farm and practice-by-practice basis, an evaluation of cumulative impacts on all farm practices across all impacted farms is not required (Van Dyke v. Yamhill County, 80 Or LUBA 348 [2019]).

The applicant has conducted a farm-by-farm review as required. Mr. Malone has not provided specific information about which particular farm would be impacted or what the actual impact would be, making it difficult to address his concerns. Many of his arguments appear to be speculative and not based on concrete evidence or real situations.

Furthermore, the applicant has often referenced the Bandon Dunes Golf Resort, which is similarly surrounded by farm and forestlands. Notably, no impacts have been filed on record related to this resort, suggesting that similar developments have not led to the negative consequences Mr. Malone speculates about. The Planning Commission is likely to give more weight to known situations, such as the established and well-documented example of Bandon Dunes, rather than hypothetical or speculative conclusions.

In conclusion, the lack of specific, evidence-based claims and the reliance on speculative scenarios weaken Mr. Malone's argument. The Planning Commission is justified in considering the applicant's farm-by-farm review and the precedence of similar developments like Bandon Dunes as provided as an example by the applicant in making its decision.

Mr. Malone next tries to make the argument that ORS 215.710(2) automatically qualifies the property as high-value farmland due to the tract. Mr. Malone fails to acknowledge ORS

215.710 specifically acknowledge that high-value farmland description for ORS 215.705 which is Dwellings in farm or forest zone; criteria; transferability of application and does not apply to a golf course. The staff report specifically explains, high-value farmland has different meanings depending on the use and sections they reference. The applicable portion of ORS 195.300 to golf courses would be subsections (b) and (c).

- (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in [ORS 215.710 \(High-value farmland description for ORS 215.705\)](#) (1) and the following soils:
 - (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;
 - (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam;
and
 - (C) Subclassification IVw, specifically Huffling Silty Clay Loam.
- (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:
 - (A) Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;
 - (B) Within the boundaries of a district, as defined in [ORS 540.505 \(Definitions\)](#); **or**
 - (C) Within the boundaries of a diking district formed under ORS chapter 551.

The applicant has addressed the criteria but using the appropriate aerial photos, soils maps and calculations to show predominately the property is not considered high-value farmland.

Mr. Malone raises an issue with the Geological Review. The Coos County Zoning and Land Development Ordinance allows applications to be submitted singular or concurrent. The applicant has asked to have this reviewed at a later time and that is appropriate.

The last issue raised by Mr. Malone was the lawfully created status. Again as stated by staff in the last hearing stated the properties were lawfully created. The properties in question were designated as lawfully created through a prior land use action, as consistent with CCZLDO Section 6.1.125(b). In prior land use decisions the staff reports explain how the property were lawfully created. These decisions were not appealed and are final decisions. This confirms the legal status of the property, and the issue raised by the Oregon Coast Alliance regarding the legality of the property's creation has been addressed appropriately. *See applicants Exhibit A and Exhibit K map.*

15. Applicant's Rebuttal - The applicant primary provided rebuttal to of the issues raised by ORCA. All issues raised by ORCA with the exception of potential new evidence was raised in the prior testimony. These arguments were addressed by the applicant and staff verbally at the first hearing. There does not seem to be any new issues raised.

16. ORCA's Rebuttal - The rebuttal testimony provided by Oregon Coast Alliance (ORCA) raises several concerns about the proposed project, but it lacks substantial legal evidence to support its claims. ORCA argues that the applicant has not effectively controlled gorse on their property, suggesting a potential wildfire risk. However, this claim is based on observations and concerns rather than concrete evidence or legal standards. ORCA fails to provide documented proof or expert testimony that definitively links the applicant's current gorse management practices to an increased wildfire risk or even how it relates to the relevant criteria for Ocean River LLC's project. Additionally, ORCA raises concerns about the applicant's ability to secure sufficient water for the proposed golf course, citing potential drawdowns affecting local wells and cranberry bogs. However, these claims are speculative, as ORCA does not include and expert analysis to substantiate the potential impacts of water usage and dismisses Oregon Water Resources role in this matter.

ORCA also challenges the applicant's handling of high-value farmland, asserting that the application will remove such land and that the applicant has been inconsistent in their statements. However, this argument is not supported by legal or factual evidence proving that the land in question meets the definition of high-value farmland or that the applicant's approach violates applicable laws. The argument relies on allegations rather than a detailed analysis of zoning laws, land use regulations, or expert testimony. Moreover, ORCA claims that the applicant has not provided a complete picture of the project's impacts, particularly regarding water use, building locations, and geological assessments. However, ORCA does not consider whether the application meets the procedural requirements for this stage of the process, nor does it cite specific legal obligations that the applicant has failed to meet. In fact ORCA has provided incorrect references to the criteria required to be met for high-value farmland.

Criticism of the applicant's consultant, whom ORCA dismisses as biased due to their vested interest in the project, is also not substantiated by legal evidence. Simply stating that a consultant is biased does not undermine the legal validity of their findings. Throughout the rebuttal, ORCA asserts that the application should be denied due to a lack of valid legal theories and substantial evidence. However, their testimony is not grounded in specific legal standards, expert analysis, or factual evidence that would typically be required to support such claims. The arguments presented by ORCA are largely speculative and do not directly address the legal criteria that the application must meet, weakening their overall case.

17. The applicant's final argument - The applicant's final argument emphasizes that their comprehensive application has clearly addressed the proposal and provided substantial evidence, often from professional witnesses, to meet the applicable criteria. In contrast, the primary opposition from Oregon Coast Alliance (ORCA) relies on conjecture rather than substantiated evidence to challenge the applicant's findings. The applicant argues that while it is their responsibility to support the relevant criteria with evidence, ORCA's challenges lack credibility as they are based on speculation rather than factual rebuttals, particularly in areas such as water usage where ORCA dismisses the expertise of the Oregon Department of Water Resources (ODWR). Additionally, ORCA's concerns about the safe application of chemicals and potential harm to farm uses are seen as unfounded, as the application has already addressed these issues thoroughly.

The applicant also notes that other concerns raised by local citizens, primarily related to water and traffic, have been thoroughly addressed in the application and will be further managed

through processes with the appropriate state and local agencies. These concerns, according to the applicant, are not directly relevant to the decision on the golf course. The applicant concludes by requesting that the Planning Commission approve the proposed golf course with conditions, based on the substantial evidence provided in the application and subsequent rebuttals.

PLANNING COMMISSION DECISION: The Planning Commission considered the record along with testimony and evidenced and voted to approved the application for a Conditional Use Permit, subject to conditions, to establish an 18-hole regulation golf course with accessory uses in the Exclusive Farm Use (EFU) zone. The proposed accessory facilities include a clubhouse/restaurant, agronomy center/maintenance facility, a turn-stand with restrooms and vendor space, at least two stand-alone restrooms, a caddy shack, a driving range, a practice course, and necessary parking and drop-off areas. The entire tract encompasses 342 acres, with approximately 165 acres designated for the golf course, practice course, and driving range. Of this, about 115 acres will feature tees, greens, and fairways, maintained with vegetated turf (fescue grass). Additionally, 50 acres will serve as intermediate areas (roughs) that also function as safety corridors, featuring open sand dunes, tall grasses, and native vegetation with minimal maintenance. The remaining 134 acres will consist of open space, including natural dune formations, 20 acres of wetlands, and 23 acres of flood areas, which, while not used for golf, enhance the Scottish Links-style setting and support native vegetation and wildlife habitat.

The motion passed four to one (opposed). The decision is based on the record and the proposal meeting the criteria with the following conditions of approval:

1. A conditional use will be required for the development in the Beaches and Dunes and hazard overlays.
2. A traffic plan and parking plan will need to be submitted and approved by the County Roadmaster.
3. The applicant shall comply with requirements from Oregon Department of Transportation.
4. The applicant shall comply with any wetland requirements identified by Department of State Lands.
5. The applicant shall comply with any protection measures identified by ODFW to protect the inventoried bird site.
6. The applicant shall obtain any permits from Oregon Water Resources required and include monitoring wells to ensure impacts are monitored and mitigated prior to having a negative impact on other water right holders.
7. Development Transferability - Unless otherwise provided in the approval, a land use approval that was obtained through a conditional use process shall be transferable provided the transferor files a statement with the Planning Director signed by the transferee. This document shall be recorded in the chain of title of the property, indicating that the transferee has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title to alert a purchaser that development was approved subject to conditions and possible restrictions.
8. The applicants shall acknowledge and file in the deed record of Coos County, a Farm/Forest Management Covenant. The Forest Management Covenant shall be filed prior to issuance of a Zoning Compliance Letter.
9. Obtain Zoning Compliance Letter from the County once all conditions related to the land use authorization have been completed. This will allow for structural and sanitation permits to be obtained.

