



## NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

Coos County Planning  
60 E. Second St.  
Coquille, OR 97423  
<http://www.co.coos.or.us/>  
Phone: 541-396-7770

Date of this Decision: January 30, 2024  
File No: ACU-23-061/ FP-23-010  
RE: Seelander Creek Project (Habitat Restoration Project)  
Applicant(s): Dan Draper, Coos Watershed Association  
Property Owner(s): Scott Elliot

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

**NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.”**

The requested proposal has been  Approved  Denied subject to the findings to the criteria found in Exhibit A. The decision is based on findings and facts represented in the staff report.

### SUBJECT PROPERTY INFORMATION

Location: The Seelander Creek Project will occur on tax lots 26S12W29 1000, 1300 and 26S12W29DC 200, located along Selander Road.

Proposal: Request for Planning Director Approval to restore watershed function through riparian planting/ fencing, improving fish passage, and access to off- channel habitat. The project entails installing 13,250 feet of livestock exclusion fencing, plant native tree, shrub and wetland species, replace and decommission agricultural crossings, repair an agricultural bridge, replace outdated and failing culvert/ tide gate structures with fish friendly mitigator style gates. This development is within the Coos Bay Estuary Management 21-Rural Shorelands (21-RS) and Exclusive Farm Use (EFU) zoning districts.

Decision: This request meets the criteria subject to conditions of approval found at Exhibit A. Approval is based on findings and facts represented in the staff report.

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This notice is to serve as public notice and decision notice and if you have received this notice by mail it is because you are a participant, adjacent property owner, special district, agency with interest, or person

Notice Shall be posted January 30, 2024 through 5:00pm February 14, 2024

with interest in regard to the following land use application. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided by the Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423, but if an appeal is not received in the office by the time and date noted in this decision it will not be accepted. An appeal shall not be directly filed with the Land Use Board of Appeals until all local appeals have been exhausted. If appealed, failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 60 East Second Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page or if available may be viewed at <https://www.co.coos.or.us/community-dev/page/land-use-applications-submitted> . Staff makes every effort to place all noticeable decisions on the webpage but it is not a legal requirement. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is Crystal Orr, and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 5:00 p.m. on February 14, 2024 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

**Authorized by:** \_\_\_\_\_ **Date:** January 30, 2024  
Crystal Orr, Associate Planner

### **EXHIBITS**

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

Exhibit C: Staff Report (only provided to the applicant, Planning Commission and Board of Commissioners)

**The Exhibits below are mailed to the Applicant and Planning Commission and Board of Commissioners only. Copies are available upon request ([planning@co.coos.or.us](mailto:planning@co.coos.or.us)) or may be found on the website or by visiting the Coos County Community Development page on [www.co.coos.or.us](http://www.co.coos.or.us) , or by visiting the office at 60 East Second St, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.**

**EXHIBIT "A"**  
**CONDITIONS OF APPROVAL**

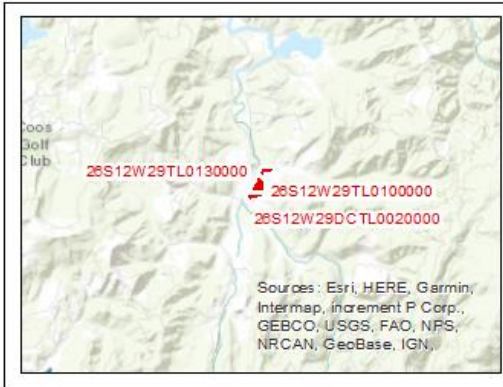
1. All costs associated with complying with the conditions are the responsibility of the applicant and that the applicant is not acting as an agent of the county.
2. The applicant shall contact the Coquille Tribe 72 hours prior to any work on the site.
3. An updated Joint Permit is required to include the findings from this report.

# EXHIBIT "B" VICINITY MAP



## COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coquille, Oregon 97423  
 Physical Address: 60 E. Second, Coquille Oregon  
 Phone: (541) 396-7770  
 TDD (800) 735-2900



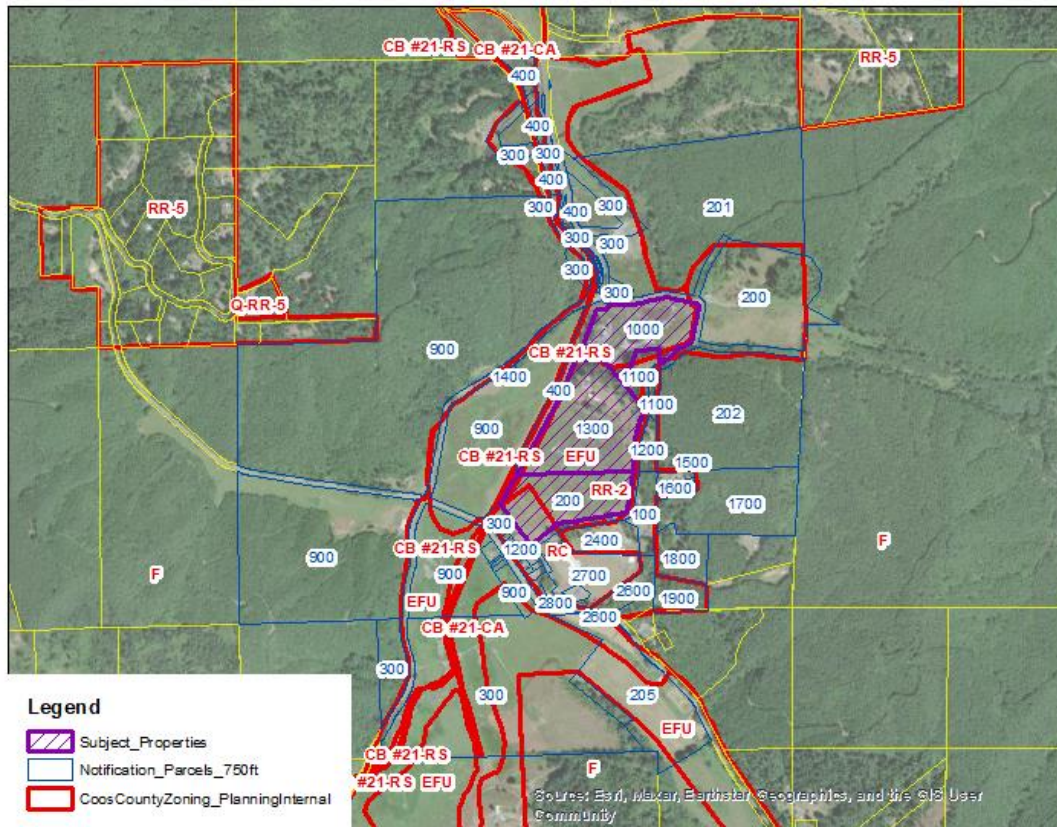
File: ACU-23-061/FP-23-010

Applicant/ Owner: Coos Watershed Association/ Scott & Jemila Elliott

Date: January 26, 2024

Location: Township 26S Range 12W  
Section 29/29C TL 1000, 1300 / 200

Proposal: Administrative Conditional Use/  
Floodplain Review



## **EXHIBIT "C"** **Staff Report**

**Reviewing Staff:** Crystal Orr, Associate Planner  
**Date of Report:** January 30, 2024

### **I. PROPOSAL**

The applicant has described the Seelander Creek Project plans to install 13,250' of livestock exclusion fencing along 1.9 miles of stream and wetland habitat providing riparian setbacks ranging between 20' and 40'. These setbacks will create 10.3 acres of riparian buffers where they plan to plant native tree, shrub, and wetland species according to our planting plan. To address the 10 failing and undersized (24-72") stream crossings they will partner with the Coos County Road Dept. to replace 2 crossings, work with lowland landowners to repair an Ag bridge and 2 Ag crossings, fully decommission several Ag crossings and replace 3 outdated and failing culvert/tidegate structures with 2 fish friendly mitigator style gates. These structures will improve access to critical coho habitats by providing access to nearly 7 miles of spawning and rearing habitat, which are key habitat limiting factors for the Seelander and Catching Sub-basins.

The Seelander Creek Habitat Restoration Project looks to target 3 primary objectives, for the purpose of creating habitat for fish and other wildlife. The objectives include: 1. Improve year-round fish passage for all aquatic species (specifically juvenile & adult salmonids) at 10 stream crossing locations which will provide access to ~7 miles of spawning and rearing habitat within the Seelander Creek Basin; 2. Improve Riparian Function/Habitat by developing 10.3 acres of riparian buffers along 1.9 miles of stream within the project area; 3. Improve water quality (reducing sediment, increasing shade, reducing bacteria loading, and improving dissolved oxygen levels) by installing 13,250 feet of riparian fencing along 1.9 miles of stream, while planting 12,360 native trees/shrubs and 7,519 cuttings within 10.3 acres of riparian buffers along 100% of the streams and creeks within our project area.

### **II. PROPERTY DESCRIPTION AND PROPOSAL**

**LOCATION:** The Seelander Creek Project takes place on tax lots 26S12W29 1000, 1300 and 26S12W29DC 200, located along Selander Road. The total acreage of the parcels is 43 acres and restoration efforts are being proposed to enhance around ten (10) acres. The property is a working lands pasture that is grazed and also contains a Single Family Dwelling and associated farm structures. The project area is southeast of the City of Coos Bay.



### III. APPROVAL CRITERIA & FINDINGS OF FACT

- **Coos Bay Estuary Management Plan Coos County Zoning and Land Development Ordinance Article 3 Estuary Zones – General Information**

#### **SECTION 3.2.150. HOW TO USE THIS ARTICLE.**

*This Article contains specific language that implements the Coos Bay Estuary Plan. The main purpose is to clearly stipulate where, and under what circumstances, development may occur.*

*Follow the steps below to determine whether or not a proposed use or activity is, or may be, allowed at any specific site within the Coos Bay Estuary Shoreland Boundary.*

1. *Locate the subject site on the General Index Map.*
2. *Note the General Location Index Map (i.e. Lower Bay, Upper Bay, etc.) which is referenced on the General Index Map and advance to the General Location Index Map.*
3. *Locate the subject site on the General Location Index Map. Note the numbers and abbreviated district designations (i.e. “UD”, “UW”, “CS”, etc.) for applicable zoning districts. (Note: management segments in the Plan are the same as zoning districts.)*
4. *Turn to the pages in the Ordinance which contain specific zoning district provisions which correspond to the map designations for the subject site.*
5. *For each applicable Shoreland or Aquatic District:*
  - a) *Review the districts Management Objective. This narrative provides general policy guidance regarding uses and activities that are, or may be, allowed in the district.*
  - b) *Review the district’s Uses, Activities, and Special Conditions Table to determine whether or not a proposed use or activity is allowable outright, allowable with conditions, or conditionally allowable subject to an Administrative or Hearings Body Conditional Use.*

*Symbols denote whether or not the specific use or activity listed in the tables is permitted outright, may be allowed subject to an Administrative Conditional Use, may be allowed subject to a Hearings Body conditional use, or prohibited in the specific district. The following symbols are pertinent:*

*P - means the use or activity is permitted outright subject only to the management objective.*

*S - indicates that the use or activity may be allowed subject to “Special Conditions” presented following the use and activity table. A few of the special conditions are non-discretionary, but most require local judgment and discretion and the development of findings to support any final decision about whether or not to allow the use or*



activity.

*Some uses and activities may be identified as being subject to a special condition that is not discretionary or may not apply to a site-specific request. If such is the situation, the Planning Director shall make such determination and if “General Conditions” are not applicable regard the use or activity as permitted outright. Such determination shall consist of a statement of facts supporting the decision.*

*G - indicates the use or activity may be allowed subject to “General Conditions” presented following the use and activities table. “General Conditions” provide a convenient cross-reference to applicable Baywide Policies which may further limit or condition the uses and activities.*

*A few “General Conditions” may not apply to a site specific request. If such is the situation, the Planning Director shall make such determination and if “Special Conditions” are not applicable, regard the use or activity as permitted outright. Such determination shall consist of a statement of facts supporting the decision.*

*ACU - means the use or activity may be permitted as provided above or subject to “Special” or “General” conditions pursuant to an Administrative Conditional Use.*

*HB - means the use or activity may be permitted except as provided above or subject to “Special” or General” conditions pursuant to a Hearings Body Conditional Use.*

*N - means the use or activity is prohibited.*

*N/A - means Not Applicable; the use or activity is not realistic considering the physical character of the district and therefore does not apply.*

*c) Review the designations which accompany each use and activity listed in the Table to determine what is allowed, what is not allowed and what conditions may apply. (The Table may list a use as conditionally allowable but a condition may negate the Table’s designation).*

### **SECTION 3.2.175. SITE-SPECIFIC ZONING DISTRICTS.**

*This Ordinance shall divide the lands affected by the Coos Bay Estuary Management Plan into specific zoning districts as identified in Sections 3.2.200. The following zoning districts delineate the appropriate requirements which shall apply to all lands within the individual districts.*

*A detailed “Uses and Activities” table follows the “Management Objectives” statement presented for each respective aquatic and shoreland district. The tables describe specific uses and activities deemed appropriate and inappropriate for each district. The Use and Activity tables for each district are subordinate to the “Management Objective” for the respective districts in that allowed uses and activities must be consistent with the respective districts’ “Management Objective” statements.*

**SECTION 3.2.180. RIPARIAN PROTECTION STANDARDS IN THE COOS BAY ESTUARY MANAGEMENT PLAN.**

*The following standards shall govern riparian corridors within the Coos Bay Estuary Management Plan:*

1. *Riparian vegetation within 50 feet of a estuarine 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; or*
  - c) *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or*
  - d) *Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, USFS stream enhancement plan; or*
  - e) *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish the purpose; or*
  - 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 for the minimum amount necessary to site or maintain irrigation pumps.*
2. *The 50 ‘ 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”.(ORD 92-05-009PL)*
3. *The 50’ measurement shall be taken from the ordinary high water mark using a right angle from the ordinary high water mark.*

- **Coos Bay Estuary Management Plan Coos County Zoning and Land Development Ordinance Section 3.2.596 21-RS Zoning District**

*GENERAL LOCATION: Catching Slough*



ZONING DESIGNATION: 21-RS

ZONING DISTRICT: 21-RURAL SHORELANDS

SPECIFIC BOUNDARIES: This district is both banks of Catching Slough to 1,000-feet above the extent of tidal influence south of Sumner.

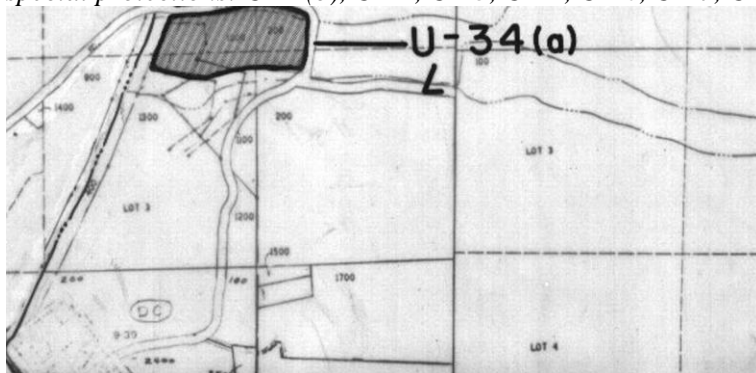
Western Boundary: At Coos River Road Bridge

Eastern Boundary: At the junction of East Catching Slough Road and Gunnell Road, at the south end of the large diked pasture.

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**SECTION 3.2.595. MANAGEMENT OBJECTIVE:**

This shoreland district of generally diked farm land shall be managed to maintain the present low-intensity, rural character and uses in a manner compatible with protection of the aquatic resources. An existing heron rookery located in the district shall be preserved by protecting those trees in the rookery which are used by the birds. This district contains a number of designated mitigation sites. The following are "high" or "medium" priority, and must be protected, as required by Policy #22: U-28, U-29(b), U-30(b), U-32(a) and (b), U-33, U-34(c) and (d). The following are "low" priority sites, and received no special protections: U-21(b), U-22, U-23, U-24, U-26, U-27, U-29(a), U-32(c) and U-34(a) and (b).



**FINDING:** The management objective must be addressed. A portion of the project area is within the U-34(a) low mitigation site, but requires no special protection per the management unit. The proposal is generally consistent with the objectives of this management unit, as the project focuses on habitat restoration.

**SECTION 3.2.596. USES, ACTIVITIES AND SPECIAL CONDITIONS.**

Table 21-RS sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 21-RS also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

A. Uses

- |                |     |
|----------------|-----|
| 1. Agriculture | P-G |
| 2. Airports    | N   |
| 3. Aquaculture | P-G |
| 4. Commercial  | N   |

|     |   |          |            |
|-----|---|----------|------------|
| 5.  | <i>Dryland moorage</i>                  |          | <i>N</i>   |
| 6.  | <i>Industrial &amp; Port facilities</i> |          | <i>N</i>   |
| 7.  | <i>Land transportation facilities</i>   |          | <i>P-G</i> |
| 8.  | <i>Log storage/sorting yard (land)</i>  | <i>N</i> |            |
| 9.  | <i>Marinas</i>                          |          | <i>N</i>   |
| 10. | <i>Mining/mineral extraction</i>        |          | <i>N</i>   |
| 11. | <i>Recreation facilities</i>            |          |            |
|     | <i>a. Low-intensity</i>                 |          | <i>P-G</i> |
|     | <i>b. High-intensity</i>                |          | <i>P-G</i> |
| 12. | <i>Residential</i>                      |          | <i>P-G</i> |
| 13. | <i>Solid waste disposal</i>             |          | <i>N</i>   |
| 14. | <i>Timber farming/harvesting</i>        |          | <i>P-G</i> |
| 15. | <i>Utilities</i>                        |          |            |
|     | <i>a. Low-intensity</i>                 |          | <i>P-G</i> |
|     | <i>b. High-intensity</i>                |          | <i>N</i>   |

**B. Activities**

|     |   |                 |                 |
|-----|---|-----------------|-----------------|
| 1.  | <i>Stream alteration</i>                      |                 | <i>P-G</i>      |
| 2.  | <i>Dikes</i>                                  |                 |                 |
|     | <i>a. New construction</i>                    |                 | <i>ACU-S, G</i> |
|     | <i>b. Maintenance/repair</i>                  |                 | <i>ACU-S, G</i> |
| 3.  | <i>Dredged material disposal</i>              |                 | <i>ACU-S, G</i> |
| 4.  | <i>Excavation to create new water surface</i> | <i>ACU-S, G</i> |                 |
| 5.  | <i>Fill</i>                                   |                 | <i>ACU-S, G</i> |
| 6.  | <i>Shoreline stabilization</i>                |                 |                 |
|     | <i>a. Vegetative</i>                          |                 | <i>P-G</i>      |
|     | <i>b. Riprap</i>                              |                 | <i>ACU-S, G</i> |
|     | <i>c. Retaining wall</i>                      |                 | <i>ACU-S, G</i> |
| 7.  | <i>Navigation aids</i>                        |                 | <i>P-G</i>      |
| 8.  | <i>Mitigation</i>                             |                 | <i>P-G</i>      |
| 9.  | <i>Restoration</i>                            |                 |                 |
|     | <i>a. Active</i>                              |                 | <i>ACU-S, G</i> |
|     | <i>b. Passive</i>                             | <i>P-G</i>      |                 |
| 10. | <i>Land divisions</i>                         |                 |                 |
|     | <i>a. Partition</i>                           |                 | <i>ACU-S, G</i> |
|     | <i>b. Subdivision</i>                         |                 | <i>ACU-S, G</i> |
|     | <i>c. Planned Unit Development</i>            |                 | <i>ACU-S, G</i> |
|     | <i>d. Recreation PUD</i>                      |                 | <i>N</i>        |

**GENERAL CONDITIONS (the following conditions apply to all uses and activities):**

- Inventoried resources requiring mandatory protection in this district are subject to Policies #17 and #18.*
- All permitted uses and activities shall be consistent with Policy #23, requiring protection of riparian vegetation.*

The following conditions apply to all permitted uses:

3. Where "agricultural lands" or "forest lands" occur within this district, as identified in the "Special Considerations Map", uses in these areas shall be limited to those permitted in Policies #28 and #34.
4. Uses in this district are only permitted as stated in Policy #14 "General Policy on Uses within Rural Coastal Shorelands". Except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this policy.
5. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.
6. On designated "medium" or "high" priority mitigation/restoration sites, all uses/activities shall only be permitted subject to the conditions in Policy #22.
7. In rural areas (outside of UGBs) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.

**SPECIAL CONDITIONS:**

*Activities:*

- 2a.,2b. These activities shall not be permitted at "high priority" mitigation sites U-30(b) and U-32(b).
3. Dredge material disposal shall be allowed when consistent with Policy #20.
4. Creation of new water surfaces for mitigation or aquaculture uses only shall be allowed.
5. This activity shall not be allowed in areas of "wet meadow" wetland, as identified in the "Special Considerations Map", except as otherwise allowed in Policy #19.
- 6b.,6c. These activities are permitted subject to the findings required by Policy #9, "Solutions to Erosion and Flooding Problems".
- 9a. Active restoration shall be allowed only when consistent with Policy #22b.
10. Land divisions are only permitted where they meet the conditions in Policy #15.

**SECTION 3.2.597. LAND DEVELOPMENT STANDARDS.**

The requirements set forth in Table 3.2 shall govern development in the 21-RS district.

**FINDING:** The following review types, criteria and policies have been identified below. The activities do require a conditional use review and they are required to address applicable special conditions and general policies. The required policies are identified as #17, #18, #23, #22b, #23 and the management objective added policy #22.

**B. Activities**

- |    |                                |                 |
|----|--------------------------------|-----------------|
| 1. | <i>Stream alteration</i>       | <i>P, G</i>     |
| 5. | <i>Fill</i>                    | <i>ACU-S, G</i> |
| 6. | <i>Shoreline Stabilization</i> |                 |
|    | <i>a. Vegetative</i>           | <i>P, G</i>     |
|    | <i>b. Rip Rap</i>              | <i>ACU-S, G</i> |

**GENERAL CONDITIONS** (the following conditions apply to all permitted uses and activities):

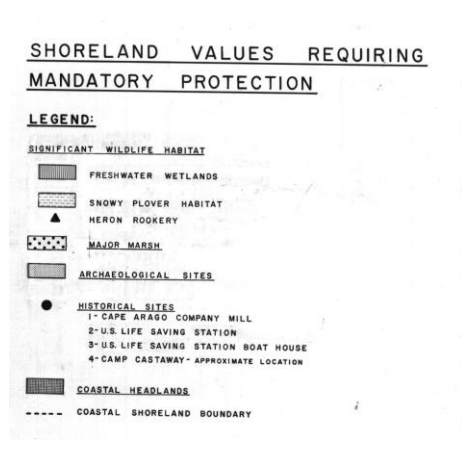
- Inventoried resources requiring mandatory protection in this district are subject to Policies #17 and #18.*
- All permitted uses and activities shall be consistent with Policy #23, requiring protection of riparian vegetation.*

**SPECIAL CONDITIONS**

*Activities:*

- Stream alterations require General Conditions to be addressed.*
- Fill: this activity shall not be allowed in areas of "wet meadow" wetland, as identified in the "Special Considerations Map", except as otherwise allowed in Policy #19.*
- Shoreline Stabilization: vegetative stabilization requires General Conditions to be addressed. Stabilization using rip rap requires policy #9 to be addressed, "Solutions to Erosion and Flooding Problems".*

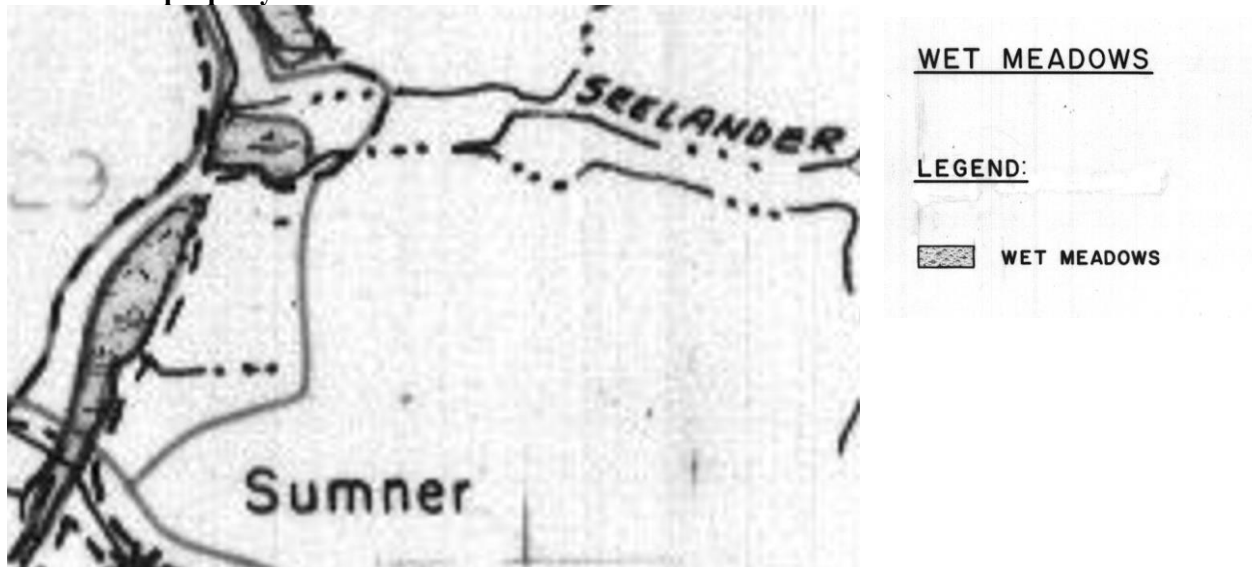
The project requires that the "General Conditions" are addressed. Policy 17 required protection of major marshes and significant wildlife habitat within Coastal Shorelands, and Policy 18 Protection of Historical, Cultural, and Archaeological Sites. In order to determine whether this property is protected Staff must review the Shoreland Values Inventory Map as well as the Linkage Matrix. The property is only identified as being within the Coastal Shoreland Boundary according to the Shoreland Value Map below.



| SHORELAND<br>MANAGEMENT<br>SEGMENT |             | RESOURCES REQUIRING<br>MANDATORY PROTECTION<br>AND SEVERE USE<br>RESTRICTIONS . . . |                              |                   |                                 |                               |
|------------------------------------|-------------|---|------------------------------|-------------------|---------------------------------|-------------------------------|
| NUMBER                             | DESIGNATION | MAJOR FRESHWATER MARSH  | SIGNIFICANT WILDLIFE HABITAT | COASTAL HEADLANDS | EXCEPTIONAL AESTHETIC RESOURCES | HISTORIC & ARCHAEOLOGIC SITES |
| 21                                 | RS          | X   | ✓                            | X                 | X                               | ✓                             |

The zoning (21-RS) has “Significant Wildlife Habitat & Historic & Archaeologic Sites”. The project entails installing fencing for livestock, planting native trees, shrubs, and wetland species, and addressing ten (10) failing and undersized stream crossings. This proposal will enhance wildlife habitat. A request for comments has been sent to the local tribes, the applicant/property owner will be required to adhere to any comments received.

Fill within this segment requires that Staff review the Special Considerations Map to determine whether the property is within an area identified as “wet meadow” wetland.



A portion of this property is within the wet meadow wetland consideration, which means that this portion of the property cannot fill unless the property can meet an exception within Policy 19. Policy 19 explains that Coos County shall protect agricultural purposes within rural areas defined as “wet meadow”, but currently in agricultural use or with agricultural soils, unless an Exception

allows otherwise. Permitted uses and activities in these areas shall include farm use and any drainage activities necessary to improve agricultural production. This proposal would meet the exception under Policy 19.I.c, minor improvements for which there is no practical alternative.

Therefore, the applicant has addressed the applicable Special Conditions required for the type of activities.

- **COOS BAY ESTUARY MANAGEMENT PLAN COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE CBEMP POLICIES**

**#17 Protection of "Major Marshes" and "Significant Wildlife Habitat" in Coastal Shorelands**

*Local governments shall protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise.*

*I. Local government shall protect:*

- "Major marshes" to include areas identified in the Goal #17, "Linkage Matrix", and the Shoreland Values Inventory map; and*
- "Significant wildlife habitats" to include those areas identified on the "Shoreland Values Inventory" map; and*
- "Coastal headlands"; and*
- "Exceptional aesthetic resources" where the quality is primarily derived from or related to the association with coastal water areas.*

*II. This strategy shall be implemented through:*

- Plan designations, and use and activity matrices set forth elsewhere in this Plan that limit uses in these special areas to those that are consistent with protection of natural values; and*
- Through use of the Special Considerations Map, which identified such special areas and restricts uses and activities therein to uses that are consistent with the protection of natural values. Such uses may include propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low-intensity water-dependent recreation.*
- Contacting Oregon Department of Fish and Wildlife for review and comment on the proposed development within the area of the 5b or 5c bird sites.*

*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.*

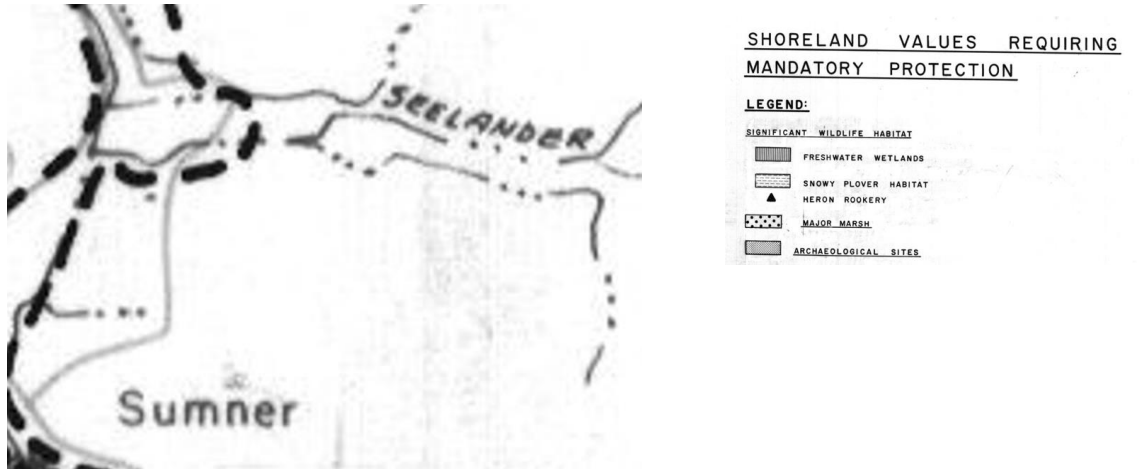
**FINDING:** Looking at the Linkage Matrix there are resources identified in the 21-RS but that does not mean they are on this specific site which requires review of the plan maps. The linkage matrix identifies the following resources:

- **Resources Requiring Mandatory Protection and Severe Use Restrictions  
Significant Wildlife Habitat**

## Historic & Archaeologic Sites

- For Designated Dredged Material Disposal & Mitigation Sites Only  
Dredged Material Disposal Sites  
Sites Protected from Pre-Emptory Uses  
Potential Mitigation Sites

The plan map that has required protections are shown below:



The subject property starts west of “Seelander” on the map to the south. There are no resources shown that require major protections (Archeological Sites would not be made public but there were none shown on the inventory).

The applicant explained that the proposed ecological restoration will not limit uses in any of the aforementioned special areas. If the property did lie within any of those special areas, the project would constitute an enhancement to the land’s natural value and would provide additional protection to those values. The proposal will improve wildlife habitat by creating natural channel networks and planting native vegetation.

This policy has been addressed and the proposal will not effect any of the resources.

## #18 Protection of Historical, Cultural and Archaeological Sites

*Local government shall provide protection to historical, cultural and archaeological sites and shall continue to refrain from widespread dissemination of site-specific information about identified archaeological sites.*

- I. *This strategy shall be implemented by requiring review of all development proposals involving a cultural, archaeological or historical site, to determine whether the project as proposed would protect the cultural, archaeological and historical values of the site.*
- II. *The development proposal, when submitted shall include a Plot Plan Application, showing, at a minimum, all areas proposed for excavation, clearing and construction.*



*Within three (3) working days of receipt of the development proposal, the local government shall notify the Coquille Indian Tribe and Coos, Siuslaw, Lower Umpqua Tribe(s) in writing, together with a copy of the Plot Plan Application. The Tribe(s) shall have the right to submit a written statement to the local government within thirty (30) days of receipt of such notification, stating whether the project as proposed would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.*

*"Appropriate measures" may include, but shall not be limited to the following:*

- a. Retaining the prehistoric and/or historic structure in site or moving it intact to another site; or*
- b. Paving over the site without disturbance of any human remains or cultural objects upon the written consent of the Tribe(s); or*
- c. Clustering development so as to avoid disturbing the site; or*
- d. Setting the site aside for non-impacting activities, such as storage; or*
- e. If permitted pursuant to the substantive and procedural requirements of ORS 97.750, contracting with a qualified archaeologist to excavate the site and remove any cultural objects and human remains, reinterring the human remains at the developer's expense; or*
- f. Using civil means to ensure adequate protection of the resources, such as acquisition of easements, public dedications, or transfer of title.*

*If a previously unknown or unrecorded archaeological site is encountered in the development process, the above measures shall still apply. Land development activities, which violate the intent of this strategy shall be subject to penalties prescribed in ORS 97.990.*

*III. Upon receipt of the statement by the Tribe(s), or upon expiration of the Tribe(s) thirty day response period, the local government shall conduct an administrative review of the Plot Plan Application and shall:*

- a. Approve the development proposal if no adverse impacts have been identified, as long as consistent with other portions of this plan, or*
- b. Approve the development proposal subject to appropriate measures agreed upon by the landowner and the Tribe(s), as well as any additional measures deemed necessary by the local government to protect the cultural, historical and archaeological values of the site. If the property owner and the Tribe(s) cannot agree on the appropriate measures, then the governing body shall hold a quasi-judicial hearing to resolve the dispute. The hearing shall be a public hearing at which the governing body shall determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body to protect the cultural, historical and archaeological values of the site.*

*IV. Through the "overlay concept" of this policy and the Special Considerations Map, unless an exception has been taken, no uses other than propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low intensity water-dependent recreation shall be allowed unless such uses*

*are consistent with the protection of the cultural, historical and archaeological values, or unless appropriate measures have been taken to protect the historic and archaeological values of the site.*

*This strategy recognizes that protection of cultural, historical and archaeological sites is not only a community's social responsibility; it is also legally required by ORS 97.745. It also recognizes that cultural, historical and archaeological sites are non-renewable cultural resources.*

**FINDING:** The proposal was provided to the tribes as consistent with the policy. As a condition of approval, the tribe has requested the applicant schedule an appointment with the tribe a minimum of 72 hours in advance of the anticipated project start time to allow the site to be monitored for archeological resources.

Furthermore, the applicant has explained that Archaeological surveys of the entire property were completed in January of 2023. The results of those surveys were communicated to 1) the Coquille Indian Tribe, 2), the Cow Creek Band of Umpqua Tribe of Indians, 3) the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, 4) the Confederated Tribes of the Grand Ronde Community of Oregon, 5) the Confederated Tribes of Siletz Indians, and 6) the Confederated Tribes of warm Springs. Incorporating feedback from those tribes, they then completed an archaeology report which was submitted to Oregon's State Historic Preservation Office (SHPO) in March 2023 as part of the Section 106 Consultation process. After 30 days, SHPO declined to provide a response, which constitutes fulfillment of our responsibilities and an acknowledgement that the project may proceed (email records of this exchange have been retained and can be provided upon request).

The applicant acknowledges that within three working days of receipt of the proposal, the local government shall notify the Coquille Indian Tribe and the Coos, Siuslaw, Lower Umpqua Tribe(s) in writing, together with a copy of the site plan application. Further acknowledgement for the application was that the Tribe(s) shall have the right to submit a written statement to the local government within thirty days of receipt of such notification, stating whether the project, as proposed, would protect the cultural, historical, and archaeological values of the site or, if not, whether the project could be modified by appropriate measures to protect those value.

The applicant has been actively consulting with the Tribes, and the current engineered designs make accommodations to minimize disturbance to cultural resources on the property. Additionally, the applicant plans to employ a cultural resource monitor to oversee any portions of the project which may adversely affect cultural resources on the property.

Therefore, this policy has been addressed.

#### **#22 Mitigation Sites: Protection Against Pre-emptory Uses**

*Consistent with permitted uses and activities:*

~ *"High Priority" designated mitigation sites shall be protected from any new uses or activities which could pre-empt their ultimate use for this purpose.*

~ *"Medium Priority" designated mitigation sites shall also be protected from uses which would pre-empt their ultimate use for this purpose.*

*However, repair of existing dikes or tidegates and improvement of existing drainage ditches is permitted, with the understanding that the permitting authority (Division of State Lands) overrides the provisions of Policy #38. Wetland restoration actions designed to answer specific research questions about wetland mitigation and/or restoration processes and techniques, may be permitted upon approval by Division of States Lands, and as prescribed by the uses and activities table in this Plan.*

*~ "Low Priority" designated mitigation sites are not permanently protected by the Plan. They are intended to be a supplementary inventory of potential sites that could be used at the initiative of the landowner. Pre-emptory uses shall be allowed on these sites, otherwise consistent with uses and activities permitted by the Plan. Any change in priority rating shall require a Plan Amendment.*

*Except as provided above for research of wetland restoration and mitigation processes and techniques, repair of existing dikes, tidegates and improvement of existing drainage ditches, "high" and "medium" priority mitigation sites shall be protected from uses and activities which would pre-empt their ultimate use for mitigation.*

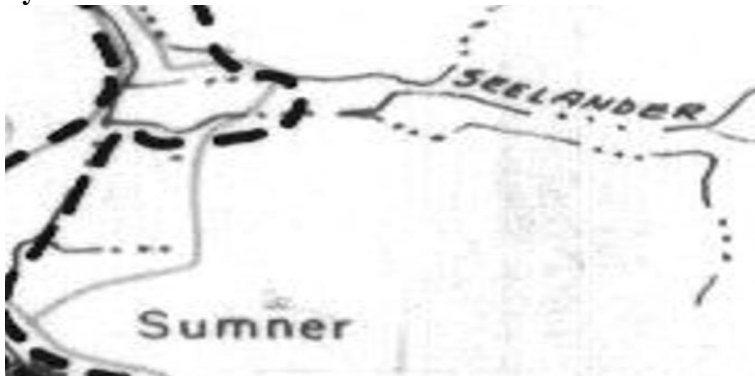
*I. This policy shall be implemented by:*

- a. Designating "high" and "medium" priority mitigation sites on the Special Considerations Map; and*
- b. Implementing an administrative review process that allows uses otherwise permitted by this Plan but proposed within an area designated as a "high" or "medium" priority mitigation site only upon satisfying the following criteria:*
  - 1. The proposed use must not entail substantial structural or capital improvements (such as roads, permanent buildings or nontemporary water and sewer connections); and*
  - 2. The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site (such as extensive site grading/excavation or elevation from fill); and*
  - 3. The proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat; or*
  - 4. For proposed wetland restoration research projects in "medium" priority mitigation sites the following must be submitted:*
    - i. A written approval of the project, from Division of States Lands, and*
    - ii. A description of the proposed research, resource enhancement and benefits expected to result from the restoration research project.*
- c. Local government's review and comment on state and federal waterway permit applications for dike/tidegate and drainage ditch actions.*

*This policy recognizes that potential mitigation sites must be protected from pre-emptory uses. However, "low priority" sites are not necessarily appropriate for mitigation use and are furthermore in plentiful supply. It further recognizes, that future availability of "medium priority" sites will not be pre-empted by repair of existing dikes, tidegates and drainage ditches or otherwise allowed by this policy. This insures the continuation of agricultural production until such time as sites may be required for mitigation. This*

policy also recognizes that research activities designed to gain further understanding of wetland, restoration and mitigation processes and techniques are needed. The consideration of "medium priority" mitigation sites for this purpose will facilitate future identification and successful use of mitigation sites (OR 95-11-010PL 1/24/96).

**FINDING:** This property is within mitigation site 34(a), which requires no special protection per the description within the management unit as it is considered a "low mitigation site". Therefore, this policy has been addressed.



### #23 Riparian Vegetation and Streambank Protection

- I. *Local government shall strive to maintain riparian vegetation within the shorelands of the estuary, and when appropriate, restore or enhance it, as consistent with water-dependent uses. Local government shall also encourage use of tax incentives to encourage maintenance of riparian vegetation, pursuant to ORS 308.792 - 308.803.*

*Appropriate provisions for riparian vegetation are set forth in the CCZLDO Section 3.2.180 (OR 92-05-009PL).*

- II. *Local government shall encourage streambank stabilization for the purpose of controlling streambank erosion along the estuary, subject to other policies concerning structural and non-structural stabilization measures.*

*This strategy shall be implemented by Oregon Department of Transportation (ODOT) and local government where erosion threatens roads. Otherwise, individual landowners in cooperation with the Oregon International Port of Coos Bay, and Coos Soil and Water Conservation District, Watershed Councils, Division of State Lands and Oregon Department of Fish & Wildlife shall be responsible for bank protection.*

*This strategy recognizes that the banks of the estuary, particularly the Coos and Millicoma Rivers are susceptible to erosion and have threatened valuable farm land, roads and other structures.*

**FINDING:** The application explained that the project includes a robust planting plan, incorporating native vegetation copiously throughout the project area. Dense plantings of grasses, shrubs, and trees will constitute an enhancement to the stability of soils within the project area. The project proposal also includes erosion control measures, including temporary measures during the

construction phase. Certified weed free straw and seed will be used to ensure all bare earth areas are vegetated with native ground cover prior to fall/winter rainfall arrives.

Therefore, all criteria in the estuary has been addressed.

- Coos County Zoning and Land Development Ordinance development in the Exclusive Farm Use Section 4.6.200.

EXCLUSIVE FARM USE (EFU)

**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><b>215.203 Zoning ordinances establishing exclusive farm use zones; definitions.</b> (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> |    |           |

|    | Use  | HV        | All Other        |
|----|--|-----------|------------------|
|    | <b>FARM/FOREST RESOURCES AS LISTED</b>   | <b>HV</b> | <b>All Other</b> |
|    | Natural Resources  | <b>HV</b> | <b>All Other</b> |
| 6. | Creation of, restoration of, or enhancement of wetlands.   | P         | P                |
| 8. | Diking, drainage, tide-gating, fill, mitigation, non-shoreland stabilization, dredge material disposal and restoration | CD        | CD               |

**FINDING:** Creation of, restoration of, or enhancement of existing wetlands is a permitted use. Restoration of the wetlands, including tide-gating, fill, stabilization, and dredging, is considered a Compliance Determination. This review has been included in the Conditional Use, as uses and activities can be applied for at the same time under the higher review process. The use itself does not have a review process, as it would not be subject to development standards. This property does contain Flood Hazard and is subject to notice to the Tribes and Department of State Lands. The applicant has applied for a Joint Permit, which will address any comments from the Department of State Lands. The Tribe's comments were already addressed through the Estuary Review portion of the report. The Flood Hazard is addressed in the next section. Therefore, the proposal complies with the relevant criteria.

- Coos County Zoning and Land Development Ordinance Overlays Article 4.11 Flood Hazards.
- 

**SECTION 4.11.200 Purpose:**

*Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations. An overlay zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary Management Plans when the Estuary Policies directly reference this section.*

**OVERLAY ZONE: FLOODPLAIN**

**DESIGNATION: /FP**

**SECTION 4.11.211 AUTHORIZATION**

*The State of Oregon has been delegated the responsibility through local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Coos County does ordain as follows:*

**SECTION 4.11.212 FINDINGS OF FACT**

1. *The flood hazard areas of Coos County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.*

2. *These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.*

#### **SECTION 4.11.213 STATEMENT OF PURPOSE**

*It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:*

1. *To protect human life and health;*
2. *To minimize expenditure of public money and costly flood control projects;*
3. *To minimize the need for rescue and relief effects associated with flooding and generally undertaken at the expense of the general public;*
4. *To minimize prolonged business interruptions;*
5. *To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;*
6. *To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;*
7. *To ensure that potential buyers are notified that property is in an area of special flood hazard; and*
8. *To ensure that those who occupy areas of special flood hazard assume responsibility for their actions.*

#### **SECTION 4.11.214 METHODS OF REDUCING FLOOD LOSSES**

*In order to accomplish its purposes, this ordinance includes methods and provisions for:*

1. *Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;*
2. *Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;*
3. *Controlling the alteration of natural flood plans, stream channels, and natural protective barriers, which help accommodate or channel flood waters;*
4. *Controlling filling, grading, dredging, and other development which may increase flood damage;*
5. *Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas; and*
6. *Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.*

#### **SECTION 4.11.220 DEFINITIONS**

*Unless specifically defined below, words or phrases used in this Overlay Zone shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance the most reasonable application.*

1. *“APPEAL” means a request for a review of the interpretation of any provision of this Overlay Zone or a request for a variance.*



2. *“AREA OF SHALLOW FLOODING” means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.*
3. *“AREA OF SPECIAL FLOOD HAZARD” is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1–30, AE, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, or VI–30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.*
4. *“BASE FLOOD” means the flood having a one percent chance of being equalled or exceeded in any given year.*
5. *“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides.*
6. *“BELOW GRADE CRAWL SPACE” means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.*
7. *“BREAKAWAY WALL” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.*
8. *“COASTAL HIGH HAZARD AREA” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.*
9. *“CRITICAL FACILITY” means a facility in which a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools; nursing homes; hospitals; police, fire, and emergency response installations; and installations which produce, use, or store hazardous materials or hazardous waste.*
10. *“DEVELOPMENT” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures; mining; dredging; filling; grading; paving; excavation or drilling operations; or storage of equipment or materials located within the area of special flood hazard.*
11. *“ELEVATED BUILDING” means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.*
12. *“FLOOD” or “FLOODING” means:*
  - a. *A general and temporary condition of partial or complete inundation of normally dry land areas from:*
    - i. *The overflow of inland or tidal waters.*
    - ii. *The unusual and rapid accumulation or runoff of surface waters from any source.*
    - iii. *Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(ii) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.*
  - b. *The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding*

*anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(i) of this definition.*

13. *“FLOODPLAIN ADMINISTRATOR” means the Planning Staff member designated to administer the floodplain program.*
14. *“FLOOD ELEVATION STUDY” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.*
15. *“FLOOD INSURANCE RATE MAP (FIRM)” means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).*
16. *“FLOOD INSURANCE STUDY” see flood elevation study.*
17. *“FLOODWAY” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.*
18. *“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access, or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Overlay Zone, found at Section 4.11.252(1)(b).*
19. *“HEARINGS BODY” means the body that will hear the appeal. This could be the Planning Commission or the Board of Commissioners.*
20. *“MANUFACTURED DWELLING” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured dwelling” does not include a “recreational vehicle.”*
21. *“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.*
22. *“NEW CONSTRUCTION” means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.*
23. *“RECREATIONAL VEHICLE” means a vehicle which is:*
  - a. *Built on a single chassis;*
  - b. *400 square feet or less when measured at the largest horizontal projection;*
  - c. *Designed to be self-propelled or permanently towable by a light duty truck; and*
  - d. *Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.*
24. *“SUBSTANTIAL DAMAGE” means damage of any origin sustained by a structure whereby the cost of restoring the structure to the state it was in before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.*
25. *“SUBSTANTIAL IMPROVEMENT” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:*

- a. *Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or*
  - b. *Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.*
26. *“VARIANCE” means a grant of relief from the requirements of this Ordinance which permits construction in a manner that would otherwise be prohibited by this Ordinance.*
27. *“WATER DEPENDENT” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.*

**SECTION 4.11.231 LANDS TO WHICH THIS OVERLAY ZONE APPLIES**

*This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of Coos County that have been identified on the Flood Insurance Maps dated December 7, 2018 as described in Section 4.11.232.*

**SECTION 4.11.232 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

*The areas of special flood hazard identified by the Federal Insurance & Mitigation Administration in a scientific and engineering report entitled “The Flood Insurance Study for Coos County, Oregon and Incorporated Areas” revised December 7, 2018, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at location. The best available information for flood hazard area identification as outlined in Section 4.11.243.2 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under Section 4.11.243.2.*

**SECTION 4.11.233 INTERPRETATION**

*In the interpretation and application of this ordinance, all provisions shall be:*

- 1. *Considered as minimum requirements; and*
- 2. *Deemed neither to limit or repeal any other powers granted under State statutes.*

**SECTION 4.11.234 WARNING AND DISCLAIMER OF LIABILITY**

*The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Coos County, any officer or employee thereof, or the Federal Insurance & Mitigation Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.*

**SECTION 4.11.235 ESTABLISHMENT OF DEVELOPMENT PERMIT**

- 1. *Floodplain Application Required*  
*A floodplain application shall be submitted and approved before construction or regulated development begins within any area of special flood hazard established in Section 4.11.232. The*

permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

2. Application

An application shall be made on the forms furnished by the Planning Department and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures which may be submitted by a registered surveyor;
- b. Elevation in relation to mean sea level of floodproofing in any structure;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 4.11.252; and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- e. Plot plan drawn to scale showing the nature, location and dimensions and elevation referenced to mean sea level, or NAVD 88, whichever is applicable, of the area in question including existing and proposed structures, fill, storage of materials, and drainage facilities. Applicants shall submit certification by an Oregon registered professional engineer or land surveyor of the site's ground elevation and whether or not the development is located in a flood hazard area. If so, the certification shall include which flood hazard area applies, the location of the floodway at the site, and the 100 year flood elevation at the site. A reference mark shall be set at the elevation of the 100 year flood at the site. The location, description, and elevation of the reference mark shall be included in the certification; and
- f. Any other information required to show compliance.
- g. Applications for variance, water course changes or staff determinations will be noticed with an opportunity to appeal in the same manner as a conditional use (see Chapter V). Non-discretionary determination of compliance with the standards will be processed in the same manner as a Compliance Determination (see Article 5.10)

**SECTION 4.11.242 DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Coos County Planning Director or designated staff is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

**SECTION 4.11.243 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties of the local floodplain administrator shall include, but not be limited to:

1. Application Review

- a. Reviews all applications to determine that the floodplain requirements of this Ordinance have been satisfied.

- b. *Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334*
    - c. *Review all requested development to determine if it is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 4.11.254 are met.*
- 2. *Use of Other Base Flood Data (In A and V Zones)*  
*When base flood elevation data has not been provided (A and V Zones) in accordance with Section 4.11.232, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 4.11.252, SPECIFIC STANDARDS, and 4.11.254 FLOODWAYS.*
- 3. *Information to be Obtained and Maintained*
  - a. *Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.11.243(2), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.*
  - b. *For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.11.243(2):*
    - i. *Verify and record the actual elevation (in relation to mean seal level); and*
    - ii. *Maintain the floodproofing certifications required in Section 4.11.235(2)(c).*
  - c. *Maintain for public inspection all records pertaining to the provisions of this ordinance.*
- 4. *Alteration of Watercourses*
  - a. *Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance & Mitigation Administration.*
  - b. *Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.*
- 5. *Requirement to Submit New Technical Data*
  - a. *Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.*
  - b. *The property owner shall be responsible for preparing the technical and scientific data required by FEMA under paragraph (5)(a) of this section, and for paying any processing or application fees associated with FEMA's review of the submitted data.*

- c. *The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.*
6. *Interpretation of FIRM Boundaries*  
*The Floodplain Administrator shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.11.244.*

#### **SECTION 4.11.251 GENERAL STANDARDS**

*In all areas of special flood hazards, the following standards are required\*\*\**

7. *Other Development*. *Includes mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of a special flood hazard, but does not include such uses as normal agricultural operations, fill less than 12 cubic yards, fences, road and driveway maintenance, landscaping, gardening and similar uses which are excluded from definition because it is the County's determination that such uses are not of the type and magnitude to affect potential water surface elevations or increase the level of insurable damages.*

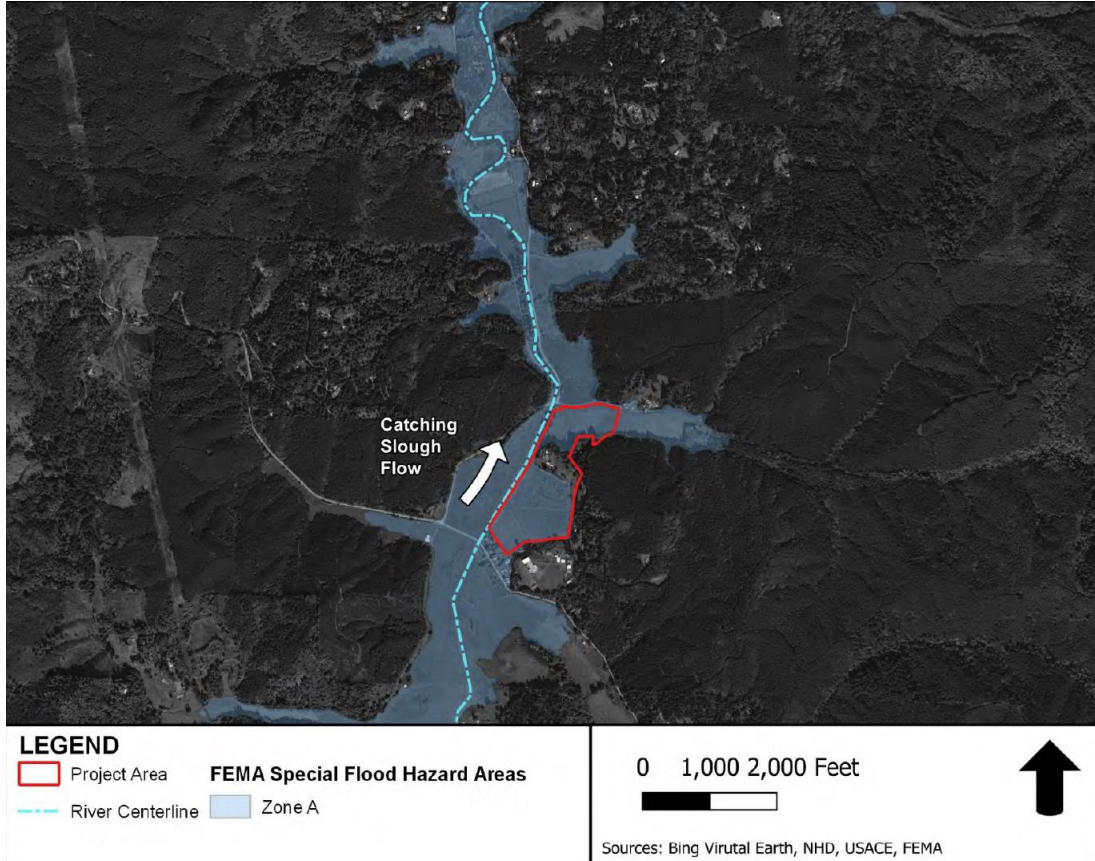
*Review and authorization of a floodplain application must be obtained from the Coos County Planning Department before "other development" may occur. Such authorization by the Planning Department shall not be issued unless it is established, based on a licensed engineer's certification that the "other development" shall not:*

- a. *Result in any increase in flood levels during the occurrence of the base flood discharge if the development will occur within a designated floodway; or,*
- b. *Result in a cumulative increase of more than one foot during the occurrence of the base flood discharge if the development will occur within a designated flood plain outside of a designated floodway.*

**FINDING: Prior uses of the property, including agricultural pasture grazing, resulted in degraded wetland functions and habitat quality, and have led to difficulty in maintaining optimal pasturage. The proposed project is focused on voluntary working landscape improvements that combine improved agricultural outcomes with floodplain and wetland restoration actions that benefit native plant communities and wetland conditions to enhance habitat opportunities for populations of juvenile salmonids, turtles, amphibians, and waterfowl.**

**The report provided documents hydraulic analysis demonstrating the proposed project will maintain the flood carrying capacity of the watercourse, and with no cumulative increase in the associated base flood inundation or base flood levels per Coos County Zoning and Land Development Ordinances Chapter 4 Section 4.11.251(7b) General Standards for other development. This hydraulic analysis evaluated the existing conditions and proposed conditions for the 1-percent annual chance exceedance flood event (i.e., the base flood) conditions documented in the FEMA Flood Insurance Study (FIS) for Coos County, Oregon and Incorporated Areas (FIS Number 41011CV001C with a revised date of December 7, 2018; FEMA 2018c). The analysis and this report provide documentation and support for compliance with Coos County Zoning and Land**

**Development Ordinances Chapter 4 Section 4.11.251(7b) General Standards for other development, and the National Flood Insurance Program (NFIP) regulations governed by Title 44 of the Code of Federal Regulations (CFR) Section 60.3(d)(3).**



**According to the analysis and report provided, by a Ryan Kilgren, Registered Professional Engineer, the results of the comparison of existing and proposed water surface elevation cross sections within the extent of the study did not cause a cumulative increase in water surface elevation for the modeled 1-percent annual change flood above the one-foot allowance per Coos County Zoning and Land Development Ordinance Chapter 4 Section 4.11.251(7b) General Standards for Other Development. The proposed conditions meet the Coos County General Standards for other development and will not impact the natural flood carrying capacity**

**Based on the information provided the applicant has address the requirement for other development that will occur in the Flood Hazard Overlay.**

**IV. DECISION:** In conclusion Staff finds that the applicant has addressed most of the relevant criteria and the ones that have not been addressed or cannot be completed until after the approval is obtained have been made conditions of approval. Therefore, the proposed Restoration Project meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit “A” of this report.

**V. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special districts, or parties: Central Coos Fire and Rescue



A Notice of Decision and Staff Report will be provided to the following:  
Applicants/Owners, Department of Land Conservation and Development, the Planning Commission and Board of Commissioners.

Adjacent property owners will receive a Notice of Decision and maps, but all other attachments can be found by contacting the Planning Department or visiting the website. If not found on the website the public may contact the department to view the official record.