APPLICANT'S STATEMENT,
PROPOSED AMENDMENTS,
SUPPLEMENTAL EXCEPTION STATEMENT
AND PROPOSED FINDINGS
FOR
2014 TEXT AMENDMENTS
TO
BANDON DUNES RESORT MASTER PLAN
AND
BANDON DUNES RESORT ZONING DISTRICT

SUBMITTED FEBRUARY 20, 2014
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I. INTRODUCTION

This application is for amendments to the text of the Coos County Comprehensive Plan (Plan) and Coos County Zoning and Land Development Ordinance (ZLDO). Specifically, the amendments to the Plan are to the Bandon Dunes Resort Supplemental Master Plan (SMP) and the Bandon Dunes Resort (BDR) Exception Statement, and the amendments to the ZLDO are to sections of the BDR zoning district.

In January 2010, Coos County approved Plan and ZLDO amendments authorizing a small-scale, special-purpose golf course (now known as the Preserve Course) and duneland habitat conservation program on 18 acres south of Cut Creek, located in the Scenic Dunes Natural Resource (NR-3) subzone, between the Resort Village complex at the center of the 2140-acre resort property and the Trails Golf Course. The County concurrently approved a Phase 8 Final Development Plan (FDP) for this area, approving development of the golf course. The Preserve Course was constructed in 2011-2012, and opened on May 1, 2012.

The purpose of the currently proposed Plan amendments is to authorize certain modifications to the design of the Preserve Course that were made during the final design and construction of the course. While the Preserve Course remains located within the 18-acre area for which it was originally approved in 2010, the following changes were made in the design of the Course:

- Development of 13 holes, rather than 12 holes.
- Use of 10.76 acres of turf, rather than 6.23 acres of turf.
- Use of continuous turf fairways, rather than archipelago-style turf fairways.
- Construction of two paved walkways to protect sensitive conservation areas.
- Construction of a 185 sq.ft. Starter Shack and 476 sq.ft. Preserve Bunker (restroom/snack bar structure) in western portion of the course.
Inclusion of stabilization activity on the upper slopes of the Cut Creek ravine.
Relocation of the Beach Trail to the south of the Preserve Course.

The proposed amendment to Section 4.10.050.A(12) of the BDR Zone authorizes a
special-purpose golf course with the above design modifications as a permitted use in the NR-3
subzone.

In order to provide specificity and to expedite the process of approving the Preserve Course, as
constructed with the above design modifications, the applicant is submitting a concurrent
Revised FDP for Phase 8 of the resort development. With the exception noted in the following
paragraph, the proposed Plan and ZLDO text amendments modify the BDR Supplemental
Master Plan, BDR Exception Statement and BDR Zone only to the extent necessary to allow
approval of the proposed Revised Phase 8 FDP.

During the development of this application it was discovered that in July 2013, Coos County
amended its ZLDO to delete Article 5.6 (Design and Site Plan Review). Ordinance
13-07-002PL. In the existing BDR Zone, the procedures for approval and modification of FDPs
by the Planning Director without a hearing, but with the opportunity for a de novo local appeal,
cite and rely on provisions of the now-repealed ZLDO Article 5.6. Consequently, the currently
proposed ZLDO amendments include changes to BDR Zone Sections 4.10.060 and 4.10.075 to
clarify those sections and to establish procedures for FDP approval and modification that comply
with the ORS 215.416(11) requirements for land use permit decisions made without a hearing
and with the opportunity for a de novo local appeal.

This application has been submitted by Donald Stastny, FAIA, FAICP, as agent for the owners
of the subject properties, Bandon Dunes, L.P., and Bandon Resort Properties, LLC. All three are
referred to collectively hereafter as “applicants.”

II. PROPOSED AMENDMENTS

Approval of the Revised Phase 8 Final Development Plan requires adoption of the following
amendments to the Plan and ZLDO. **New language** is indicated with underlining; **[deleted
language]** is indicated by brackets and strikethrough.

A. Comprehensive Plan Text Amendments

1. **Revision to Bandon Dunes Resort Supplemental Master Plan Text:** Amend Section
   VIII ("Amendments to 1996 Master Plan as Amended in 2003"), adopted in 2010, as
   follows:

   VIII. Amendments to 1996 Master Plan as Amended in 2003

   **Natural Resource Conservation Areas:** The 1996 Bandon Dunes Resort Master Plan
as amended in 2003 was further amended in 2010[2010] and 2014 to authorize a small-footprint, [archipelago style] low-impact golf course on 21 acres of the Scenic Dunes Natural Resource Conservation Area south of Cut Creek and west of the Trails Golf Course. The primary purpose of the course is to create a vehicle for long-term silvery phacelia habitat protection, expansion, research, education, management, and funding. A secondary purpose is to deepen and extend the experience of resort visitors by educating them about coastal habitat management and restoration while exposing them to golf as it was when it began in similar settings centuries ago. The course will be subject to the following special standards:

a. [No continuous fairways]
b. No more than a cumulative total of [seven] 11 acres of turf for tees, fairways and greens, and approaches.
c. No buildings, other than a maximum of two structures for providing golf course services, totaling less than 700 sq. ft. in floor area.
d. No roads or parking lots.
e. Not more than [12] 13 holes.
f. Not more than two acres within 50 feet of an [external] exterior resort site boundary.
g. Outside riparian setbacks.
h. Outside shorelands boundaries.

This amendment to the Bandon Dunes Resort Master Plan is adopted concurrently with and establishes comprehensive plan consistency for the Bandon Dunes Resort Revised Phase [VIII] & Final Development Plan.

2. **Revision to Bandon Dunes Resort Supplemental Master Plan Text:** Amend Table 1 (“Constructed, Approved, and Authorized Bandon Dunes Resort Development”), adopted as part of the SMP in 2010, as follows:
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Overnight Lodging Units</td>
<td>300</td>
<td>0</td>
<td>224</td>
<td>[300]186</td>
<td>300</td>
</tr>
<tr>
<td>Private Dwelling Units</td>
<td>600</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>600</td>
</tr>
<tr>
<td>Golf Courses</td>
<td>4.5</td>
<td>1.0*</td>
<td>5.0</td>
<td>[5.5]5.0</td>
<td>5.5</td>
</tr>
<tr>
<td>Acres</td>
<td>2,140</td>
<td>0</td>
<td>--</td>
<td>--</td>
<td>2,140</td>
</tr>
</tbody>
</table>

Other Recreational and Commercial Facilities

- Approved as Part of Original Exception: Golf Clubhouse/Pro Shop, Restaurants (2), Meeting Facilities, Recreation Center, Conference Center, Retail Shops, Mini-Clubhouse/Pro Shop, Dock @ Fahy Lake, Nature Trail System

- Additionally Approved as Part of 2003 Supplemental Exception: Golf Clubhouse/Pro Shop (3), Golf Academy & Practice Center, Restaurants (3), Spa/Fitness Center, Retail Shops, Swimming Pool, Art/Nature Study Center, Cultural/Visitor Center, Croquet Courts, Dock @ Madrone Lake, Additions to Nature Trail System

*Additionally [Approved] Authorized by 2010 and 2014 Supplemental Exceptions:

One special-purpose, low-impact course south of Cut Creek with no turfed fairways, no clubhouse, no more than two golf service buildings totaling no more than 700 sq. ft. in area, no more than 13 holes, and a total of no more than 11 acres of turf for tees, holes, and approaches fairways and greens.
3. **Exception Statement:** Amend Coos County Comprehensive Plan Volume I, Part 3, Statewide Goal Exceptions, to add the “2014 Third Supplemental Exception, Bandon Dunes Resort Master Plan,” found in Section V of this document, to the Bandon Dunes Resort Master Plan and Exception Statement as initially adopted in 1996 (Coos County Ordinance 96-030-03PL) and amended in 2003 (Coos County Ordinance 03-04-003PL) and 2010 (Coos County Ordinance 10-01-003PL).

### B. ZLDO Text Amendments

Amend the text of the Coos County Zoning and Land Development Ordinance (ZLDO), Article 4.10 (Bandon Dunes Resort Zone), Section 4.10.050 (Uses Permitted Under Approved Final Development Plan), as follows:

1. **ZLDO 4.10.050 - Uses Permitted Under Approved Final Development Plan**

   The following uses may be permitted in the BDR subzones identified in brackets following each listed use, pursuant to a final development plan approved under Sections 4.10.060 to 4.10.070. If a particular subzone is not noted in brackets following the listed use, the use is prohibited in that subzone, except as may be authorized by antidiscrimination laws.

   **A. Natural Resource Subzones**

   1. Open space. [NR-1 through NR-13]
   2. Wildlife observation facilities. [NR-1 through NR-13]
   3. Fish and wildlife research and rehabilitation facilities, habitat mitigation, restoration and enhancement. [NR-1 through NR-13]
   4. Wetland and plant research and habitat mitigation, restoration and enhancement. [NR-1 through NR-13]
   5. Nature interpretive centers and educational facilities. [NR-4, NR-5, NR-6, NR-8, NR-9, NR-11, NR-13]
   6. Pedestrian hiking trails, nature trails, walkways, bridges and lookouts. [NR-1, NR-3 through NR-6, NR-8 through NR-13]
   7. Bicycle paths and equestrian trails. [NR-3 through NR-6, NR-8, NR-11, NR-12]
   8. Paved roads. [NR-6, NR-8, NR-9, NR-11]
   9. Paved golf-cart paths. [NR-6]
10. Facilities necessary for public safety and utilities serving the resort. [NR-2 through NR-13]

11. Accepted agricultural and forestry practices other than commercial timber harvesting. [NR-2 through NR-12]

12. One special-purpose, small-footprint golf course as authorized by [2010 supplement to] the Bandon Dunes Resort Supplemental Master Plan, as amended in 2010 and 2014. [NR-3]

** ** ** **

2. **ZLDO 4.10.060 – Final Development Plan Review Procedure**

A. Before submitting an application for final development plan[s for approval of] review for any phase or element of the destination resort, the applicant shall participate in a pre-application conference with the Planning Department to obtain general information, guidelines, procedural requirements, advisory opinions, and technical assistance for the project concept.

B. Following a pre-application conference, the applicant shall submit an application for final development plan [for review by the [Approval Authority] Planning Director. [Fifteen (15)] One (1) electronic copy and two (2) hard copies of the final development plan application shall be submitted to the Planning Department along with a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.

C. Applications for final development plan review shall be processed in accordance with Sections 5.0.200 (Application Completeness (ORS 215.427)), 5.0.250 (Timetable for Final Decisions (ORS 215.427)), 5.0.300 (Findings Required (ORS 215.416(9)-(10)), and 5.0.400 (Consolidated Applications), except that notwithstanding Section 5.0.200.A, an application for final development plan review shall be deemed complete if it satisfies the requirements of Section 4.10.065.

D. If the final development plan includes areas identified as wetlands on the Statewide Wetlands Inventory, as shown in Exhibit A to this Ordinance, the Planning Department shall submit a Wetland Land Use Notification Form to the Division of State Lands within five working days after acceptance of a complete application for final development plan review.

D(E). The Planning Director shall approve an application for final development plan review if the final development plan meets the approval standards of Section 4.10.070. [Review of the final development plan shall be in accordance with the provisions of Section 5.6.500 (Site Plan Application Submittal and Review Procedure), except that notwithstanding Section 5.6.500(2), the Planning Director shall approve or deny an application for final development plan approval or, if significant interpretation or policy issues are raised by the final development plan application, the Planning Director may submit the application to the Planning Commission for its review pursuant to applicable provisions of Article 5.7. and the approval standards of Section 4.10.070.]
The Approval Authority may impose conditions that are necessary to enable it to approve the final development plan under the approval standards of Section 4.10.070.

The Approval Authority shall issue a final order setting out its decision on the application for final development plan review and shall give notice of that decision as provided in Section [5.6.500(4)] 5.6.900.

The decision of the Approval Authority may be appealed as provided in Article 5.8.

3. Section 4.10.075 – Final Development Plan Modification

A. Following approval of a final development plan for any phase or element of the destination resort, the original applicant for final development plan approval, or its designee, may submit for review a proposed modified final development plan that addresses all changes or conditions required by the Approval Authority.

B. The Approval Authority shall review an application for modification of a final development plan [pursuant to Article 5.6 (Design and Site Plan Review), except] as provided in Section 4.10.060 [C-and], except as provided in subsection C of this section. The Approval Authority shall approve the requested modification if the final development plan as modified continues to conform to the Master Plan and Sections 4.10.030, 4.10.040 and 4.10.050.

C. If the Approval Authority finds that the modifications render the final development plan materially inconsistent with the Master Plan or Sections 4.10.030, 4.10.040 or 4.10.050, the Approval Authority shall:

1. If practicable, impose such reasonable conditions and adjustments as necessary to bring the final development plan into compliance; or

2. If the inconsistency cannot be so resolved, the Approval Authority shall deny the application.

III. HISTORY OF LAND USE APPROVALS TO DATE

Bandon Dunes Resort is an approved and partially-developed Goal Two Exception Destination Resort with its own acknowledged master plan and zoning district. The Bandon Dunes Resort (BDR) Master Plan and Bandon Dunes Resort (BDR) Zone entitle the applicant to final approval of phased development and related land divisions as long as the final development plan for each phase is consistent with the Exception Statement, the BDR Master Plan and the BDR Zone.

Bandon Dunes has been developed based on a “reasons exception” to the general prohibition of Statewide Planning Goals 3, 4, 11 and 14 against such development in rural and resource areas. To date, Bandon Dunes is the only destination resort ever to develop as a reasons exception resort. A special “Destination Resort Statute” was adopted in the late 1980's to provide an alternative to the onerous “goal exception” process, but it has thus far failed to produce an
approved destination resort on the Oregon Coast. See ORS 197.435 to 197.467. The statute has been implemented with more success elsewhere, primarily in Central Oregon.

The original Bandon Dunes Resort Master Plan (Master Plan) and Bandon Dunes Resort zoning district (BDR Zone) were adopted in 1996. The Master Plan is part of the Coos County Comprehensive Plan. The BDR Zone is part of the Coos County Zoning and Land Development Ordinance. See Coos County Ordinances 96-030-03PL (comprehensive plan amendments) and 96-04-006PL (zoning ordinance amendments).

The 1996 Master Plan covered an approximately 1,215-acre area, located about 2.5 miles north of Bandon, Oregon, between Highway 101 and the Pacific Ocean. The southern end of the site adjoins a large state park, Bullard Beach, on the west. The northern 1/2 mile of the property fronts directly on the beach.

The 1996 Master Plan and BDR Zone were amended in 2003 to expand the site from 1,215 acres to approximately 2,140 acres. The 2003 amendments also adjusted some policies, maps, and zoning regulations applicable to the original resort area. See Coos County Ordinances 03-04-003PL (plan amendments) and 03-04-004PL (zoning ordinance amendments).

The approved “Primary Expansion Area” covered by the 2003 Supplemental Master Plan (SMP) consists of about 925 acres extending the resort site north along the ocean front another mile to Whiskey Run Road.

The following description of the existing master plan is taken from page 6 of the Land Use Findings and Goal Exception Statement, adopted as part of the Coos County Comprehensive Plan, in support of the 2003 Supplemental Master Plan:

“The Conservation, Recreation and Resort Development Master Plan (hereafter ‘Master Plan’) for the Bandon Dunes Resort, adopted by Coos County as part of its Plan in 1996, calls for development of a destination resort featuring a true traditional Scottish seaside ‘links’ golf course and related facilities, nature trails and conservation areas, a multipurpose conference/nature center, overnight tourist accommodations, native flora gardens, and low-key, coastal residential development. The currently proposed Supplemental Conservation, Recreation and Resort Development Master Plan (hereafter ‘Supplemental Master Plan’ or ‘SMP’) for the Bandon Dunes Resort will, unless specifically stated otherwise, add to, rather than supersede the provisions of the 1996 Master Plan.

“The basic concept of the proposed resort expansion is to ensure resort sustainability on a year-round basis, by adding to the resort’s golf facilities and providing a greater variety of lodging and year-round recreational opportunities, without detracting from the resort’s core emphasis on golf excellence. As with the original Bandon Dunes Resort, the majority of land in the expansion areas will be left in a natural-like state or as recreational open space, with built-up areas occupying only a small percentage of the land. The New
Resort Development Concept Plan (hereafter ‘Concept Plan’), shown in Figure 4, will replace the Conservation, Recreation and Resort Development Concept Plan in the 1996 Master Plan, and will guide decisions on the use of both the original resort property and the expansion areas. The Concept Plan will be implemented by the Bandon Dunes Resort (BDR) zoning district and BDR Use Subzones Map. A summary table indicating the major uses authorized by the 1996 Master Plan, what has already been constructed, and the additional uses proposed as part of the expansion, is found in Table 1, on page 9.”

When the Supplemental Master Plan was amended in 2010 to authorize development of a small-scale, special-purpose, low-impact golf course on 21 acres in the Natural Resource Subzone south of Cut Creek, Table 1 was incorporated into the Supplemental Master Plan and amended to read as follows:
<table>
<thead>
<tr>
<th>Development Authorized</th>
<th>Approved by 1996 and 2003 Exceptions</th>
<th>Constructed through 2010</th>
<th>Newly Authorized by 2010 Exception</th>
<th>Total</th>
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<tbody>
<tr>
<td>Overnight Lodging Units</td>
<td>300</td>
<td>300</td>
<td>0</td>
<td>300</td>
</tr>
<tr>
<td>Private Dwelling Units</td>
<td>600</td>
<td>0</td>
<td>0</td>
<td>600</td>
</tr>
<tr>
<td>Golf Courses</td>
<td>4.5</td>
<td>4.5</td>
<td>1.0*</td>
<td>5.5</td>
</tr>
<tr>
<td>Acres</td>
<td>2,140</td>
<td>0</td>
<td>0</td>
<td>2,140</td>
</tr>
</tbody>
</table>

**Other Recreational and Commercial Facilities**

- Approved as Part of Original Exception:
  - Golf Clubhouse/Pro Shop
  - Restaurants (2)
  - Meeting Facilities
  - Recreation Center
  - Conference Center
  - Retail Shops
  - Mini-Clubhouse/Pro Shop
  - Dock @ Fahy Lake
  - Nature Trail System

- Additionally Approved as Part of 2003 Supplemental Exception:
  - Golf Clubhouse/Pro Shop (3)
  - Golf Academy & Practice Center
  - Restaurants (3)
  - Spa/Fitness Center
  - Retail Shops
  - Swimming Pool
  - Art/Nature Study Center
  - Cultural/Visitor Center
  - Croquet Courts
  - Dock @ Madrone Lake
  - Additions to Nature Trail System

**Additionally Approved by 2010 Supplemental Exception**

One special-purpose, low-intensity course south of Cut Creek with no turfed fairways, no clubhouse, no more than 12 holes, and a total of no more than eight acres of turf for tees, holes, and approaches.

This application will further amend the description in Table 1 above of the special-purpose golf course authorized in the Natural Resource area south of Cut Creek to reflect changes necessary
to provide a unique golf experience, and services necessary for that experience, while preserving and improving dunal habitat areas facilitating the growth of silvery phacelia and other native dunes flora. This application also proposes to clarify the above table regarding the distinction between development “authorized” by a goal exception and “approved” by a final development plan, and to update, and correct errors in, the table regarding the number of overnight lodging units (186) and golf courses (5.0) that have already been constructed.

IV. HISTORY OF RESORT DEVELOPMENT TO DATE

The Resort Village Center is on the east side of the Bandon Dunes Golf Course, near the center of the property where Cut Creek drains two small lakes through a ravine to the beach.

The 2003 Supplemental Master Plan added two new village centers, a fourth championship golf course, and additional lodging and residential development. The Madrone Village Center will be located near the west end of Brown Road, by Madrone Reservoir, just east of the north-south ridge that separates the Madrone Village Center from the golf courses to the west. The Randolph Village Center will be located at the northwest corner of the site, overlooking Whiskey Run Road and Creek to the north and the ocean to the west. Two smaller expansion areas to the south and east of the original resort area will accommodate an interpretive center and an RV park.

Development to date includes four 18-hole golf courses, a 13-hole low-impact Par 3 golf course, a driving range, a golf training and practice area, a trail system, several clubhouses and restaurants, a main lodge, an inn, several clusters of overnight lodging, an employee lodging cluster, administrative, storage, and maintenance buildings, sewer and water systems, roads, parking lots, and other support facilities. Traffic circulation is minimized with an internal van system and frequent airport van service.

The first course, Bandon Dunes, opened in 1999 and is located along the ocean bluff just north of Cut Creek and west of the Resort Village Center, midway between the northern and southern ends of the Master Plan area.

The second course, Pacific Dunes, opened in 2001 and is located along the ocean bluff just north of the Bandon Dunes Course.

The third course, Bandon Trails, opened in 2005 and is located south of the Resort Village Center and inland, on mixed dunal and forest terrain.

The fourth course, Old Macdonald, opened in 2010. Old Macdonald is located along the ocean bluff north of Pacific Dunes. The layout of Old Macdonald is a tribute to Charles Blair Macdonald (1856-1939), the father of American golf course architecture and the founder of the U.S. Golf Association. Designed by Tom Doak and Jim Urbina, Old Macdonald evokes the classic principles and strategies that Macdonald incorporated into his own courses.
The fifth course, the Preserve Course, opened in 2012, and is located south of Cut Creek on dunal terrain. The Preserve Course is a 13-hole, par 3 low-turf course designed to promote conservation and maintenance of habitat for the rare dunal plant Silvery Phacelia, while offering resort guests a diverse golfing opportunity.

In the 14 years since Bandon Dunes opened, the resort and its courses have established an international reputation for authenticity and excellence and have become a destination for golf enthusiasts from around the world. After the opening of Bandon Trails, Golf Odyssey magazine reported that “Bandon Trails cements Bandon Dunes’ position as the single best place to play golf in the world.” Links Magazine has said that “As an idyllic place to stay and play golf it has only two peers—the Monterey Peninsula and the town of St. Andrews.” The resort and its existing four courses are consistently ranked at or near the top in various lists of top courses and resorts in golf magazines. Among many other tournaments at the resort, Pacific Dunes has hosted the Curtis Cup, an international competition between the best women golfers of the United States and their counterparts from Great Britain and Ireland. The resort's courses provide the setting for much of the motion picture, “Golf in the Kingdom,” with other scenes being shot in and around the City of Bandon. The movie is based on Michael Murphy’s popular novel, said to be the best-selling golf fiction book of all time.

From the standpoint of impacts, it is worth noting that, in marked contrast to conventional statutory destination resort development practice, Bandon Dunes has chosen to develop its recreational and overnight facilities before beginning development of the 600 units of permanent housing authorized by the Master Plan.

There are no current plans to seek final development plan approval for any permanent housing in the near-term. Rather than 600 homes in the period 2003-2020, it is now expected that the beginning and end-dates for residential construction will be at least a decade after the beginning and ending dates assumed in the 2003 Supplemental Master Plan and related impact analyses.

In addition to deferring many of the anticipated impacts upon transportation facilities and other infrastructure, this approach enables Bandon Dunes to be certain that permanent housing will be designed and sited to protect the special qualities essential to the long-term success of the resort and its world-class golf courses.

V. 2014 THIRD SUPPLEMENTAL EXCEPTION STATEMENT

A. Introduction

Goal exceptions are a flexibility tool authorized under statewide planning statutes, goals, and administrative rules for situations in which a departure from the strict application of a substantive goal is justified based on site specific conditions. Goal 2 defines the term as follows:
"Exception' means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

"(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;
"(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and
"(c) Complies with standards for an exception."

Exceptions are of three types:

"Developed lands exceptions" are justified where the property is physically developed to the point where resource use is no longer practicable."

"Committed lands exceptions" are justified where the nature of nearby physical development makes resource use impracticable."

"Reasons exceptions" are justified where there is a need for development at the site in question and where the site compares favorably with other possible locations for the proposed land use."

The original Bandon Dunes Resort Master Plan and associated Comprehensive Plan and implementing ZLDO amendments were approved and acknowledged in 1996 pursuant to a "Reasons" exception to Statewide Planning Goals 3 (Agricultural Lands), 4 (Forest Lands), 11 (Public Facilities and Services) and 14 (Urbanization).

LCDC’s Exceptions Rule, OAR Chapter 660, Division 004, requires a supplemental exception whenever a new use or change in intensity of use is authorized in an area subject to a reasons exception. OAR 660-004-0018(4)(b). For example, the 2003 amendments to the BDR Master Plan and Zone modified the 1996 reasons exception for the resort by adding several hundred acres and authorizing substantial additional resort and residential development. Therefore, the 2003 amendments necessitated a supplemental exception statement.

The 2010 amendments to the BDR Master Plan and Zone involved less than 25 acres in the heart of the area covered by the Master Plan, and authorized only the construction of a special purpose, low-intensity golf course at this location. Unlike the 2003 amendments, the 2010 amendments did not involve changes to the existing boundaries of the Master Plan area or to the boundaries of any internal plan designation, zone or subzone. Unlike the 2003 amendments, the 2010 amendments did not involve additional lodging, permanent housing, clubhouses, or roads. Although the scope of the 2010 amendments was tiny by comparison with the 2003 amendments, a second supplemental exception was required because the 2010 amendments changed the uses allowed at a single location within the 1996 and 2003 exception area. However, like the 2003 supplemental exception, the 2010 second supplemental exception supplemented rather than replaced the existing acknowledged exceptions.
The amendments to the BDR Master Plan and Zone currently proposed are even smaller in scope than the 2010 amendments. They authorize modifications to the design of the special-purpose, low-impact golf course authorized in the natural resources area south of Cut Creek by the 2010 amendments. These design modifications consist of the following:

- A maximum of 13 holes, rather than 12 holes.
- A maximum of 11 acres of turf, rather than 7 acres of turf.
- Allowing continuous turf fairways, rather than archipelago-style fairways.
- Allowing two paved walkways to protect sensitive conservation areas.
- Allowing a maximum two golf service structures, totaling less than 700 sq. ft. in area.
- Allowing stabilization activity on the upper slopes of the Cut Creek ravine.
- Allowing relocation of the Beach Trail to the south of the Preserve Course.

These modifications to the design of the special-purpose, low-impact golf course authorized in the natural resources area south of Cut Creek by the 2010 second supplemental exception constitute a modest change to the resort's menu of unique golf experiences, enhancing the resort's ability to retain guests, which is central to the success and sustainability of a destination resort. See DLCD Destination Resort Handbook (1989 and 1995). The modifications will not adversely affect the conservation and maintenance of silvery phacelia habitat or interfere with continued use of the new mechanism for long-term funding, research on, reclamation of and management of open-sand habitat that was established as part of the 2010 amendments.

The acknowledged 1996, 2003 and 2010 Exception Statements and Findings (ES&F) provide much of the basis for this third supplemental exception. Like the 2003 and 2010 supplemental exceptions, this exception supplements rather than replaces the existing acknowledged exceptions. Similarly, the applicant's proposed supporting statement of findings addressing statutes, statewide planning goals, rules, and other criteria supplements rather than replaces the existing acknowledged findings.

**B. Reasons Exception**

The general reasons exception standards have not changed since the adoption and acknowledgment of the original and first and second supplemental Bandon Dunes Resort exceptions in 1996, 2003 and 2010. Those standards are set forth in almost identical terms in ORS 197.732(1)(c) and Goal 2, Part II(c). The statute and the goal provide that a local government may adopt a reasons exception when all of the following standards are met:

"(1) [Reasons] Reasons justify why the state policy embodied in the applicable goals should not apply;

"(2) [Nonexception Alternatives] Areas which do not require a new exception cannot reasonably accommodate the use;

"(3) [Exception Alternatives/Comparative Impacts] The long-term environmental, economic, social and energy consequences resulting from
the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

"(4) [Compatibility] The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

More detailed interpretive guidance is provided in administrative rules adopted by the Land Conservation and Development Commission (LCDC), principally OAR 660-004-0020(2) and 660-004-0022. In addition, OAR 660-014-0040 explains the requirements for reasons exceptions to allow urban uses on undeveloped rural lands, as is the case with the Bandon Dunes Resort.\(^1\) OAR 660-014-0040(2) and (3)(a) through (c) elaborate on the showings that must be made under each of the four basic reasons exceptions standards in situations involving exceptions for urban uses on rural lands. The special requirements of these provisions are set forth and addressed in the discussion of the four reasons exception standards below and in the previous ES&F documents, followed by sections addressing the additional requirements of OAR 660-014-0040(3)(d) and (e).

The findings of fact and statement of reasons supporting a goal exception must be adopted as part of the County's Comprehensive Plan. OAR 660-004-0015(1).

**C. "Reasons" Standards**

LCDC has promulgated an administrative rule which explains the "reasons" requirement to mean:

"** * * * The exception shall set forth facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations * * *.**" OAR 660-004-0020(2)(a).

OAR 660-004-0022(1) gives examples of the kinds of reasons which can justify a reasons exception:

"** * * Such reasons include but are not limited to the following:

"(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

"(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or

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\(^1\) OAR Chapter 660, Division 14 was adopted to govern proposals for the incorporation of new cities on undeveloped rural land. However, OAR 660-014-0040 includes provisions that are generally applicable to reasons exceptions for "new urban development on rural land," even where the creation of a new city is not involved. See Caine v. Tillamook County, 25 Or LUBA 209, 221 (1993), and VinCEP v. Yamhill County, 215 Or App 414, 171 P3d 368 (2007).
activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or"

(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site."

(Emphases added.)

OAR 660-014-0040(2) elaborates on what reasons can justify an exception to allow urban uses on rural lands:

"** Reasons that can justify why the policies in Goals 3, 4, 11, and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity which is dependent upon an adjacent or nearby natural resource."

The rules recognize that it is not possible to foresee all of the combinations of factors that may constitute an adequate set of "reasons" to justify an exception. They do not purport to restrict the types of reasons which may support an exception. OAR 660-004-0022(1) simply provides "examples" that "are not limited" to the examples of types of reasons provided. It recognizes that market demand and assistance to counties in meeting their planning obligations under statewide goals and acknowledged plans may be among the reasons that, taken together, explain why a particular exception is justified. By its use of the terms "examples" and "not limited to," the rule clearly rules out any inference that its terms are intended to be exclusive.

1. Need for Proposed Uses

The Bandon Dunes Destination Resort is, by almost universal consensus and by a wide margin, the Southern Oregon Coast’s most visible, substantial, and potentially sustainable economic success story in an era when sustainable economic gains are desperately needed. As with the first and second supplemental exceptions, the purpose of this third supplemental exception is to enable Bandon Dunes Resort, Coos County and the State of Oregon to consolidate and amplify that gain and to help assure the long-term sustainability of that success.

Findings demonstrating the need for the Bandon Dunes Resort were summarized in the 1996 Exception Statement, updated in the 2003 Supplemental Exception Statement and further updated with regard to the Preserve Course in 2010. Those findings are set out in an “Updated Summary of Reasons,” found on pages 8-14 of the Second Supplemental Exception Statement, adopted by Coos County Ordinance 10-01-003PL. These findings are still valid, and are incorporated herein.

The proposed 2014 Third Supplemental Exception, allowing certain design modifications to the Preserve Course, is justified under OAR 660-004-0022(1) and 660-014-0040(2) as follows:

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**Applicant’s Proposed Findings and Supplemental Exceptions Statement for 2014 Bandon Dunes Resort Master Plan and Zoning District Text Amendments — February 20, 2014 Page 16**
a. “The proposed use is needed to implement an aggressive long-term dunal habitat management and enhancement strategy.”

2010 Findings:

“The proposed low-intensity, small-scale recreational use proposed for the area just south of Cut Creek will focus effort, attention, and funding on duneland management in a location where it is needed. It will also serve as a dedicated field station for focused research and experimentation in dunal habitat preservation, restoration, and enhancement, with special attention to silvery phacelia habitat. If successful, it will provide a source of dedicated funding for these activities. If all goes well, proceeds will benefit not only the site and its immediate vicinity, but similar dunal habitats at nearby Bullard Beach Park and south of Bandon as well.

“In so doing, the proposed use will reinforce one of the key reasons for the existing exceptions, which is to provide an economically self-supporting activity that is institutionally motivated to roll back encroachment and alteration by invasive non-native plant species, especially beach grass and gorse. As a result of human activity going back to the late 19th century, dunelands areas on the resort site and the adjacent Bullards Beach State Park have been subject to steady encroachment of European beachgrass and Gorse, with consequent fire hazards as well as loss of open sand area and habitat for native animals, insects, and plants, as well as changes in sand migration, dune formation, and drainage.

“Like the two previous exceptions, this supplemental exception will enhance implementation of the open space and habitat protection and enhancement objectives of statewide land use goals, including Goal 5 (Open Space and Natural Resources) and Goal 18 (Beaches and Dunes).

“The proposed use will also enable Coos County to better achieve the purposes of LCDC’s Goal Eight (Recreational Needs) and Goal Nine (Economic Development), as detailed in the previous exception statements. It will enable Bandon Dunes Golf Resort to offer an additional golf-related activity that, while not itself intended to be a profit center, should induce guests to stay longer than they would otherwise.

“* * * * *

“Since 2003, the Resort’s success has continued, but with recent changes in the world, national, state, and local economies, it becomes all the more important to give those who come to this remote location reasons to stay a bit longer. Unlike each of the four large golf courses, the proposed small-format, minimal-turf course is not expected to bring guests who wouldn’t come to the Resort otherwise, but it is hoped that it will keep them here, teach them something about a unique natural environment, and deepen their experience of golf as it emerged long ago in a similar setting on a distant shore.”
2014 Update

The proposed design modifications to the Preserve course enhance the capability for long-term management and enhancement of dunal habitat on the course site. During site clearance activities, it was discovered that the original routing plan ended along the western edge of an elevated terrace that sloped away to the edge of a Shore Pine duneland forest. The entire slope was covered with Gorse. The Gorse was cleared in order to prevent further infestation from this invasive, non-native species. After clearing away the Gorse, the golf course architects found a natural terrace ideally suited to two golf course holes. This led to the redesign of the western edge of the course to add a thirteenth hole and the ability to preserve more open natural areas for conservation purposes.

As the golf course design was refined on the ground, it became clear that fairway connectivity between tees and greens was necessary to protect sensitive open sand silvery phacelia habitat areas. Without greens constituting defined “walking corridors” for golfers to follow between holes, the course architects realized there was no way to keep golfers out of the sensitive phacelia habitat areas. The addition of narrow fairways connecting tees and greens increased the total area of turf used for tees, fairways and greens from 6.23 to 10.76 acres. See Figure 1. In two areas in the western portion of the course, it was also necessary to provide paved walking paths through two of the largest conservation areas so golfers would not randomly walk through the sensitive silvery phacelia habitat. Id. The design modifications resulted in consolidation and better protection of the silvery phacelia habitat conservation areas. See Figure 2.

During construction, it was also discovered that the south edge of the Cut Creek ravine was unstable due to steep slopes associated with the deep V-shaped watercourse channel. The upper slope edge was subject to sand blowouts from strong winds. This would have provided an entry point for infestations of invasive exotic species that would threaten the silvery phacelia habitat conservation areas. Therefore, the edge and upper slopes of the south side the Cut Creek ravine were stabilized by seeding with native Red Fescue.
Bandon Dunes Golf Resort

Duneland Conservation~Recreation Project

RECREATION: PAR 3 GOLF COURSE/ROUTING PLAN

Figure 1
Duneland Conservation~Recreation Project

CONSERVATION: IMPROVEMENT PROGRAM AREA
b and c. Need to be at Specific Rural Location/Resource Dependency and Site Dependency

2010 Findings

“The proposed small-footprint golf course requires its specific location in order to achieve its purposes. The chosen site needs to be located in duneland habitat that has proven capacity for enhancement and is experiencing continued encroachment. It also needs to be located close to the existing Resort Center and the Trails clubhouse so that it can be supported by the resort’s existing infrastructure and customer base, without the need for additional structures, roads, and parking areas. Only the proposed site meets these requirements.

“Moreover, as recognized in the existing exceptions, the entire Bandon Dunes Destination Resort concept depends on the natural features, the dunal landforms, the variety of natural settings, and the coastal location of the site. The centrality of these features and resources to Bandon Dunes’ success is indisputable. Innumerable articles, stories, and reviews describe the rugged, sandy, windy seaside setting as being perfect for the recreation of the traditional Scottish and Irish links types of courses. These are resources within the meaning of the goals and the rule. Because it has these resources, the site uniquely suits a destination resort based upon a Scottish links golf course. Only here can such a course be developed in conjunction with the rich mixture of amenities and recreational activities necessary for an economically viable operation.

“Unlike a manufacturing plant which can import raw materials, a resort of this type must be located on the site where the resources upon which it depends are located. The 1989 Destination Resort Handbook further elaborates:

“Destination resorts, by definition, are located on sites with very high natural amenities. The beauty and natural characteristics of the site are essential elements in attracting visitors. One of the major challenges to resort development is to provide for fairly intense human use and yet maintain an almost wilderness feel to the site.” Destination Resort Handbook (DLCD, 1989), page 38.’

“In this case, the site and the critical resources are so integrated that same analysis supporting resource dependency also supports a finding of site dependency. Only here are all of the necessary resources together in one place. Only here can a resort of the type contemplated be implemented.

“The current set of proposed amendments do not add to the footprint of the current resort Master Plan area and does not convert additional agricultural or forestland to nonagricultural uses. The current amendments will authorize only a single change in use within the 2000-plus-acre resort site: they will allow just one additional low-intensity, non-structural recreational activity on about 20 acres of a much larger area designated natural resource.”
2014 Update:

The above 2010 findings are still valid, with the exception that the first paragraph quoted above says that there will be no need for “additional structures” associated with the Preserve Course and that all support services will be provided by the nearby Trails Clubhouse. The proposed modifications to the exception would allow two golf service structures, totaling no more than 700 sq.ft. in area, in conjunction with the Preserve Course.

During golf course construction, it was realized that like all courses at the resort, the Preserve Course needs a Starter Shack. A Starter Shack provides golfers with a place to check in for their tee times, get information about the course layout, pick up their golf bag if dropped off early by resort staff and to meet up with their caddies, and needs to be located near the first tee.

The Preserve Course Starter Shack was built near the first tee, outside any of the conservation areas. See Figure 1. The facility is a compact, partial open-air, metal roofed pavilion type structure. One end of the building provides 88 square feet for golf bag storage. The other end of the building is a three-sided, glass walled enclosure of 54 square feet containing a desk for the course starter. All together, including the open-air passage in between the starter area and the storage area, this building has a footprint of 185 square feet.

Operation of the new Preserve Course demonstrated the restrooms at the Trails Clubhouse were too far away to serve golfers needing a restroom or a snack, especially if they were playing on the western half of the Preserve Course. Additional foot traffic from the Preserve Course to and from the Trails Clubhouse would interrupt play on the Preserve Course and disturb set-aside conservation areas.

Consequently, the Preserve Bunker, which provides limited food, beverage and restroom services, was located at a point in the western end of the Preserve Course where seven of the 13 holes are nearby. See Figure 1. It is a compact structure occupying a footprint of 476 square feet. The visual presence of the Preserve Bunker was further minimized by integrating it into an existing dunal landform. Constructed of board formed concrete, its interior is divided into four functional areas: a unisex restroom, a restroom with only urinals and a lavatory, an electrical/mechanical room, and a retail space that offers candy bars, beer and bottled water to golfers. Access to the Preserve Bunker is provided by an immediately adjacent paved walkway, the use of which controls the movement of golfers to and from the facility and prevents disturbance of the surrounding conservation area.

2. Need to Meet Requirements and Fulfill Purposes of Goals 8 and 9

Findings demonstrating that the Bandon Dunes Resort is needed by Coos County to meet the requirements of, and fulfill the purposes of, Statewide Planning Goals 8 (Recreational Needs) and 9 (Economic Development), based on the 1996 Exception Statement and 2003 Supplemental Exception Statement, were summarized and updated in pages 14-18 of the Second Supplemental Exception Statement, adopted by Coos County Ordinance 10-01-003PL. These findings are still

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valid, and are incorporated herein.

2014 Update:

The purpose of Goal 8 is “to satisfy the recreational needs of the citizens of the state and visitors ***.” The purpose of Goal 9 is “to provide adequate opportunities *** for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.” Providing a variety of unique and satisfying golf recreational experiences, that make users want to stay longer at or return to the resort, is essential to the continued success of Bandon Dunes, Coos County’s only destination resort. The unique features of the Preserve Course (e.g., short Par-3 holes, short overall length, unique duneland environment, etc.) have been discussed, supra. Some of the proposed course design modifications – for instance having a starter shack for check-in convenience; the use of continuous greens, so golfers don’t have to stumble around in the sand dunes; having a restroom and snack facility at the western end of the course – are essential to providing the golfer with a satisfying golf experience, which is essential to the continued success of the resort.

The 2010 Second Supplemental Exception did not authorize any significant relocation of the existing beach access trail, which was built to allow resort guests and day visitors foot access from the resort center to the beach just south of where Cut Creek flows into the ocean. However, the accompanying Final Development Plan (FDP) for Phase 8 of Bandon Dunes Resort recognized that while the eastern end of the Beach Trail would be rerouted behind the first tee of the Preserve Course, the remainder of the trail would wind through the Preserve Course, follow the edge of the Cut Creek riparian corridor, then cross the width of the Preserve Course, and near the northeast corner of the adjoining State Parks property, join up with the existing trail to the Beach located on State Parks land. The FDP relied on signage to advise golfers and hikers of the potential conflicts and protocols at crossing points. Phase 8 FDP, p. 35.

During design and construction of the Preserve Course, it was determined that mixing hikers with golf play was a major safety problem. Therefore, the previously proposed Beach Trail that would have been built within the Preserve Course was relocated out of and away from the Preserve Course and onto protected portions of the Trails Course to the south, where safety will not be an issue. Additionally, the entire trail out to the beach will be relocated from state park land to the Bandon Dunes side of the boundary between Bullards Beach State Park and the resort, at the request of the Oregon Parks and Recreation Department. The proposed relocated Beach Trail is shown on Figure 3 on the following page. This relocation will provide resort guest and visitors with a safe and scenic hiking trail for access to the beach.
3. Market Demand

The acknowledged 2003 Supplemental Exception Statement and Findings addressed market demand as follows:

"While market demand alone does not justify an exception, it is a relevant factor in a reasons analysis such as this because the need identified is to create a certain kind of product which will create the desired benefits only if the product can be successfully marketed. Recognizing that the market for a highly-discretionary purchase item such as the services provided by a destination resort is inherently speculative, the Board of Commissioners found in 1996 that the existence of the necessary market demand was sufficiently established by the detailed study prepared by Ragatz Associates. See 1996 Application, Volume V, Appendix C, as supplemented. The Board said its confidence was reinforced by the enthusiastic and knowledgeable testimony of representatives of Glenneagles Golf Development Group, which designs, operates, and markets Scottish-style golf courses in several countries, as well as by the strong support and confidence expressed by local chambers of commerce and representatives of the area’s tourism industry.

Figure 3: Proposed Relocated Beach Trail
"The Ragatz study found the market climate favorable for a variety of reasons. Many of these reasons derive from the plans to develop a true Scottish links golf course. Experts state that there are only about five true Scottish links courses in the United States. With the possible exception of the links-type courses at Carmel, California, there are none on the west coast. Because of its unique combination of size, topography, climate, vegetation, ocean views and access, Ragatz determined that Bandon Dunes site may one of the best suited properties in the nation for this type of course.

"Experience has proven the soundness of the Ragatz analysis. Continued market demand and growth are reasonable to expect based on that foundation work together with the experience of Bandon Dunes to date, the ERA analysis, and the resort’s high visibility and world-class ranking." 2003 ES&F, page 171.

2010 Update

The continued growth, health, and reputation of Coos County’s only destination resort since 2003 have further reinforced the validity of the Ragatz analysis. The proposed additional use strengthens the resort’s status and attractiveness to its customer base.

2014 Update

Sections 1 and 2 explain why the modified golf course design will improve the experience of playing the Preserve Course and increase its attractiveness to resort guests and visitors.

4. Need for Urban Levels of Population and Facilities

The 2003 Supplemental Exception Statement and Findings addressed this issue as follows:

“As noted, this approval is for the expansion of a destination resort which, in concept, size and scope, meets the qualifications set out in ORS 197.445 for a statutory destination resort. But for the presence of high value crop areas within three miles of the Bandon Dunes site, the expansion project would meet all of the requirements of the Destination Resort Statute and would have been processed pursuant to that statute.

“The Destination Resort Statute sets out requirements for features essential to the successful development of a destination resort and requires certain levels of investment. These translate into certain levels of land use density and intensity as modified by the unique physical attributes of a given site. Providing the uses described above on the subject 925-acre expansion area, while preserving at least half of the site as permanent open space (another statutory requirement for a destination resort) will necessarily result in a level of use which may be regarded, in some respects, as urban. Such a concentration of uses cannot be served by individual water and sewage disposal systems, but rather requires the type of public or community facilities that are typically considered urban.” 2003 ES&F, page 171
In fact, the allocation of land to open space is far more than half:

"The Open Space Map adopted as part of the Supplemental Master Plan (see Fig. 5) demonstrates that approximately 75% to 80% of the expanded Bandon Dunes Resort site is proposed to remain as permanent open space, principally in the form of natural resource conservation areas, woodland buffers and golf courses." 2003 ES&F, page 23.

2010 Update

Because of its location next to the resort's Village Center and the Trails Clubhouse and parking lot, the proposed additional use will not require construction of new or expanded roads, parking lots, restaurants, lodging, sewers, or other urban types or levels of facilities. Moreover, the proposed additional use qualifies as "open space" under the Destination Resort statute and the existing exception. It will not, therefore, reduce the 2140-acre resort site's current allocation of approximately 75-80% to open space—well in excess of the standard for statutory destination resorts.

2014 Update

An urban level of sewer and water services will be provided to the Preserve Bunker through an extension of the resort sewer and water system serving the Trails Clubhouse. The need for the restroom and snack facilities of the Preserve Bunker is addressed in section 1(b) and (c), supra.

Allowing a maximum of two golf service structures, with a maximum area of 700 sq. ft. (approximately 0.015 acres) will not have a significant effect on the percentage of the 2140-acre resort allocated to open space.

5. Need to be at Specific Rural Location: Resource Dependency and Site Dependency

The acknowledged 2003 Supplemental Exception Statement and Findings determine that:

"The entire Bandon Dunes Destination Resort concept depends on the natural features, dunal landforms, variety of natural settings, and coastal location of the site. The centrality of these features and resources to Bandon Dunes' success is indisputable. Innumerable articles, stories, and reviews describe the rugged, sandy, windy seaside setting as being perfect for the recreation of the traditional Scottish and Irish links types of courses. These are resources within the meaning of the goals and the rule. Because it has these resources, the site uniquely suits a destination resort based upon a Scottish links golf course. Only here can such a course be developed in conjunction with the rich mixture of amenities and recreational activities necessary for an economically viable operation. Unlike a manufacturing plant which can import raw materials, a resort of this type must be located on the site where the resources upon which it depends are located."
The 1989 Destination Resort Handbook further elaborates:

“Destination resorts, by definition, are located on sites with very high natural amenities. The beauty and natural characteristics of the site are essential elements in attracting visitors. One of the major challenges to resort development is to provide for fairly intense human use and yet maintain an almost wilderness feel to the site.” Destination Resort Handbook (DLCD, 1989), page 38.

“In this case, the site and the critical resources are so integrated that same analysis supporting resource dependency also supports a finding of site dependency. Only here are all of the necessary resources together in one place. Only here can a resort of the type contemplated be implemented.” 2003 ES&F page 172.

2010 Update

The proposed additional golf course is dependent on the same site and setting as the other courses that are part of the resort. In fact, it is even more so, because it is designed to implement a very site-specific strategy to reclaim and enhance dunal plant habitat in a specific microhabitat within the resort site.

2014 Update

No change.

6. Enabling Coos County to Meet Its Planning Obligations

The acknowledged 2003 Supplemental Exception Statement and Findings addresses this issue as follows:

“Under OAR 660-004-0022(1), one example of a reason helping to establish the need for an exception may be that the exception will enable a local government to meet one or more of its planning obligations. Such obligations can be found in both the Statewide Planning Goals and in acknowledged comprehensive plans. In Coos County, an exception for the expansion of a destination resort like Bandon Dunes is necessary to allow the county to make use of an economic development resource which has been identified in state legislation, local plans, and local economic development studies as important, even essential. In so doing, the proposed exception enables the County to secure for the long-term a key element necessary to achieve its goals of diversification and stabilization of the local economy.

“The Coos County Plan’s Industrial and Commercial Lands Goal is to ‘diversify and improve its regional economy.’ The Goal carries out the mandate of LCDC Goal 9, Economy of the State, which is:
“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

“The goal requires comprehensive plans and policies to

“* * * contribute to a stable and healthy economy in all regions of the state.”

“To achieve this Goal, the Plan requires that the county ‘shall sanction and support the economic development efforts of the Coos Curry Douglas Economic Development Association’ and that it ‘shall support the regional economic goals and objectives periodically adopted by the Coos County Overall Economic Development Program Committee.’ Plan, Section 5.16, Implementation Strategies 2 and 3. The 1996 exception provided the county with an important vehicle, not otherwise available, to provide that support, to contribute to a stable and healthy Coos County economy through diversification, and to provide employment and training opportunities for the area’s high percentage of young adults without post-high-school education. The approved exception to expand the Bandon Dunes Resort will insure that this vehicle is successful, sustainable, and better able to generate its benefits year-round.

“The County Comprehensive Plan’s Recreational Goal mandates that

“Coos County shall strive to meet the recreational needs of its citizens and visitors.”

“This goal implements LCDC Goal 8 (Recreational Needs), which requires local jurisdictions

“To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

“Bandon Dunes Resort is a world-class facility with a worldwide clientele. It is also available to Oregonians and the general public, with special off-season rates for Oregonians. * * *

“* * * * * *

“The County’s implementing strategies recognize the need for destination tourist facilities similar to the statutory destination resort concept, calling upon the county to use its ‘Recreational Planned Unit Development’ ordinance to ‘provide significant diversification of the local economy by increasing the attraction of tourists to the County.’ Recreation Plan Implementation Strategy 5. This strategy preceded the
adoption of the destination resort statute and destination resort amendments to Goal 8, the 
Curry County case restrictions on urban development outside urban growth boundaries, 
and recent amendments to Goal 11 that effectively render the County’s Recreational PUD 
policies a dead letter for purposes of siting destination resorts of the kind contemplated 
by the county at the time the Recreational PUD policies were adopted. Because the 
destination resort statute doesn’t work for Coos County either, it is apparent that, if this 
element of the county’s recreational needs fulfillment goal is to be realized, it must be 
realized through the goal exception process.” 2003 ES&F, pages 172-173.

2010 Update

As previously explained, the addition of the small, special-purpose golf course authorized by the 
proposed 2010 supplemental exception will enhance the resort's ability to achieve the goals 
identified above and is supported by the above reasons.

2014 Update

No Change.

D. Alternative Locations

1. Applicable Standards

OAR 660-004-0020(2)(b) and (c) and 660-014-0040(3)(a) and (b) elaborate on the analysis of 
alternative locations for a proposed use that is required to support a goal exception. The analysis 
is divided between areas which do not require a goal exception and areas which do require one.

a. Areas Which Do Not Require a Goal Exception

With regard to areas that do not require a goal exception, OAR 660-004-0020(2)(b) elaborates 
on the standard established by ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2):

“Areas which do not require a new exception cannot reasonably accommodate the use. The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified.

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following
questions shall be addressed:

“(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

“(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

“(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

“(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

“(C) The ‘alternative areas’ standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.”

In addition, OAR 660-014-0040(3)(a) provides that the “areas which do not require a new exception cannot reasonably accommodate the use” standard can be met:

“*** by showing the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development at existing rural communities.”

In the case of a destination resort which is sufficiently urban in nature to require an exception to Goals 11 and 14, “areas which do not require an exception” generally consist of (1) land within urban growth boundaries, (2) land irrevocably committed to an urban level of nonresource use, and (3) land on which the destination resort could be sited without an exception pursuant to the Destination Resort Statute (see ORS 197.450 and 197.445). For such areas, the test is whether they could “reasonably accommodate” the proposed destination resort.
b. Areas Which Do Require a Goal Exception

With regard to areas that do require a goal exception, OAR 660-004-0020(2)(c) elaborates on the standard established by ORS 197.732(1)(c)(C) and Goal 2, Part II(c)(3):

"The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception other than the proposed site.' The exception shall describe the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts."

In addition, OAR 660-014-0040(3)(b) provides that with regard to exceptions to allow urban uses on rural lands, the analysis of whether the ESEE consequences resulting from use of alternative sites which do require an exception are significantly more adverse must include consideration of:

"(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

"(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area."

In the case of a destination resort which is sufficiently urban in nature to require an exception to Goals 11 and 14, "areas which do require an exception" typically consist of rural land which does not qualify for destination resort siting without an exception, pursuant to the Destination Resort Statute (see ORS 197.450 and 197.445). For these areas, the test is whether the
economic, social, environmental and energy (ESEE) impacts of the proposed destination resort at
the proposed site would not be significantly greater than the impacts of the proposed destination
resort at the other locations.

2. Identification and Analysis of Eligible Sites

A meaningful comparison requires the identification of reasonable alternative sites, if there are
any. The acknowledged 1996 and 2003 Exception and Supplemental Exception Statements and
Findings address this issue for the resort as a whole. The 2010 Second Supplemental Exception
Statement includes a supplemental analysis “limited to the identification of eligible sites for the
single use authorized by the proposed amendments, which is a special-purpose golf course
designed, sited, and operated to provide sustained and funded silvery phacelia habitat
reclamation, enhancement, and enlargement, while improving the county’s only destination
resort’s ability to maximize guests’ length of stay.” That supplemental analysis is set out below,
with amendments necessary to address the proposed modifications to the design of the Preserve
Course indicated by underlining for additions and brackets/strikethrough for deletions.

2010 Update

“Because of the nature and purposes of the single additional use to be authorized by these
amendments, there are, in reality, no reasonable alternatives to the proposed use, which will be
an integral part of the existing destination resort. Only the site identified in this application
provides both the requisite mix of existing and potential plant habitat and the requisite
combination of proximity to the resort center with its concentration of services, facilities, and
guests.

“Nevertheless, in an abundance of caution, the following supplemental alternatives analysis is
provided, limited to the area within the previously-justified boundaries of the resort.

“a. Areas that Do Not Require a Goal Exception

“The only areas that would not require a goal exception are those designated for golf course
development on the acknowledged Bandon Dunes Resort Master Plan. Except for a small
nondunal area of about 10 acres along Whiskey Creek at the northeast corner of the resort site,
all those areas have been fully developed with the four championship courses and associated
facilities development, such as the driving range, the golf academy, practice greens, clubhouses,
reservoirs, and the like. There are no available reasonable alternative areas of existing or
potential dunal plant habitat on the resort site that would not require a goal exception to
accommodate the proposed use. No other area with reasonable potential for reclamation and
enhancement of dunal habitat is planned or zoned for golf course use under the existing
exceptions, and none has the requisite proximity to existing resort infrastructure, services, and
lodgings.
“b. Areas that Do Require a Goal Exception

“There are no sites within the Bandon Dunes Resort’s existing acknowledged exception area that can reasonably accommodate the proposed use because they lack the requisite existing and potential silvery phacelia habitat, the requisite proximity to the resort center, and the ocean views that are essential to attracting sufficient use to generate the reliable, long-term funding essential to a sustained habitat reclamation, enhancement, and enlargement program.

“OAR 660-004-0020(2)(c) and OAR 660-014-0040(3)(b) require an analysis of the comparative long-term environmental, economic, social and energy consequences of locating the proposed destination resort development at the proposed site, as mitigated by measures designed to reduce adverse impacts, with those of locating ‘the same proposal’ on other rural lands. As elsewhere in this statement, the present comparison is supplemental to the existing acknowledged exception statements, and is accordingly limited to the acknowledged Bandon Dunes Resort Exception Area.

“[a.](1) Environmental Consequences

“The environmental consequences of the destination resort as a whole are addressed in the acknowledged 1996 and 2003 Exception Statements and Findings. The single additional proposed use and proposed measures to reduce and mitigate any adverse impacts are discussed in detail in the Revised Phase 8 Final Development Plan which accompanies this application, as well as in the findings addressing statewide Goals 5 (Open Space), 6 (Air, Land and Water Quality), and 7 (Natural Hazards).

The proposed small-footprint golf course has no lakes, streams, wetlands, or riparian areas, but it does, of course, include scenic dunes and important dunal plant habitat. The Master Plan and BDR zone, as adopted in 1996 and amended in 2003 and 2010, incorporate a variety of provisions which protect a wide range of important environmental features on the resort site. In addition, development of the resort pursuant to the Master Plan has had a number of positive environmental consequences, including (a) Gorse eradication and fire control, (b) riparian corridor improvement and other fisheries enhancement, (c) cessation of uncontrolled off-road vehicle access, (d) cessation of unregulated hunting, and (e) adoption of more environmentally sensitive forestry practices.

“[b.](2) Economic Consequences

“The economic consequences of the destination resort as a whole are addressed at length in the acknowledged 1996 and 2003 Exception Statements and Findings. See, e.g., 1996 ES&F pages 41-51, 70, 107-108, 142-147, and 2003 ES&F pages 1-5, 2-30, 161-173, 243, etc. The main additional economic consequences of the single additional use proposed in the current application will be to strengthen the long-term ability of the resort to deliver the economic benefits identified in the previous exception statements, to retain guests in the area, to maintain employment levels, and to create a funding mechanism for more aggressive, systematic, and
sustained efforts to control invasive plant species. No negative economic consequences have been identified.

**“[e.](3) Social Consequences**

“The social consequences of the destination resort as a whole are addressed in the acknowledged 1996 and 2003 Exception Statements and Findings. 2003 ES&F 81ff., The main additional social consequences of the single additional use proposed in the current application will be to enhance the long-term prospect that the resort will continue to deliver the social benefits identified in the previous exception statements.

**“[d.](4) Energy Consequences**

“The energy consequences of the destination resort as a whole are addressed in the acknowledged 1996 and 2003 Exception Statements and Findings. The main additional energy consequence of the single additional use proposed in the current application will be to increase length of stay onsite and to enhance the long-term ability of the resort to continue to deliver the energy benefits identified in the previous exception statements.

**“[e.](5) Quantity of Land Involved**

“Under OAR 660-014-0040(3)(b)(A), the comparison of alternative sites for the proposed use which do require an exception must include consideration of ‘whether the amount of land included within the boundaries of the proposed urban development is appropriate.’

“The resort owner and course architect have aggressively limited the quantity of land involved to the minimum necessary to provide the golfing experience required to make the course a success while still achieving the environmental goals of the project. Among other things, they have eliminated narrow fairways, shortened holes, and reduced the original layout from 18 to 13 holes to minimize both the overall site acreage and the turfed playing areas.

“As detailed elsewhere in these findings and in the Revised Phase 8 FDP [final development application], the proposed course will occupy an [24] 18-acre site, a small fraction of the average 200 acres for each of the four 18-hole championship golf courses at Bandon Dunes. Moreover, the entire course will have less than [8] 11 acres of turf for tees, greens, and fairways, for an average of [less than ¼] 0.85 acres of turf per hole. This compares favorably to an average of six acres of turf per hole on the resort's four championship courses. [These bits of turf, adding up to slightly more than the equivalent of a single conventional hole, will be dispersed over the 21-acre site as an archipelago of tiny islands of turf in a much larger area of interconnected existing and potential dune plant habitat.] The turf areas surround and protect three major conservation set-aside areas of silvery phacelia habitat. After construction of the course, these set-aside areas were marked as ‘out-of-bounds’ play areas for golfers. Golfers are allowed to retrieve a ball hit into one of these conservation areas, but no balls can be played from within the set-aside areas. [This primary area is itself] These conservation areas are adjacent to within and integral with [the] a larger area of existing
and potential dunal habitat, which will also benefit from the reclamation, enhancement, and expansion programs supported by the proposed golf course.

The resulting acreage and configuration is one that could only be achieved in the specific setting proposed without seriously compromising the viability of the entire concept.

“[f.](6) Carrying Capacity

“Under OAR 660-014-0040(3)(b)(B), the comparison of alternative sites which do require an exception must include consideration of ‘whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding site.’

“The acknowledged 1996 and 2003 Exception Statements and Findings address this issue with regard to the resort as a whole. See, e.g., 2003 ES&F at pages 210ff. This application only involves comparative impacts within the site. The proposed use at the proposed site will require no new roads[structures, or other facilities] or parking. The proposed use includes a maximum of only two structures for providing golf services, totaling not more than 700 sq. ft. in area.

The turfed areas to be irrigated, mainly during the grow-in period, total about [8]11 acres for the entire course, compared with an average of about six acres for each of the 72 holes on the resort's four 18-hole championship courses. A course located anywhere else on the site would require substantially more irrigation and would require additional facilities and services instead of being able to rely on existing infrastructure close to the Village Center.

“[g.](7) Overall Consequences

“The acknowledged 1996 and 2003 Exception Statements and Findings address this issue with respect to the resort as a whole. See, e.g., 2003 ES&F at 211ff. As the discussion above and the analysis in the Revised Phase 8 Final Development Plan demonstrate, the ESEE consequences of allowing the proposed special-purpose course are very positive, on balance, and are certainly not significantly more adverse than those of siting the proposed use elsewhere.”

E. Compatibility

OAR 660-004-0020(2)(d) elaborates on the statutory and goal requirement that the proposed use be “compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts,” as follows:

“** The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices.
‘Compatible’ is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.”

In addition, OAR 660-014-0040(3)(c) specifically requires consideration of:

“A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.”


2010 Update

The rules do not require a showing that each use within an area covered by a reasons exception is compatible with each of the other uses within the area. The proposed use will be sited well within the existing site, will be nonstructural, and will be targeted at and utilized almost entirely by guests already onsite for other reasons. It will create no new offsite impacts and therefore does not change the analysis provided by the existing exceptions.

2014 Update

The only area outside the BDR Exception Area that is adjacent to or nearby the Preserve Course is Bullard Beach State Park, adjoining the western end of the course to the south. Only two of the proposed design modifications potentially affect compatibility with the state park. The Preserve Bunker is located approximately 400 feet from the northeast corner of the state park property. However, it has been backed into the adjacent dune form, reducing its visual imprint and rendering it not visible from the state park. Consequently, it will not have an adverse impact on compatibility. Additionally, at the request of OPRD, the existing Beach Trail will be relocated from near the northern edge of the State Parks property to the adjacent BDR property, just south of the Preserve Course. This will improve compatibility with the state park.

F. Public Services and Facilities

OAR 660-014-0040(3)(d) requires a showing that an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner. This showing is made as to the resort as a whole by the acknowledged 1996 and 2003 Exception Statements and Findings.
2010 Update

The single proposed additional use would not require additional public facilities or services.

2014 Update

The Preserve Bunker limited restroom and snack service building requires water and sewer services. The Bunker has been served by the extension of the resort sewer and water systems using pipes extended from the Trails Clubhouse location.

G. Plan Coordination and Consistency

OAR 660-014-0040 (3)(e) requires a showing that the proposed new urban development on rural land is (1) "coordinated with comprehensive plans of affected jurisdictions;" and (2) "consistent with plans that control the area proposed for [urbanization]." The first requirement is satisfied by the findings on the Goal 2 coordination requirement located in Section VIII.B.1.c. The second requirement is satisfied by the findings in Section X below, which demonstrate that the proposed golf course design modifications are consistent with the relevant provisions of the Coos County Comprehensive Plan.

H. Procedures for Adoption of Exceptions

OAR 660-004-0030(1) requires that each notice of a public hearing on a proposed exception "shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner." OAR 660-004-0015(1) requires that a local government approving a proposed exception "adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met." Consequently, applicants have proposed that this section (Third Supplemental Exception Statement) of this document be adopted as part of the Coos County Comprehensive Plan. However, compliance with these notice and adoption standards can be determined only after the County has conducted its proceeding on this application.

VI. OTHER APPLICABLE STANDARDS AND CRITERIA

This application involves amendments to acknowledged comprehensive plan provisions and acknowledged land use regulations. Under Oregon's land use statutes, these amendments must be shown to comply with a wide range of standards and criteria. This statement attempts to minimize repetition and redundancy, using cross-references where possible and adding or repeating material only where necessary for clarity or completeness.

In this statement, applicable standards and criteria are set forth verbatim or summarized, followed by explanatory text including facts, reasons and legal conclusions demonstrating the compliance of the proposed golf course design modifications, and/or the proposed procedures for
FDP approvals and modifications, with the standard.

This statement is organized so that the analysis begins with state law and proceeds to local law. The preceding section dealt with statutory, Goal 2, Part II, and administrative rule provisions governing exceptions to Statewide Planning Goals. The next section deals with other state statutes and implementing administrative rules, followed by a section addressing the Statewide Planning Goals and implementing administrative rules. These sections are followed by sections addressing applicable standards and criteria from the Coos County Comprehensive Plan and finally, the Coos County Zoning and Land Development Ordinance.

The applicable standards and procedural requirements addressed in the following sections include the following:

A. Statutes

1. ORS 197.175(2)(d) -- Plan and goal consistency.
2. ORS 197.610 and 195.615 -- Postacknowledgment amendment procedures.
3. ORS 197.712(2)(g)(A) -- Economic development obligation.
4. ORS 197.732 -- Goal exception standards.
5. ORS 215.060 -- Procedure for action on comprehensive plan.
6. ORS 215.223(1) -- Procedure for adopting zoning ordinances.
7. ORS 215.416(11) -- Procedures for county land use permit decisions without a hearing.
8. ORS 215.427 -- Final action on permit application.
9. ORS 455.446 to 445.447 - Tsunami inundation zone.

B. Statewide Planning Goals

1. Goal 1 -- Citizen Involvement
2. Goal 2 -- Land Use Planning
3. Goal 3 -- Agricultural Lands
4. Goal 4 -- Forest Lands
5. Goal 5 -- Natural Resources, Scenic and Historic Areas, and Open Spaces
6. Goal 6 -- Air, Water and Land Resources Quality
7. Goal 7 -- Areas Subject to Natural Hazards
8. Goal 8 -- Recreational Needs
9. Goal 9 -- Economic Development
10. Goal 11 -- Public Facilities and Services
11. Goal 12 -- Transportation
12. Goal 13 -- Energy Conservation
13. Goal 17 -- Coastal Shorelands
14. Goal 18 -- Beaches and Dunes
C. State Agency Rules

1. OAR Chapter 660, Division 4 -- Interpretation of Goal 2 Exception Process
   660-004-0010 Application of the Goal 2 Exception Process to Certain Goals
   660-004-0015 Inclusion as Part of the Plan
   660-004-0018 Planning and Zoning for Exception Areas
   660-004-0020 Goal 2, Part II(c), Exception Requirements
   660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)
   660-004-0030 Notice and Adoption of an Exception

2. OAR Chapter 660, Division 12 -- Transportation Planning
   660-012-0060 Plan and Land Use Regulation Amendments

3. OAR 660, Division 14 – Application of the Statewide Planning Goals to ** Urban
   Development on Rural Lands
   660-014-0040 Establishment of New Urban Development on Undeveloped Rural
   Lands

4. OAR 660, Division 18 -- Plan and Land Use Regulation Amendment Review
   660-018-0020 Notice of a Proposed Change to a Comprehensive Plan or Land Use
   Regulation
   660-018-0040 Submittal of Adopted Change
   660-018-0050 Notice to Other Parties of Adopted Changes

5. OAR Chapter 660, Division 23 – Procedures and Requirements for Complying with Goal 5
   660-023-0090 Riparian Corridors
   660-023-0110 Wildlife Habitat
   660-023-0140 Groundwater Resources
   660-023-0250 Applicability

D. Comprehensive Plan Provisions

The key comprehensive plan requirements relevant to this application are those set forth in the
Bandon Dunes Resort Master Plan, as amended, together with the 1996 and 2003 exception
statements incorporated therein.

Procedures and requirements governing amendments to the Coos County Comprehensive Plan
(Plan) are set forth in Volume I, Part 1, Sections 5.1 (Citizen Involvement) and 5.2 (Land Use &
Community Development Planning) of the Plan.2 These requirements address notice, hearings,
citizen participation, and agency coordination. They do not impose substantive plan amendment

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2 Unless otherwise specified, all subsequent citations in these findings to the Plan are to Volume I, Part 1.
criteria separate from those contained in state land use statutes, statewide planning goals, and state agency rules. However, a variety of substantive plan provisions implementing statewide planning goals constitute potential standards for individual decisions amending the Plan and the ZLDO. As relevant here, the Plan establishes the following categories of plan provisions, covering a range of topics substantially the same as the range of topics addressed by the statewide planning goals discussed in detail in Section VIII of these findings. Where applicable, these plan provisions are separately addressed in Section IX.

1. Citizen Involvement
2. Land Use & Community Development Planning
3. Agricultural Lands
4. Forestlands
5. Mineral & Aggregate Resources
6. Fish & Wildlife Habitats
7. Historical & Archaeological Resources, Natural Areas and Wilderness
8. Water Resources
9. Dunes, and Ocean and Coastal Lake Shorelands
10. Natural Hazards
11. Air, Land & Water Quality
12. Industrial & Commercial Lands
13. Public Facilities & Services
14. Transportation
15. Recreation
16. Energy


The ZLDO does not include substantive standards for text amendments to the Plan and ZLDO, but rather relies on the standards for such changes established by state land use statutes, statewide planning goals, and state agency rules, as listed above and addressed in this volume in Sections VII and VIII. However, the ZLDO contains the following provisions concerning procedures for legislative amendments to the text of the Plan and ZLDO:

1. ZLDO Article 1.2 – Legislative Amendments
   1.2.200 – Who May Seek Change
   1.2.325 – Procedure for Legislative Amendment

F. BDR Zoning District Standards

Standards applicable to final development plan approvals for a phase or element of the expanded

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3 This application does not involve a zoning map amendment, so the requirements of ZLDO Article 5.1 (Rezones) are not applicable.
Bandon Dunes Resort, are found in Sections 4.10.030 and 4.10.070 of ZLDO Article 4.10 (BDR Zone). These standards are addressed in the Revised Phase 8 Final Development Plan approval application that accompanies this application for Plan and ZLDO text amendments.

VII. STATE STATUTES

A. ORS 197.175(2)(a) and (d) -- Plan and goal consistency

These provisions require the county to amend its comprehensive plan in compliance with the Statewide Planning Goals (Goals), and to amend its land use regulations in compliance with its acknowledged comprehensive plan. These requirements are addressed in Sections VIII and IX.

B. ORS 197.610 and 197.615 -- Postacknowledgment Amendment Procedures

ORS 197.610(1) requires a local government to forward a proposed change to its acknowledged comprehensive plan or land use regulations to the DLCD director within the deadline established by LCDC rule. OAR 660-018-0020(1) requires a local government to submit proposed changes to its acknowledged comprehensive plan or land use regulations, including the information described in OAR 660-018-0022(2), to the DLCD director at least 35 days prior to its first evidentiary hearing on adoption of the proposed changes. Findings on compliance with these requirements cannot be made until after the County conducts its proceedings on the proposed Plan and ZLDO amendments.

ORS 197.615(1) and OAR 660-018-0040(1) require a local government which adopts an amendment to its acknowledged comprehensive plan or land use regulations to submit a copy of the text of the amendment, the supporting findings, and other items identified in OAR 660-018-0040(3), to the DLCD director within 20 days after the amendment is adopted. On the same day the local government submits the adopted amendment to the Director, ORS 197.615(4) requires it to mail notice of the decision to persons who participated in the local government proceedings and requested notice in writing. In a practical sense, findings on county compliance with these notice of adoption requirements can never be made, because the notice cannot be given until after the county’s decision, including its findings, is adopted.

C. ORS 197.712(2)(g)(A) -- Economic Development Obligation

This statute requires the County to provide “reasonable opportunities to satisfy local and rural needs for residential and industrial development and other economic activities on appropriate lands outside urban growth boundaries, in a manner consistent with conservation of the state’s agricultural and forest land base.” That these amendments further this purpose is demonstrated by the findings addressing Goal 9 (Economic Development) in Section VIII.1 of this document, and the findings justifying an exception from Goals 3, 4, 11 and 14, found in Section V.C.2 of this document.
D. ORS 197.732 – Goal Exception Standards

The requirements established by ORS 197.732 for goal exceptions, as well as the parallel requirements of Goal 2, Part II, are addressed in Section V, supra.

E. ORS 215.060 – Procedure for Action on Comprehensive Plan

This statute requires the Board of Commissioners to conduct at least one public hearing on proposed amendments to the Plan, with at least 10 days advance public notice of each hearing being published in a newspaper of general circulation in the county. Findings on compliance with these requirements cannot be made until after the County conducts its proceedings on the proposed Plan amendments.

F. ORS 215.223(1) -- Procedure for Adopting Zoning Ordinances

This statute requires the Board of Commissioners or the Planning Commission to conduct at least one public hearing on proposed amendments to the ZLDO, with at least 10 days advance public notice of each hearing being published in a newspaper of general circulation in the county. Findings on compliance with these requirements cannot be made until after the County conducts its proceedings on the proposed ZLDO amendments.

G. ORS 215.416(11) -- Procedures for County Land Use Permit Decisions Without a Hearing

1. Notice of Decision Made Without Hearing

ORS 215.416(11)(a)(A) allows a hearings officer or the designee of the governing body to approve or deny an application for a permit without a hearing if the decision maker mails notice of the decision, as described in ORS 215.416(11)(a)(C), to the persons entitled to notice under ORS 215.416(11)(c).

The proposed amendments to ZLDO 4.10.060 and 4.10.075, the BDR Zone sections establishing procedures for approval/denial and modification of FDPs, are intended to implement the provisions of ORS 214.416(11). As proposed to be amended, both sections would allow the Planning Director to make decision on such applications without a hearing. As proposed to be amended, ZLDO 4.10.060.G (and ZLDO 4.10.075.B by reference to ZLDO 4.10.060) would require the Planning Director to give notice of such decisions as provided in ZLDO 5.0.900. ZLDO 5.0.900.B.i(b) provides that notice of an Administrative Decision must be given to “the owners of record of property as described in ORS 215.416(11)(c).” ZLDO 5.0.900.B.ii(a)-(g) sets out the required contents for such a Notice of Administrative Decision. These requirements parallel, virtually word for word, the requirements of ORS 215.416(11)(a)(C) (including the provisions of ORS 197.763(3) incorporated by reference).
2. **Opportunity for de novo Local Appeal**

ORS 215.416(11)(a)(A), (D) and (E) require a county to provide the opportunity for a *de novo* local appeal to anyone who is entitled to notice under ORS 215.416(11)(c) or who is adversely affected or aggrieved by a permit decision made without a hearing. ORS 215.416(11)(b) provides that the period for filing such an appeal may not be less than 12 days from the date the required written notice of the decision is mailed.

As proposed to be amended, ZLDO 4.10.060.H (and ZLDO 4.10.075.B by reference to ZLDO 4.10.060) would provide that the decision made without a hearing could be appealed as provided in ZLDO Article 5.8 (Appeals of Discretionary Decisions). ZLDO 5.8.150 says that a decision by the Planning Director may be appealed by a person who was entitled to notice of the decision or who “is aggrieved or has interests adversely affected by the decision.” ZLDO 5.8.200.1 states that the appeal of an administrative decision “shall be de novo.” ZLDO 5.8.100 provides that the period for filing an appeal is 15 days from when notice of an administrative decision is mailed.

**H. ORS 215.427 – Final Action on Permit Application**

1. **Application Completeness**

ORS 215.427(2) requires a county to notify a permit applicant in writing, within 30 days of receipt of an application, whether an application is incomplete and, if so, what information is missing. ORS 215.427(4) specifies the consequences of not bringing an application into completeness. The proposed amendments bring the BDR zone procedures for FDP approval and modification applications into compliance with these requirements by adding to ZLDO 4.10.060.C (and ZLDO 4.10.075.B by reference to ZLDO 4.10.060) a reference to ZLDO 5.0.200 (Application Completeness (ORS 215.427)).

2. **Deadline for Final Action on Permit Application**

ORS 215.427(1) requires a county to take final action on permit applications concerning land outside urban growth boundaries (other than permits for aggregate extraction) within 150 days after the application is deemed complete. ORS 215.427(5) allows this deadline to be extended for a specific period at the request of the applicant. The proposed amendments bring the BDR zone procedures for FDP approval and modification applications into compliance with these requirements by adding to ZLDO 4.10.060.C (and ZLDO 4.10.075.B by reference to ZLDO 4.10.060) a reference to ZLDO 5.0.250 (Timetable for Final Decisions (ORS 215.427)).

**I. ORS 455.446 to 445.447 - Tsunami Inundation Zone**

This statute, and its implementing administrative rules in OAR Chapter 632, Division 005, prohibit the construction of certain new “essential facilities” and “special occupancy structures,” as those terms are defined in ORS 455.447(1)(a) and (e), within the tsunami inundation zone
established by the Department of Geology and Mineral Industries (DOGAMI) under ORS 455.446(1)(c). The proposed amendments authorize no essential facilities or special occupancy structures, as defined in the statute.

VIII. STATEWIDE PLANNING GOALS AND ADMINISTRATIVE RULES

A. Goal 1 - Citizen Involvement

“To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

Compliance with Goal 1 is demonstrated through compliance with the county’s acknowledged Citizen Involvement Program. See Section IX.A.

B. Goal 2 - Land Use Planning

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions.”

1. Part I - Planning

Goal 2, Part I, requires each city or county to adopt comprehensive plans and implementing ordinances based upon identification of issues and problems, inventories and other factual information pertinent to each statewide goal, evaluation of alternative courses of action, ultimate policy choices, and consideration of social, environmental, energy, and economic needs. Plans must be consistent with statewide planning goals, and implementing ordinances must be consistent with plans. Plans must be coordinated with other affected governmental units.

Coos County has an acknowledged comprehensive plan and implementing ordinances consisting of extensive text, tables, figures, graphs, and maps addressing the full range of issues covered by the Statewide Planning Goals (Goals). The BDR Supplemental Master Plan and BDR Zone, as amended in 1910, are the primary comprehensive plan and implementing regulations for the resort site.

Specific aspects of the process relevant to the proposed Plan and ZLDO amendments are:

a. Adequate Factual Base

Factual information from numerous sources, including published information, original research conducted and data gathered by the applicants’ planning team, and testimony will be submitted by the applicants. Additional evidence in the form of testimony and documents will be submitted by participants in the hearing process. These findings identify the facts in the record which support a decision to adopt these Plan and ZLDO amendments.
b. **Comprehensive Plan Consistency**

Compliance with the Goals and Policy Implementation Strategies of the Coos County Comprehensive Plan is required by Goal 2, as well as by the Plan's own criteria for a plan amendment. Analysis of Plan compliance is presented under Section IX, “Coos County Comprehensive Plan.”

c. **Coordination with Affected Governmental Units**

Goal 2 requires comprehensive plans and implementing measures to be coordinated with the plans of affected governmental units. Plan Land Use & Community Development Planning Plan Implementation Strategy (PIS) 5.2.12 implements this requirement and will be addressed in Section IX.B, *infra*.

d. **Public Hearings and Input**

Goal 2 requires all comprehensive plan and implementation ordinance provisions to be adopted by the governing body after public hearing, and to provide opportunities for review and comment by citizens and affected governmental units. Specific provisions regarding public hearings, notice of hearing and adoption by the Board of Commissioners are found in ORS 215.060 (Section VII.E), ORS 215.223(1) (Section VII.F), Plan Land Use & Community Development Planning PIS 5.2.7 and 5.2.8 (Section IX.B) and ZLDO 1.2.325 (Section X.A). Findings on compliance with these requirements will be made after the County conducts its proceedings on the proposed Plan and ZLDO amendments.

2. **Part II -- Exceptions**

Goal 2, Part II, provides a process for departing from the strict requirements of other statewide goals in limited circumstances. Because the exceptions process is central to this application, it is discussed at length in Section V (2014 Third Supplemental Exception Statement), *infra*.

C. **Goal 3 - Agricultural Lands**

“To preserve and maintain agricultural lands.”

The Goal 3 definition of “agricultural lands” provides, in relevant part:

“Agricultural land does not include * * * land within acknowledged exceptions to Goals 3 or 4. “

The land subject to the proposed Plan and ZLDO amendments is within the acknowledged exception to Goals 3 and 4 adopted as part of the Plan by the BDR Exception Statement, as amended by the First and Second Supplemental Exception Statements. The changes to the design of the Preserve Course authorized by the proposed Plan and ZLDO amendments are authorized by the Third Supplemental Exception Statement which will be adopted and
acknowledged as part of these amendments. *See* Section V, *supra.* In addition, the proposed golf course design modifications occupy a small interior subarea of the resort site that is comprised of stabilized dunes and does not qualify as agricultural land under Goal 3.

Consequently, Goal 3 is not applicable to the proposed Plan and ZLDO amendments.

D. **Goal 4 - Forest Lands**

"To conserve forest lands for forest uses."

The acknowledged 2003 Exception Statement and Findings determined that

"Destination resort communities, golf courses, and related development are not permitted forest or nonforest uses under Goal 4. Because the Bandon Dunes site contains land that meets the Goal 4 definition of ‘forest lands’ described above, an exception to Goal 4 is being taken, based on the reasons set forth in Part VIII, Conformity with the ‘Reasons’ Goal Exception Criteria, below." 2003 ES&F p. 23.

The land subject to the proposed Plan and ZLDO amendments is within the acknowledged exception to Goals 3 and 4 adopted as part of the Plan by the BDR Exception Statement, as amended by the First and Second Supplemental Exception Statements. The changes to the design of the Preserve Course authorized by the proposed Plan and ZLDO amendments are authorized by the Third Supplemental Exception Statement which will be adopted and acknowledged as part of these amendments. *See* Section V, *supra.*

Consequently, Goal 4 is not applicable to the proposed Plan and ZLDO amendments.

E. **Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources**

Goal 5 provides as follows:

"To protect natural resources and conserve scenic and historic areas and open spaces.

"Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.

"The following resources shall be inventoried:

"a. Riparian corridors, including water and riparian areas and fish habitat;"
“b. Wetlands;

c. Wildlife Habitat;

d. Federal Wild and Scenic Rivers;

e. State Scenic Waterways;

f. Groundwater Resources;

g. Approved Oregon Recreation Trails;

h. Natural Areas;

i. Wilderness Areas;

j. Mineral and Aggregate Resources;

k. Energy sources;

l. Cultural areas.

Local governments and state agencies are encouraged to maintain current inventories of the following resources:

a. Historic Resources;

b. Open Space;

c. Scenic Views and Sites.

“Following procedures, standards, and definitions contained in commission rules, local governments shall determine significant sites for inventoried resources and develop programs to achieve the goal.”

Goal 5 and its implementing rule, OAR Chapter 660, Division 23, establish their own internal mechanism for identifying and resolving conflicts involving Goal 5 resources. The basic elements of the planning and conflict resolution process established by the goal and rule can be described as follows:

1. Identification of the location of listed resources.
2. Evaluation of the quality and quantity of each identified resource.
3. Determination of the significance of the identified resource.
4. Identification of uses which may conflict with a significant Goal 5 resource.
5. Assessment of the environmental, economic, social, and energy (ESEE) consequences of the conflicts on both the resource and the conflicting uses.
6. Development of programs to "achieve the goal" by resolving the conflicts, based on the ESEE consequence assessment.

Under OAR 660-023-0040(5), a program adopted pursuant to the above process can have one of three outcomes:

(1) It can prohibit the conflicting uses and protect the Goal 5 resource completely.

(2) It can limit the conflicting uses and provide limited protection for the Goal 5 resource.

(3) It can allow the conflicting use fully.

The choice of any of the three above types of programs for resolving conflicts with a Goal 5 resource must be based on an analysis of the ESEE consequences of the conflicts. The analysis of the ESEE consequences must be adopted as part of either the comprehensive plan or an implementing land use regulation. OAR 660-023-0040(4).

As relevant here, under OAR 660-023-0250(3), a local government is required to apply Goal 5 to consideration of a postacknowledgment comprehensive plan or land use regulation amendment (PAPA) only if:

“(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5; [or]

“(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list[].

1. Riparian Corridors, Water and Riparian Areas and Fish Habitat

OAR 660-023-0090 (Riparian Corridors) implements Goal 5 with regard to its first listed resource -- riparian corridors, riparian and water areas and fish habitat. OAR 660-023-0090(5) and (8) provide "safe harbor" standards as an alternative to following the general Goal 5 inventory, conflict identification, ESEE consequences analysis and program development process set out in OAR 660-023-0030 to 660-023-0050.

When the BDR was expanded in 2003, it was determined that "no streams on or affected by the site" are designated on Plan Special Considerations Maps as anadromous fish habitat. 2003 ES & F, p. 235. At that time, the Goal 5 safe harbor standards for riparian corridors were implemented by adding the safe harbor provisions to the BDR Zone. The relevant definitions

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4 OAR 660-023-0090(1)(c) defines "riparian corridor" as "a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary."
from OAR 660-023-0090(1) were added to ZLDO 4.10.030.H(1). The riparian corridor boundaries, as defined by OAR 660-023-0090(5), were identified in ZLDO 4.10.030.H(2). The riparian corridor protection provisions required by OAR 660-023-0090(8) were added to ZLDO 4.10.030.H(3)-(7). 2003 ES&F, pp. 34-36.

The Cut Creek riparian corridor is the only riparian corridor in the vicinity of the Preserve Course. The boundary of the Cut Creek riparian corridor is “50 feet from the top of bank of Cut Creek.” ZLDO 4.10.030.H(2)(a). “Top of bank” is defined in ZLDO 4.10.030.H(1)(h) as “the stage or elevation at which water overflows the natural banks of [the stream, or] in the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate” top of bank. Cut Creek does not have well-defined banks. In 2009, a consulting civil engineer determined the elevation associated with a two-year flood event in Cut Creek. See Appendix E: “Report on The Effect of a 2-Year Flood Level on the Setback for Construction” for more detail. The layout of the Preserve Course, as authorized in 2010, is entirely outside this riparian corridor boundary.

The only way in which the proposed golf course design modifications extend the impacts of the Preserve Course towards the Cut Creek riparian corridor boundary is by authorizing stabilization of the upper slopes of the Cut Creek ravine. These slopes were subject to sand blowouts due to strong winds. The resulting exposed areas would be prime locations for invasion of non-native species into the duneland habitat. The stabilization process includes removal of non-native vegetation and replanting with native red fescue,5 all outside the riparian corridor. This stabilization activity will not have adverse impacts within the riparian corridor and, therefore, is not a conflicting use.

Because the proposed Plan and ZLDO amendments do not amend provisions identifying or protecting riparian corridors, or allow new uses that would conflict with designated riparian corridors, Goal 5 does not apply to these amendments, with regard to riparian corridors.

2. **Wetlands**

None of the area affected by the subject amendments includes or abuts wetlands or is within wetland buffer areas. Neither do these amendments affect Plan or ZLDO provisions that designate or protect wetlands. Consequently, Goal 5 does not apply to these amendments, with regard to wetlands.

3. **Wildlife Habitat**

The 2003 resort expansion was supported by the following findings regarding wildlife habitat:

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5 In any case removal of non-native invasive species and replacement with native species is allowed in the riparian corridor under ZLDO 4.10.030.H(4)(g).
“The Plan Fish & Wildlife Habitat I and II Special Consideration Maps do not show any significant wildlife habitat sites located in the proposed resort expansion areas. The only wildlife habitat site shown as being located within 500 feet of the boundaries of the resort expansion areas is an osprey nest located north of Whiskey Run Road, across from the designated Whiskey Run Woodland Park Natural Resource Conservation Area. However, according to Plan Fish & Wildlife Habitats PIS 6 and Plan Fish & Wildlife Habitats Map I, osprey nest sites are considered ‘1-B’ resources under the Old Goal 5 Rule. OAR 660-016-0000(5)(b). Regarding such sites, OAR 660-016-0000(5)(b) states that ‘special implementing measures are not appropriate or required for Goal 5 compliance purposes.’ A 1B listing under the Old Goal 5 Rule does not constitute a placement on a ‘resource list,’ as that term is defined by the New Goal 5 Rule. OAR 660-023-0000(9). 2003 ES&F, p.40.

The area affected by the subject Plan and ZLDO amendments is nowhere near any designated wildlife habitat areas. These amendments do not affect provisions that designate or protect wildlife habitat. Consequently, Goal 5 does not apply to these amendments, with regard to wildlife habitat.

4. Federal Wild and Scenic Waterways and State Scenic Waterways

The Plan Special Considerations maps disclose no federal wild and scenic waterways or state scenic waterways on or near the Bandon Dunes Resort. The OPRD has confirmed that no scenic waterway designation exists or is proposed for the lower reaches of the Coquille River in the vicinity of the Bandon Dunes Resort. See 1996 ES&F, p. 30; 2003 ES&F, p. 40. Therefore, no further consideration of this Goal 5 resource is required.

5. Groundwater Resources

The location, quality and quantity of the Dunal Aquifer underlying the BDR site and surrounding areas, the identification of conflicting uses, the evaluation of ESEE consequences of BDR use of this aquifer, and the use of the acknowledged BDR Master Plan, Exception Statement and BDR Zone as the County’s program to protect the resource while allowing limited use, are comprehensively discussed in 2003 ES&F, pp. 41-65. The 2010 ES&F supporting the Plan and ZLDO amendments that authorized the addition of the Preserve Course excerpted portions of the 2003 findings, and then added:

“The only added water demand created by this amendment is that needed to provide irrigation to not more than eight acres of turfed tees, greens, and approach areas. This amount is negligible in relation to the overall development and water usage authorized by the 1996 and 2003 Master Plans and related exceptions.” 2010 ES&F, p. 64.
These 2014 Plan and BDR amendments authorize at most an additional three acres of turf irrigation. The total amount used would still be negligible in relation to the overall water usage authorized by the 2003 Supplemental Master Plan, as amended in 2010. These amendments also authorize a limited restroom (one unisex restroom and one restroom with only urinals and a lavatory). However, this limited restroom does not really authorize additional use of water, in that the service it will provide would otherwise have to be provided at the Trails Clubhouse. In any case the amount of water used for this restroom would be even more insignificant than the additional three acres of irrigation.

The proposed modifications to the Preserve Course design, as compared to the overall development allowed at the resort by the acknowledged 2003 Supplemental Master Plan, as amended in 2010, and the Goal Exception Statement, as modified by the First and Second Supplemental Exception Statements, will not conflict with the groundwater resource or alter the County’s acknowledged Goal 5 protection program for the ground water resource.

6. **Approved Oregon Recreation Trails**

The Plan Special Considerations Maps identify no approved Oregon Recreation Trails on or near the Bandon Dunes Resort. The County is not required to amend its Plan to designate recreation trails designated by OPRC as significant Goal 5 resources until its next periodic review. OAR 660-023-0150(2). Consequently, no further consideration of this Goal 5 resource is required.

However, applicants recognize that the designated route of the Oregon Coast Trail is along the beach to the west of the resort. The existing Beach Trail, recognized as part of the resort’s hiking trail system, led from the Resort Village Center through the area of the Preserve Course and onto the Bullard Beach State Park property to the south, then out to the beach. See Supplemental Master Plan, Figure 13, p. 34. This trail provided access to the beach and Oregon Coast Trail for resort guests and visitors. In recent years the OPRD requested that the trail be rerouted so that it is entirely on BDR property. The proposed modifications to the golf course design include rerouting the Beach Trail to the south of the Preserve Course, to avoid conflicts between hikers and golf play, and then extending it out to the beach on resort property, between the Preserve Course and the state bark boundary. Thus, access to the beach and Oregon Coast Trail will not be adversely affected.

7. **Natural Areas**

OAR 660-023-0160(1) defines “natural areas,” for the purposes of the Goal 5 Rule, as “areas listed in the Oregon State Register of Natural Heritage Resources.” There are no areas listed on the Oregon State Register of Natural Heritage Resources in the vicinity of the area that is subject to the proposed Plan and ZLDO amendments.
8. Wilderness Areas

The Plan Special Considerations maps disclose no Wilderness Areas on or near the Bandon Dunes site. Therefore no further consideration of this Goal 5 resource is required.

9. Mineral and Aggregate Resources

The 2010 ES&F addresses this Goal 5 resource by quoting the following findings from the acknowledged 1996 ES&F:

"The only identified mineral and aggregate resources on or near the Bandon [Dunes Resort] site are a potential for black sand in certain areas and the sand and gravel pits adjoining Highway 101 to the west, located on other parcels owned by the applicant. The site is not within the area of potential conflicts of any other inventoried mineral or aggregate site.

"Black sand is listed by the Plan as a ‘1B’ resource, which means the County has delayed the Goal 5 inventory and significance determination process until periodic review. The applicant stands ready to provide any information it has or obtains regarding the black sand potential. In the meantime, the applicant has no plans to exploit the resource, and the proposed development will not interfere with preservation of the resource for future use, as resort structures are not proposed to be located on the portions of the site with black sand potential.

"Regarding the sand and gravel pits, the County's usual program for protection is to maintain the sites in their present state, except where a conflicting use is identified during implementation of the plan. A conflicting use is defined as any dwelling or other structure within 500 feet of the resource site. Plan [p. 50].

"As relevant to the Bandon Dunes Master Plan, no structures or dwellings that are part of the resort are proposed to be located within 500 feet of the sand and gravel pit sites. The sites will be maintained in their present use until such time as reclamation becomes appropriate." 1996 ES&F, page 28.

The proposed design modifications to the Preserve Golf Course do not include placing a dwelling or other structure within 500 feet of the sand and gravel pits adjoining Highway 101. Consequently, they neither authorize a conflicting use for this Goal 5 resource site nor change the County’s protection program and, therefore, no further consideration of this Goal 5 resource is required.
10. Energy Sources

The 1996 and 2003 ES&F’s addressed Goal 5 energy sources with virtually identical findings:

“Energy sources are identified in the Plan as coal and oil. Plan at 5-67. Reference to the plan ‘Special Considerations’ map entitled ‘Mineral/Aggregate/Energy Resources’ shows that the [Bandon Dunes site is/resort expansion areas are] not within an area of potential coal fields, but [is/are] within a broadly defined area within which oil and gas resources may exist. No such resources are known to exist on or near the [Bandon Dunes site/expansion areas]. No further Goal 5 consideration is required.” 1996 ES&F, pp. 28-29; 2003 ES&F, p. 67.

The 2010 ES&F found the 2010 proposal “neither creates nor modifies a conflicting use and therefore does not require a change to the 2003 Goal 5 analysis and program for this resource.” 2010 ES&F, p. 55.

The golf course design modifications authorized by these proposed amendments do not authorize or modify conflicting uses for Goal 5 energy resources. No further consideration of this Goal 5 resource is required.

11. Cultural Areas

The 1996 ES&F addressed this issue as follows:

“No sites of cultural significance have been identified on or near the Bandon Dunes property. Therefore no consideration of this Goal 5 resource is required. See also 'Historic Areas, Sites, Structures and Objects' above.” 1996 ES&F, p. 29.

The Bandon Dunes Resort Supplemental Master Plan notes:

“Archeological surveys, undertaken on behalf of the Coquille and Coos Tribes, have identified a number of sites within the [2003] expansion areas. All are located along the ocean bluffs in the Primary Expansion Area. By agreement with the Tribes, Bandon Dunes is committed to preserving the integrity of these sites by encapsulating them with sand and incorporating them into any future golf course development. In this manner, the sites will be protected and maintained in perpetuity.” 2003 SMP, p. 50.

The 2010 ES&F addressed this issue as follows:

“Bandon Dunes has continued to coordinate with the tribes. Site visits and other research since 2003 have not disclosed sites within or adjacent to the footprint of the proposed additional golf course. The site will be monitored for archeological
and cultural finds during construction. If Native American remains or other culturally significant sites are identified, then treatment of the sites will be determined in consultation with the tribes.

“Based on existing information, like the previous amendments, the proposed amendment does not affect sites of cultural significance on or near the Bandon Dunes property. Therefore no further consideration of this resource is required.” 2010 ES&F, p. 59.

No evidence of any Native American artifacts or remains was unearthed during construction of the Preserve Course.

The proposed design modifications to the golf course do not involve building construction on areas outside the Preserve Course. The only area which could be newly disturbed due to the proposed design modifications is the new portion of the Beach Trail extending from the Trails Golf Course to the beach. However, the resort has an agreement with the local Coquille Tribe, and a protocol is in place to handle situations where artifacts are discovered on resort land before or during construction activities. Resort staff and a representative(s) from the planning and design team will meet with a Native American official to discuss how to handle this situation, if artifacts are discovered during construction. In the past, the approach has been to encapsulate the artifacts with a soil and vegetation cover to prevent an adverse damage or loss of the artifacts. This method preserves the artifacts for perpetuity and has been approved by the local Coquille Tribe representative.

Based on existing information, the proposed amendments do not affect sites of cultural significance on or near the subject portion of the Bandon Dunes Resort. Therefore no further consideration of this resource is required.

12. **Historic Resources**

The 1996 ES&F addressed this issue as follows:

“No areas, sites, structures or objects of historical significance on or near the Bandon Dunes site are recognized by Coos County or the State Office of Historic Preservation. However, the local history of the area suggests that past activities such as gold mining on Cut Creek, chrome mining during World War II, commercial activity associated with the Fahy homestead ("Fayville" circa 1860-1880) and activities by Native Americans in pre-settlement times can be recognized and acknowledged through the installation of historic plaques at selected locations. These actions would provide cultural resources to future visitors and enhance the environmental education potential of the proposed resort.

“Also, the development will be conducted in compliance with ORS 358.905 to 358.955 regarding Archaeological Objects and Sites, and with ORS 97.740 to 97.760 regarding protection of Indian graves and other archeological sites of
interest, to the extent those laws apply to the property.” 1996 ES&F, p. 29.

Like the 1996, 2003 and 2010 amendments, the proposed 2014 amendments do not affect historic resources or any County program regarding the listing or protection of historic resources. Accordingly, no further consideration of this Goal 5 resource is required.

13. Open Space

No portion of the Bandon Dunes Resort site has been specifically listed or inventoried in the Plan as needed or desirable for open space, nor is any portion of the Bandon Dunes site within the impact area of potential conflicts with any listed or inventoried open space site.

No further consideration of this Goal 5 resource is required. However, the SMP does require approximately 75% to 80% of the 2,140-acre Bandon Dunes Resort site to remain as permanent open space, principally in the form of natural resource conservation areas, woodland buffers and golf courses. The proposed amendments authorize diminishment of this open space by a maximum of only 700 sq. ft., a negligible portion of the total.

14. Scenic Views and Sites

The 1996 ES&F addressed this issue as follows:

“The Plan, at 5-32, discusses the ‘exceptional coastal experience,’ along with identified scenic views, and calls for management that will preserve their original character. The Plan calls for reliance on the Forest Practices Act for some protection and appears to favor multiple-use concepts, at least on State and Federal resource lands. Beginning at 3.7-1, the Plan discusses the implications of Goals 5, 17 (Coastal Shorelands) and 18 (Beaches and Dunes) and then lists, in Table 1, the ‘outstanding scenic resources’ identified for Coos County. None of the inventoried sites are on or affected by [development on] the Bandon Dunes site. Therefore, no further consideration of this Goal 5 resource is required.” 1996 ES&F, p. 29.

This conclusion has not changed.

F. Goal 6 - Air, Water and Land Resources Quality

“To maintain and improve the quality of air, water and land resources of the state.”

Goal 6 provides that

“All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and
standards. With respect to the air, water and land resources of the applicable air
sheds and river basins described or included in state environmental quality
statutes, rules, standards and implementation plans, such discharges shall not (1)
exceed the carrying capacity of such resources, considering long range needs; (2)
degrade such resources; or (3) threaten the availability of such resources.”

1. Air Quality

The proposed golf course design modifications will not affect air quality.

2. Water Quality

The proposed limited restroom/snack bar facility authorized by these amendments will be a
negligible addition to the existing resort sewer system. The proposed golf course design
modifications will authorize irrigation of a maximum four additional acres of turf. This minimal
additional irrigation will be carried out applying standards and procedures set forth in the
existing acknowledged comprehensive plan and implementing regulations. Fertilizers and
chemicals will be used sparingly, if at all, and in accordance with standards and procedures set
forth in the existing acknowledged BDR Master Plan and implementing regulations.

During the process of stabilizing the upper slopes of the ravine with red fescue plantings, Cut
Creek was protected by use of erosion control fencing. Stormwater runoff will not be allowed to
enter Cut Creek directly, but rather will be collected in numerous low points throughout the
course and disposed of using a system of inlet drains. These drains have been connected to a
central underground soakage pit using underground piping.

3. Land Resources

The continuous fairways authorized by these amendments will enhance rather than degrade the
land resource, by resulting in better protection of the conservation areas set aside for
proliferation of silvery phacelia and other native dunal vegetation. The stabilization of the upper
slopes of the Cut Creek ravine, using native red fescue, and removal of Gorse from the slope at
the west end of the Preserve Course will aid in the resort’s program of containing and rolling
back invasive plant species and allowing the native dunal landscape to regenerate.

G. Goal 7 - Areas Subject to Natural Hazards

“To protect people and property from natural hazards.”

This Goal requires local governments to adopt comprehensive plans, inventories, and policy
measures to reduce risk to people and property from natural hazards. These hazards are listed in
the goal as follows: floods (coastal and riverine), landslides, earthquakes and related hazards,
tsunamis, coastal erosion, and wildfires. The Preserve Course area of the resort has not been
identified or inventoried as being subject to any of the listed hazards. The current amendments
authorize two small structures (total < 700 sq.ft.) in an area of conditionally stable dunes. These
structures will have to comply with the acknowledged ZLDO 4.10.030.I requirements for construction in areas of conditionally stabilized dunes implementing Goal 18 (Beaches and Dunes). These amendments also authorize the relocation of the existing Beach Trail on state parks property slightly north, to the BDR property. Construction of this trail will also have to comply with the acknowledged ZLDO 4.10.030.I requirements implementing Goal 18. It is not necessary, therefore, to impose additional measures to maintain compliance with Goal 7.

**H. Goal 8 - Recreational Needs**

“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

This Goal requires planning for recreation areas, facilities and opportunities in appropriate proportions and in such quantity and locations as is consistent with the availability of resources. The proposed amendments authorize minor modifications to one of five golf courses on the resort’s menu of developed recreational facilities. These modifications will improve the experience of golfing on the Preserve Course. The relocation of the beach Trail to resort property, at the request of OPRD, will ensure this recreational opportunity remains available to resort visitors and guests. As the 1996 and 2003 Exception Statements and Findings have determined, Bandon Dunes Resort is in substance a destination resort, even though it does not meet all of the tests for siting destination resorts under ORS 197.435 et seq. The proposed amendments therefore enhance the resort’s existing compliance with Goal 8.

**I. Goal 9 - Economic Development**

“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon’s citizens.”

Goal 9 requires comprehensive plans and policies to contribute to a stable and healthy economy in all regions of the state. Such plans are required to be based on inventories of areas suitable for increased economic growth and activity, taking into consideration a number of factors. Coos County recognized the Bandon Dunes Resort site as being suitable for increased economic growth and activity when it approved the BDR Resort Master Plan and Supplemental Master Plan as part of its comprehensive plan in 1996 and 2003, respectively. The 2010 amendments authorizing development of the Preserve Course determined that the Preserve Course will “enhance and diversify the resort’s golf-related offerings, increase length of stay, and generally further the long-term health and sustainability of the resort as a key economic asset of Coos County and the central Oregon Coast.” 2010 ES&F, p. 66. The current amendments, by improving the experience of playing the Preserve Course, will further enhance the resort’s long-term stability and, therefore, also comply with Goal 9.
J. Goal 10 – Housing

“To provide for the housing needs of the citizens of the state.”

The proposed amendment does not involve added housing or other changes relevant to this goal.

K. Goal 11 - Public Facilities and Services

“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Bandon Dunes Resort is the subject of an acknowledged exception to Goal 11 that allows development of urban level public facilities and services on the BDR site, consistent with the BDR Master Plan. Other than the proposed limited restroom/snack bar facility and irrigation of at most an additional four acres of turf, the proposed amendments do not authorize uses or activities requiring any additional public facilities or services. The restroom/snack bar facility will be served by the existing resort sewer and water facilities. Surface runoff from the maximum additional four acres of turf will be handled by a system of inlet drains and underground stormwater lines leading to a soakage pit, consistent with the Surface Runoff section of the BDR Supplemental Master Plan. SMP, p. 40. Consequently, these amendments comply with Goal 11.

L. Goal 12 - Transportation

“To provide and encourage a safe, convenient, and economic transportation system.”

Goal 12 requires the provision of a safe, convenient, and economic transportation system to move people and goods between geographic and jurisdictional areas. It is implemented by LCDC’s Transportation Planning Rule (TPR), OAR Chapter 660, Division 12. The only TPR provision applicable to these postacknowledgment Plan and ZLDO amendments, which make only small modifications to the uses allowed on the Preserve Course and update the procedures for adoption of BDR Final Development Plans, is OAR 660-012-0060 (“Plan and Land Use Regulation Amendments”). Specifically, Section (1) of OAR 660-0012-0060 provides:

“If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:
“(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. * * *

[Paragraphs (A) through (C) describe various changes to types or levels of access or performance of existing or planned transportation facilities.]

The 2010 ES&F supporting the initial authorization of the Preserve Course, at page 70, found:

“The tiny, special-purpose 12-hole course authorized by the 2010 amendments will not generate additional visits or be a separate external traffic generator. It has been designed and located as a convenient additional onsite amenity and activity for guests and their families who are staying at the resort because of its four championship golf courses. If anything, by providing a reason for guests to stay onsite longer, it is likely to result in a net reduction in external trip generation.

“In short, this 2010 amendment will not have any incremental effect, much less a ‘significant’ effect, on transportation facilities within the meaning of Goal 12 and the Transportation Planning Rule. It will not change the functional classification of any existing or planned facilities, change standards implementing a functional classification system, allow uses or levels of development that would be inconsistent with the functional classification of existing or planned facilities, reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan, or worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.”

The proposed amendments change the number of holes authorized for the Preserve Course from 12 to 13. They also improve the golfing experience, and avoid disturbance of silvery phacelia habitat, by authorizing use of continuous greens, two paved walkways and stabilization of the upper slope of the Cut Creek ravine, and allowing construction of a Starter Shack and Preserve Bunker restroom/snack bar. Finally, they allow relocation of the existing Beach Trail. None of these changes will turn the previously approved Preserve Course into a separate external traffic generator. The Preserve Course will still function as an extra attraction, mainly providing existing guests with a reason to stay onsite longer.
The proposed amendments concern only the design features of an existing golf course. They would neither change the functional classification of an existing or planned transportation facility nor change standards implementing a functional classification system. Additionally, the proposed amendments would have no effect on access to or performance by any existing or planned transportation facility. Consequently the proposed amendments comply with OAR 660-012-0060, and no other provisions of the TPR apply to these proposed amendments.

M. Goal 13 - Energy Conservation

“To conserve energy.”

This goal requires that land uses maximize conservation of all forms of energy based on sound economic principles. It is implemented by local plans and regulations that control location, orientation and density of development to minimize net energy consumption. The only respect in which the proposed amendments might affect energy consumption is with regard to authorizing construction and use of the Starter’s Shack and Preserve Bunker. However, neither of these structures is authorized for human occupancy, and neither uses heat or air-conditioning, so their energy footprint will be minimal. Additionally, the proposed amendments are expected to result in no net increase in automobile usage, and the structures are co-located with central resort facilities to make efficient use of existing infrastructure and minimize the need for onsite, as well as offsite, vehicular transportation.

N. Goal 14 - Urbanization

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

Bandon Dunes Resort is the subject of an acknowledged exception to Goal 14 that allows development of urban level uses on the BDR site, consistent with the BDR Master Plan. The proposed amendments do not change or intensify the type of use allowed on the Preserve Course site.

O. Goal 16 - Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands.”

Both the original Bandon Dunes Resort site and the expansion areas approved in 2003 are outside the area covered by the Coquille River Estuary Management Plan and have neither estuaries nor associated wetlands. Therefore, Goal 16 does not apply.
P. **Goal 17 - Coastal Shorelands**

"To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics."

1. **Designation of Coastal Shorelands**

The acknowledged Coos County Comprehensive Plan designates as Coastal Shorelands only the westerly fringe of the northern three-quarters of the 2,140-acre Bandon Dunes Resort property, between the ocean bluff line and the dry-sand beach (hereafter ocean shorelands), and the areas within 100 feet of Chrome, Round and Fahys Lakes (hereafter lake shorelands). The entire Preserve Course is located east of the ocean bluff and not within 100 feet of any of the coastal lakes and, therefore, is not within the coastal shorelands. Accordingly, Goal 17 does not apply to the proposed design modifications to the course itself. However, the proposed amendments also include relocating the Beach Trail to an area south of the Cut Creek Delta and north of the Bullards Beach State Park property line. The western end of the new trail location is within the ocean shorelands.

2. **Coastal Shoreland Uses**

The proposed hiking trail location is consistent with the Master Plan’s planned use for this area, as described in the original acknowledged 1996 ES&F:

"Within the Cut Creek delta portion of the ocean shorelands, and the portion of the ocean shorelands located between the Cut Creek delta and Bullards Beach State Park, **the only use designated on the Master Plan is a hiking trail that skirts the Cut Creek delta to the south and leads to a beach access point.** See Figure 3. This portion of the ocean shorelands is partly in the Dunelands management unit and partly in the Wetlands management unit of the Master Plan, and is also part of the dedicated open space. See Master Plan, Figures 8 and 15. The mouth and delta of Cut Creek, and the dunes area south of Cut Creek to the boundary of Bullards Beach State Park, will be subject to the NR-1 (Cut Creek Delta) subzone. See Exhibit I. As shown in section 4.10.050.A of the BDR zone, **the NR-1 subzone potentially permits** only open space, wildlife observation, wildlife/plant habitat mitigation, restoration and enhancement and **unpaved hiking/nature trail uses.** In addition, much of this portion of the ocean shorelands will be protected by the riparian vegetation protection provision of section 4.10.030.H.1 of the BDR zone, which requires riparian vegetation to be maintained in areas within 100 feet of Cut Creek and the Cut Creek delta wetland.

"In summary, the above described provisions of the Master Plan and BDR zone will *** limit uses of the Cut Creek delta and ocean shorelands south of the Cut Creek delta to low intensity, water-dependent shorelands recreation uses.
Consequently, with regard to ocean shorelands, these Plan and ZLDO amendments are consistent with the above quoted Goal 17 provisions concerning uses of rural coastal shorelands.” (Emphases added.)

As described above, authorizing relocation of the Beach Trail to the area between the Cut Creek delta and the boundary of Bullards Beach State Park is consistent with the rural shorelands use provisions of Goal 17.

3. **Goal 17 Implementation Requirements**

Goal 17, Implementation Requirement (IR) 3, states “[c]oastal shorelands identified under the Estuarine Resources Goal for dredged material disposal shall be protected from new uses and activities which would prevent their ultimate use for dredged material disposal.” No portion of the BDR site has been identified for use for dredged material disposal. Goal 17, IR 3 does not apply to the proposed amendments.

Goal 17, IR 4, states “riparian vegetation shall be maintained; and where appropriate, restored and enhanced, consistent with water-dependent uses.” This provision of Goal 17 has been implemented by the acknowledged Plan Sec. 5.10 (Dunes, Ocean and Coastal Lake Shorelands), Plan Implementing Strategy (PIS) 11 and ZLDO 4.10.030.H. The proposed amendments would not affect these Plan and ZLDO provisions.

Goal 17, IR 5, requires local governments to demonstrate a preference for land use management practices and non-structural solutions to problems of erosion and flooding. The proposed golf course design modifications are not in a coastal shoreland area with problems of erosion or flooding. The proposed amendments do not authorize use of any structural solution to problems of erosion or flooding, with regard to the portion of the Beach Trail within the ocean shorelands. Goal 17, IR 5, does not apply to the proposed amendments.

Goal 17, IR 6, requires local governments, in coordination with OPRD, to develop and implement a program to provide increased public access. The proposed amendments, in coordination with a request from OPRD, relocate the existing Beach Trail to provide continued public access and, therefore, demonstrate county compliance with Goal 17, IR 6.

Q. **Goal 18 - Beaches and Dunes**

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human like and property from natural or man-induced actions associated with these areas.”

Goal 18 requires county comprehensive plans to identify and classify beach and dunes areas and to establish policies for the use of these areas, based on the capabilities and limitations of different types of beach and dunes areas to sustain different levels of use and development. Goal 18, Implementation Requirements (IR) 1-7 establish specific requirements for allowing...
development in particular types of beach and dunes areas, or for specific activities in beach and
dune areas.

The acknowledged Coos County Comprehensive Plan includes a special considerations map
entitled “Development Potential within Ocean Shorelands and Dunes” (hereafter Development
Potential Map). Plan Sec. 5.10 (Dunes, Ocean and Coastal Lake Shorelands), Plan Implementing
Strategy (PIS) 1, states this map “specifically delineates the boundaries for areas identified” in
the County’s inventory and assessment of beaches and dunes. On the Development Potential
Map, the entire area south of Cut Creek, where the Preserve Course is located, is inventoried as
an area of “Limited Suitability.” This identifies areas subject to Goal 18, IR 1. However, one
small area west of the ocean shoreland boundary, at the southwestern corner of the area adjacent
to Bullards Beach State Park, is designated as “Not Suitable for Residential, Commercial or
Industrial Structures.” This designation identifies areas subject to Goal 18, IR 2. Plan,
Section 5.10, PIS 3.

1. Implementation Requirement 1

Goal 18, Implementation Requirement 1 requires local governments to base decisions on uses in
beach and dunes areas, other than older stabilized dunes, on the following “specific findings”:

“a. The type of use proposed and the adverse effects it might have on the site
   and adjacent areas;

“b. Temporary and permanent stabilization programs and the planned
   maintenance of new and existing vegetation;

“c. 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.”

As explained above, the areas subject to this requirement are designated as “Limited Suitability”
on the Development Potential Map. The County’s acknowledged program for compliance with
Goal 18, Implementation Requirement 1 is that when a specific development is proposed in a
beach and dune area designated on the Development Potential Map as “Limited Suitability,” it
will be allowed only if the above findings are made in a discretionary permit approval process.

Acknowledged Plan Sec. 5.10, PIS 2 allows development in designated “Limited Suitability”
areas only if findings identical to those required by Goal 18, IR 1 are adopted. The Plan goes on
to specify this strategy is implemented through a discretionary permit process that includes
submission of a site investigation report addressing the factors required by Goal 18, IR 1 and
Plan Sec. 5.10, IS 2. This Plan provision is implemented for the BDR zone through
sections 4.10.030.l and 4.10.070.C, which require the findings identified in Goal 18, IR 1, and
Plan Sec. 5.10, PIS 2, for approval of a final development plan that includes any area designated
as “Limited Suitability” on the Development Potential Map.

The acknowledged 2003 ES&F concluded:

“It is appropriate to require that the specific findings mandated by Goal 18, Implementation Requirement 1 be made for uses in the BDR zone at the time of final development plan approval for a specific phase or element of the resort, when the specific details regarding the design, size, location and construction of the proposed uses will be known, just as these findings are required at the time of permit approval for uses in other County zoning districts. In addition, the County has determined that it is feasible for the resort development proposed by the Master Plan to be located in ‘Limited Suitability’ designated areas to satisfy the requirements of Goal 18, Implementation Requirement 1 and the above described Plan and ZLDO provisions.” 2003 ES&F, page 109.

In this case, the findings required by Goal 18, IR 1; Plan Sec. 5.10, IS 2; and ZLDO 4.10.030.1 with regard to the design modifications for the Preserve Course will be made through approval of the Revised Phase 8 FDP that accompanies this Plan/ZLDO amendment application. Although the procedures for FDP approval and modification are proposed to be changed, they will still require compliance with ZLDO 4.10.030.1, ZLDO 4.10.060.E and 4.10.075.B (as proposed to be amended).

2. Implementation Requirement 2

Goal 18, Implementation Requirement 2, prohibits residential, commercial and industrial buildings on beaches, active foredunes, other foredunes which are conditionally stable but subject to wave overtopping or ocean undercutting, or deflation plains subject to ocean flooding, and allows other development in such areas only upon certain findings. As explained above, the areas subject to this requirement are designated as “Not Suitable” on the Development Potential Map. In addition to the findings required by Goal 18, IR 1, addressed above, IR 2 requires that the development:

“a. Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and

“b. Is designed to minimize adverse environmental effects.” (Emphasis added.)

The proposed amendments to the Master Plan would authorize the western end of an unpaved beach trail being located in this Not Suitable area. With regard to “a,” an unpaved beach access trail satisfies the requirement that the development be of minimal value. With regard to “b,” the Master Plan requires that the beach access trail be located in the area south of the Cut Creek Delta, near the boundary of Bullards Beach State Park, “in order to minimize potential adverse impacts on riparian environment or future [Snowy] Plover habitat,” and prohibits off-trail
recreational vehicle use. Master Plan, p. 9. In addition, the “Design and Construction” guidelines for the Dunelands Management Unit impose a requirement to “[l]ocate and design [the] beach access trail to minimize impacts on natural resources.” Master Plan, p. 50. Finally, Section 4.10.030.1 of the BDR zone requires a beach access trail in the designated “Not Suitable” area to be supported by the findings required for Goal 18, IR 1. As explained above, this standard must be found to be satisfied at the time of final development plan approval for any such beach access trail.

3. Implementation Requirements 3-7

Goal 18, Implementation Requirement 3 requires the County to “regulate actions in beach and dune areas to minimize the resulting erosion.” The areas of the Preserve Course and Beach Trail designated as “Not Suitable” or “Limited Suitability” are within the Dunelands Management Unit established by the Master Plan. Master Plan, Fig. 15. This management unit recognizes that fragile soil cover, subject to disturbance, is a constraint in that management unit, and establishes planning, design and construction guidelines to minimize erosion. Id. at p. 50.

Goal 18, Implementation Requirement 4, requires that the County Plan protect the groundwater in dunal aquifers from drawdown leading to loss of stabilizing vegetation, loss of water quality or intrusion of salt water. As explained in more detail in Section VIII.E.5, supra, the proposed amendments would authorize adding a small restroom/snack bar and at most an additional four acres of irrigation to the resort’s water system. The demand on groundwater due to these uses would be insignificant compared to the overall use of groundwater by the resort water system authorized by the 2003 SMP, as amended in 2010.

The Supplemental Master Plan, as proposed to be amended, would neither contemplate nor allow the foredune breaching and grading activities prohibited by Goal 18, Implementation Requirements 6 and 7, or beachfront protective structures, as regulated by Goal 18, Implementation Requirement 5.

IX. COOS COUNTY COMPREHENSIVE PLAN

Chapter 5 of Volume I, Part 1 of the Coos County Comprehensive Plan ("the Plan")\textsuperscript{6} contains a series of sections under separate subject matter headings, each of which is separated into (1) Problem/Opportunity Statement, (2) Issues, (3) Goals, and (4) Plan Implementation Strategies.

Plan Sections 1.8 (How to Use this Plan) and 5.0 (Problems, Planning Issues, Local Goals and Plan Implementation Strategies) explain that the “goals” and “plan implementation strategies” are the adopted plan “policies.” Plan “goals” are “policies that provide extremely general guidance, and are developed as a means of dealing with corresponding, general problem

\textsuperscript{6} As stated in n 2 above, unless otherwise noted, all references to the Plan are to Volume I, Part 1 of the Plan.
statements.” Plan, Section 5.0, p. 35. Plan “implementation strategies” are “policies that provide specific guidance [and] establish specific implementation measures *** for achieving respective goal statements.” Id. “Goals” and “strategies,” once adopted, are “official policy statements of Coos County.” Id. For simplicity, Plan “goals” and “implementation strategies” are sometimes referred to in these findings generally as “policies.”

Coos County planning obligations potentially relevant to the proposed BDR Master Plan and Zone amendments were identified by first segregating plan policies into two basic categories. The first are those for which achievement of the amendments will not materially further the accomplishment of a given goal. An example would be a plan policy which strives to protect life and property by keeping development out of a flood hazard area. As long as there is no development, the threat is only potential. If a development is approved for the subject property, but not within a flood hazard area, the threat is still only potential. Nothing has changed even though a project has been approved and developed which complies with the plan policy.

The second category is those policies which can be materially furthered by a given development. An example would be a plan policy which requires protection of riparian vegetation. Proposed amendments which would require development in a riparian corridor to employ particular protective measures actually carry out the direction indicated by the plan policy. Approval of that type of amendments could truly be said to aid the County in meeting such a planning obligation.

Once the policies are segregated into those two categories, the analysis proceeds by an evaluation of the policies in the second category against the facts of the proposed development to see whether the goals and policies are furthered, hindered or not affected at all. The relevant plan policies are presented first, along with the facts which demonstrate whether that particular planning obligation has been met.

A. Citizen Involvement

Plan Section 5.1 constitutes the County’s acknowledged Citizen Involvement Program. The Citizen Involvement Goal is:

“To develop a Citizen Advisory Committee, which sets in motion one phase of the Citizen Involvement Program that insures the opportunity for citizens to be involved in all phases of the planning process.” Plan, p. 37.

This goal is carried out by seven Plan Implementation Strategies (PIS’s), two of which are relevant to this quasi-judicial Plan and ZLDO amendment proceeding. Citizen Involvement PIS 3 (Citizen Influence) states:

“The purpose of this component is to provide the opportunity for citizens to be involved in all phases of the planning process, including revising and updating of plans and implementation ordinances. This shall be accomplished in two (2) ways: (a) Citizen Advisory Committee workshops (as appropriate) and public
meetings, and (b) Planning Commission public hearings on property owner applications, as well as Plan and Ordinance amendments.” Plan, p. 38.

For a Plan and ZLDO amendment applied for by a property owner, as is the case here, the opportunity for citizen involvement is appropriately provided through Planning Commission public hearings.

As relevant here, Citizen Involvement PIS 5 (Feedback Mechanisms) provides:

“* * * Citizens who have participated in the planning process shall receive a response from the policy makers. The rationale used to reach land use policy decisions shall be available in the form of a written record.” Plan, p. 37.

These proposed findings identify the applicable legal standards, set out the facts relied on by the applicant, and explain why the proposal meets those standards. Following public hearings and deliberations, the Board of Commissioners will adopt final findings explaining their decision and responding to relevant issues raised in the course of the proceedings.

**B. Land Use & Community Development Planning**

The Plan Land Use & Community Development Planning Goal 5.2 states that the County considers the Plan Map, Goals and Implementation Strategies to be “official statements of policy” that guide the County’s land use planning efforts. The Goal also recognizes that “it will be necessary to revise and modify the plan and implementing ordinance from time to time.” Plan, p. 39. This goal is carried out by 10 PIS’s, four of which are relevant to the proposed Plan and ZLDO amendments.

1. **Initiation of Plan Amendments**

Land Use & Community Development Planning PIS 6(c) provides that the County shall consider Plan amendment proposals upon “an application filed by a citizen or organization, accompanied by a prescribed filing fee.” Plan, p. 40. The applicants have filed a Plan/Ordinance Text Amendment application, accompanied by the prescribed filing fee.

2. **Notices**

Land Use & Community Development Planning PIS 7 sets out requirements for public notice on public hearings to consider proposed Plan/ZLDO amendments. PIS 7(a)(i) requires that notice be published in one of the county’s designated official newspapers “at least 30 calendar days prior to the date of scheduled hearing.” Plan, p. 40.

Land Use & Community Development Planning PIS 7(a)(ii) requires the County to mail written notice of the public hearing on a proposed Plan amendment to "adjacent property owners, agencies and affected cities” at least 30 days before the scheduled hearing. Plan, p. 40.
Land Use & Community Development Planning PIS 7(b) requires the County give notice of a proposed Plan amendment to the DLCD Director at least 45 days before the first public hearing.

Findings demonstrating compliance with these requirements cannot be adopted until after the County conducts its hearings on the proposed Plan/ZLDO amendments.

3. **Hearing and Recommendation by Planning Commission**

Land Use & Community Development Planning PIS 8 requires the Board of Commissioners to consider a recommendation from the Planning Commission as to the appropriateness of each requested Plan/ordinance amendment. PIS 8 also requires the Planning Commission to conduct a public hearing “prior to formulating its recommendation.” Plan, p. 41. The applicants respectfully request that the Planning Commission conduct a public hearing and recommend approval of this application.

4. **Coordination**

Land Use & Community Development Planning PIS 12 provides that “[w]hen a plan and/or ordinance amendment is proposed, the County shall request and consider written comments from the affected agencies, entities and special districts.” Plan, p. 41. The applicants have coordinated with OPRD regarding the proposed relocation of the Beach Trail from State Park to BDR property. The applicants respectfully ask that the County request and consider written comments from other agencies, entities and special districts that could potentially be affected by the proposed amendments.

Land Use & Community Development Planning PIS 14 identifies the types of zones that may implement each plan map designation. The table indicates that the only zone which may implement the Bandon Dunes Resort designation is the BDR zone. Plan, p. 42. The proposed Plan and ZLDO map amendments comply with this policy because they would apply the BDR zone to the area designated Bandon Dunes Resort on the Plan map.

**C. Agricultural Lands**

The entire resort site is already designated for nonagricultural use by the acknowledged Bandon Dunes Resort Goal Exception Statement and Master Plan.

**D. Forest Lands**

The entire resort site is already designated for nonforest use by the acknowledged Bandon Dunes Resort Goal Exception Statement and Master Plan.
E. Mineral & Aggregate Resources

The county’s Mineral and Aggregate Resources Goal 5.5 is to “value its identified mineral and aggregate deposits and *** strive to protect them where practicable.” Plan, p. 50. This goal is carried out by five PIS’s, two of which are potentially relevant to the proposed Plan and ZLDO amendments.

Under Mineral and Aggregate Resources PIS 1, the Plan’s policy for protection of identified mineral and aggregate resources (other than coal deposits and black sand prospects) is to maintain the sites in their present state, except where a conflicting use is identified during implementation of the Plan. A conflicting use is defined as any dwelling or other structure within 500 feet of the resource site. Plan, p. 50. No portion of the Preserve Course site or the relocated site for the Beach Trail is within 500 feet of a "sand & gravel pit" designated on the Plan Mineral/Aggregate/Energy Resources Special Consideration Map. Therefore, the proposed Plan and ZLDO amendments will not result in any conflicting use with a designated mineral and aggregate resources site.

Mineral and Aggregate Resources PIS 3 states that inventoried black sand prospect areas are designated as a "1B" resource under OAR 660-16-000(5)(a) (“Old” Goal 5 Rule), and that this decision will be reconsidered during the scheduled Plan update. Plan, p. 51. PIS 3 also states that the County “shall refrain from implementing special protective measures for black sand prospect areas until such time as sufficient information on the quality and quantity of the resource merit such.” The Plan states there is a potential for black sand deposits on the beach and some areas of the Bandon Dunes site. However, PIS 3 does not require that any action be taken with regard to protection of this potential resource. In any case, the applicants have no plans to exploit the resource, nor will the proposed Plan and ZLDO amendments compromise preservation of any such resource for future use.

F. Fish & Wildlife Habitats

The County’s Fish and Wildlife Habitats Goal 5.6 is to “value its identified significant fish and wildlife habitat and *** strive to protect them where practicable.” Plan, p. 51. This goal is carried out by five PIS’s, two of which are potentially relevant to the proposed Plan and ZLDO amendments.

The acknowledged 2003 Exception Statement and Findings addresses Fish and Wildlife Habitats PIS 1 as follows:

"Fish & Wildlife Habitat PIS 1, at Plan p. 52, states the County deems as a significant habitat resource under Statewide Goal 5 (1) Sensitive and Peripheral Big-game Range, (2) Bird Habitat Sites, and (3) Salmonid Spawning and Rearing Areas. Fish & Wildlife Habitat PIS 1.c states that the Plan Fish & Wildlife Habitat I and II Special Consideration maps are used to identify salmonid.
spawning and rearing areas subject to special riparian vegetation protection; and sensitive and peripheral big game range. On Map II, the entire expanded Bandon Dunes Resort site is identified as 'Impacted - Little or No Habitat Value' and, therefore, none of the site is designated Sensitive or Peripheral Big-Game Range.
* * *” 2003 ES&F, p. 164.

Additionally, Plan Fish & Wildlife Habitat I map does not show Cut Creek, the only stream in the vicinity of the Preserve Course or Beach Trail, as “Anadromous Fish Habitat” or a “Salmonid Spawning and Rearing Area.” Finally, none of the bird nesting areas listed on Plan, p. 53 as Goal 5 “5c” resources are near the Preserve Course or Beach Trail site. Consequently, Plan Fish and Wildlife Habitats PIS 1 does not apply to the proposed Plan amendments authorizing certain modifications to the design of the Preserve Course.

Fish & Wildlife Habitats PIS 2 requires the County to “manage its riparian vegetation and identified non-agricultural wetland areas so as to preserve their significant habitat value as well as to protect their hydrologic and water quality benefits.” Plan, p. 54. Sections VIII.E.1 and 2 of these findings address the identification and protection of riparian corridors and significant wetlands in or near the Preserve Course and Beach Trail areas. Additionally, the Riparian Corridor and Wetland Protection section of the BDR zone (ZLDO 4.10.030.H) satisfies the safe harbor requirements of the Goal 5 Rule for protecting riparian corridors and wetlands and, therefore, also satisfies the riparian vegetation and wetland protection requirements of Fish & Wildlife Habitat PIS 2.

G. Historical & Archaeological Resources, Natural Areas and Wilderness

The acknowledged 2003 Exception Statement and Findings addressed this issue as follows:

"The Plan policies regarding these resources generally call for protection where practicable. Plan, p. 58. A range of implementation strategies is discussed including preservation, modification consistent with the original character, refraining from widespread dissemination of information concerning the resource, and case-by-case evaluation of the appropriate protection required for identified significant resources.

"No areas, sites, structures or objects of historical significance on or near the Bandon Dunes site are designated by the Plan or recognized by the State Office of Historic Preservation. The protection of archaeological resources located within the proposed expansion areas is discussed in Section VIII.E.12." 2003 ES&F, pp. 165-66.

The 2010 ES&F added the following update:

"The above finding remains current and applicable. Based upon pre-application inquiries, site investigations, communications with tribal representatives, and a review of existing archeological surveys, no additional archeological resources
have been identified in the project area. Protection of archeological resources will continue as provided for under the resort's existing acknowledged policies, procedures, and Goal 5 program.” 2010 ES&F, p. 83.

The above quoted findings remain valid for the proposed golf course design modifications and relocation of the Beach Trail. No additional findings are required to address the Plan Historical & Archaeological Resources, Natural Areas and Wilderness 5.7 Goal or PIS 1-4.

H.  Water Resources

The County’s Water Resources Goal 5.8 is to “value its identified water resources and protect them where practicable.” Plan, p. 59.

The acknowledged 2003 Exception Statement and Findings address this issue as follows:

"The Plan, at p. [59], expresses a goal of valuing identified water sources and protecting them where practicable. [Water Resources] PIS 1, at Plan p. [59], states that new residential development shall not be permitted in areas where, by compelling evidence, the Water Resources Department, the Environmental Quality Commission or the Health Division has established that water resources would be irreversibly degraded by new consumptive withdrawal or by additional septic tank or other waste discharge. No such areas have been identified on or near the Bandon Dunes site.

"Regardless of the absence of identified critical areas, the applicants have gone to great lengths to demonstrate that there is adequate groundwater available to serve the proposed resort expansion without interfering with other water uses or adversely affecting the Dunal Aquifers resource designated on the Plan Water Resources Special Consideration Map. See Section VIII.E.5 of these findings; ‘Water Availability Study for the Bandon Dunes Resort Area’ (Vol. I, App. G); ‘Groundwater Resource Investigation for Expansion of the Bandon Dunes Resort’ (Vol. I, App. H).” 2003 ES&F, p. 166.

The 2010 ES&F added the following update:

“The above findings have been borne out by experience since the 2003 approval. The proposed use, involving only about 8 acres of turf, will require no new wells or surface water impoundments. It will have negligible impact on overall demand, equivalent to only or two championship golf course holes.” 2010 ES&F, p. 83.

The currently proposed amendments would add at most an additional four acres of irrigated turf and a limited restroom/snack bar facility to the Preserve Course. These changes would use water from the resort’s developed water and irrigation systems, would not require any new well or surface impoundment, and would have a negligible impact on overall water demand, compared
to the 4.5 18-hole golf courses, 300 overnight accommodation units, lodges, restaurants and other facilities, and the original Preserve Course design already authorized by the BDR Supplemental Master Plan.

I. Dunes, and Ocean and Coastal Lake Shorelands

Plan Dunes, and Ocean and Coastal Lake Shorelands (DOCLS) Goal 5.10 provides:

"Coos County shall manage its dune areas, ocean and coastal lake shorelands, and minor estuary shorelands, to provide for diverse uses consistent with maintenance of the natural values associated with such areas and with the need to reduce hazards to human life and property." Plan, p. 61.

The acknowledged 2003 Exception Statement and Findings address this issue as follows:

"The above Goal is implemented through numerous implementation strategies. DOCLS PIS 1, at Plan p. 61, states that the County bases its decisions regarding various categories of beach, dune and shoreland areas on the boundaries for those areas shown on the Plan Special Considerations Map entitled ‘Development Potential within Ocean Shorelands and Dunes’ (hereafter Development Potential Map). What this map indicates with regard to the beach and dunes features of the Bandon Dunes site is described in detail in Section VIII.Q, and was relied on in determining compliance of the proposed resort expansion with Statewide Planning Goal 18. What this map indicates with regard to the coastal shorelands boundaries on the expanded Bandon Dunes Resort site is described in Section VIII.P.1 ***, and was used in determining compliance of the proposed expansion with Statewide Planning Goal 17.

DOCLS PIS 2, at Plan pp. [61-62], carries out the requirements of Goal 18, Implementation Requirement 1, as described in detail in Section VIII.Q.1. Those findings also explain in detail how compliance of the proposed resort development in the ‘Limited Suitability’ designated portion of the expansion areas with PIS 2 will be ensured through application of the BDR zone.

"DOCLS PIS 3, Plan pp. [62-63], imposes requirements identical to Goal 18, Implementation Requirement 2, which is described in detail in Section VIII.Q.2. Those findings also explain in detail how the Bandon Dunes Resort expansion complies with the restrictions on development established by PIS 3 for the ‘Not Suitable’ designated area of the site.

"Both DOCLS PIS 2 and 3 also contain provisions regarding protecting groundwater from drawdown that are virtually identical with Goal 18, Implementation Requirement 4. Compliance of the proposed resort expansion with this requirement is addressed in Section VIII.Q.3, by reference to the Statewide Planning Goal 5 groundwater analysis in Sections VIII.E.5.d(4) and"
e(4). In addition, DOCLS PIS 3 contains provisions similar to Goal 18, Implementation Requirement 6 restricting the breaching of foredunes. As explained in Section VIII.Q.3, the Master Plan, as modified by the Supplemental Master Plan, neither contemplates nor allows the breaching of foredunes.

"DOCLS PIS 5 requires the County to ‘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.’ Plan, p. [63]. DOCLS PIS 5 goes on to identify what resources fall within each of these five categories, with reference to Plan inventories and Special Considerations Maps. For instance, DOCLS PIS 5 identifies ‘major marshes’ as being certain marshes associated with dune lakes in the Oregon Dunes NRA and wetlands associated with the New River, as identified in Plan Inventory text and on the Special Consideration Map. However, none of the resources identified by DOCLS PIS 5 are present on the Bandon Dunes site. Accordingly, DOCLS PIS 5 does not apply to this decision.

"DOCLS PIS 7, at Plan pp. [64-65], requires the County to adopt implementing ordinance provisions limiting the uses of its rural shorelands to certain listed uses:

“i. farm uses as provided in ORS [Chapter] 215;
“ii. propagation and harvesting of forest products consistent with the Oregon Forest Practices Act;
“iii. private and public water-dependent recreation developments;
“iv. aquaculture;
“v. water-dependent commercial and industrial uses and water-related uses only upon [a] finding by the Board of Commissioners that such uses satisfy a need which cannot otherwise be accommodated on shorelands in urban and urbanizable areas;
“vi. single family residences on existing lots, parcels, or units of land when compatible with the objectives and implementation standards of [Goal 17], and as otherwise permitted by the underlying zone[.];
“vii. any other uses, provided that the Board of Commissioners determines that such uses (a) satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas; (b) are compatible with the objectives of LCDC Goal #17 to protect riparian vegetation and wildlife habitat; and (c) the ‘other’ use complies with the implementation standard of the underlying zone designation.” (Emphases in original.) Plan, p. [64]."
"The above list of uses is very similar to that in Statewide Planning Goal 17, Coastal Shorelands Uses, paragraph 4, which is quoted at the beginning of Section VIII.P. In fact, the first four paragraphs are identical. Section VIII.P.1.a and 2.b of these findings analyze the types of uses allowed on the coastal shorelands of the expanded Bandon Dunes Resort site by the Master Plan, Supplemental Master Plan and BDR zone. Those findings conclude the uses allowed fall within categories ii and iii above. Consequently, these Plan and ZLDO amendments are consistent with DOCLS PIS 7.

"DOCLS PIS 8 provides the County can approve land divisions within the ocean and lake CSB’s in rural areas only if certain findings are made. However, both the Master Plan and the BDR zone prohibit the inclusion of land inside the CSB’s within any smaller lots or parcels divided from the parent Bandon Dunes Resort property in the future. Master Plan, p. 63; ZLDO 4.10.090.C.2. Consequently, these Plan and ZLDO amendments are consistent with DOCLS PIS 8.

"DOCLS PIS 9 requires the County to consider six listed ‘general priorities for the overall use of ocean [and] coastal lake shorelands.’ Plan, [p. 65]. The list of general priorities is identical to that in Statewide Planning Goal 17. DOCLS PIS 9 goes on to say ‘this strategy shall serve as a guide when evaluating discretionary zoning and land development actions.’ (Emphasis added.) Id. The use of the term ‘guide’ means that PIS 9 is a factor to be considered, rather than a mandatory standard. However, in this case, the description of the uses allowed within the ocean and lake CSB’s of the expanded Bandon Dunes site by the Master Plan, as modified by the Supplemental Master Plan, and the BDR zone, found in Sections VIII.P.1.a and 2.b, indicate those uses would fall in categories (i) or (ii).

"DOCLS PIS 10 requires the County to ‘prefer non-structural solutions to problems of erosion and flooding to structural solutions in ocean [and] coastal lake *** shorelands.’ Plan, p. [65]. However, DOCLS PIS 10 goes on to state that its implementation shall ‘occur through County review of and comment on state and federal permit applications for such projects.’ Id. Accordingly, DOCLS PIS 10 does not apply to this Plan and ZLDO amendment proceeding.

"DOCLS PIS 11 requires the County to ‘maintain riparian vegetation within the shorelands of the ocean [and] coastal lakes *** and when appropriate, restore or enhance it, as consistent with water dependent uses.’ Plan, p. [66]. This requirement is very similar to Goal 17, Implementation Requirement 4. The findings in Section VIII.P.3 explain how this requirement is satisfied by the proposed resort expansion." 2003 ES&F, pp. 166-168.
The 2010 ES&F added the following update:

"The single additional use proposed by this application is nonstructural and does not occupy any area designated or classified as shorelands of the ocean and coastal lakes or any area within riparian or other setbacks thereto. The above findings are therefore unaffected and do not require further updating." 2010 ES&F, p. 86.

The currently proposed amendments authorize an unpaved recreational trail within ocean shorelands and an area of conditionally stable sand dunes, and also authorize two small structures, totaling no more than 700 sq. ft., and the stabilization of the upper slope of the southern side of the Cut Creek ravine, in an area of conditionally stable sand dunes. Any required modification of or addition to the 2003 findings to address these additional authorized uses is listed below:

DOCLS PIS 1 – See Sections VIII.P.1 and VIII.Q of these findings.
DOCLS PIS 2 – See Section VIII.Q.1 of these findings.
DOCLS PIS 3 – See Section VIII.Q.2 of these findings.
DOCLS PIS 5 – No change.
DOCLS PIS 7 – See Section VIII.P.2 of these findings.
DOCLS PIS 8 – No change.
DOCLS PIS 9 – No change.
DOCLS PIS 10 – No change.
DOCLS PIS 11 – See Section VIII.P.3 of these findings.

J. Natural Hazards

Plan Natural Hazards Goal 5.11 provides:

"Coos County shall strive to protect life and property from natural disasters and hazards, based on an inventory of areas potentially subject to such problems." Plan, p. 66.

The acknowledged 2003 Exception Statement and Findings address this issue as follows:

"*** Under Natural Hazards PIS 1, development is to be regulated in known areas potentially subject to stream and ocean flooding, wind hazards, wind erosion and deposition, critical streambank erosion, coastal erosion and deposition, mass movements, earthquakes and weak foundation soils. The inventoried areas referred to in the Goal and PIS 1 are indicated on the Plan 'Natural Hazards' Special Considerations Map.

"***"
"Natural Hazards PIS 5 provides that the County ‘shall promote protection of valued property from risks associated with critical streambank and ocean-front erosion through necessary erosion control stabilization measures, preferring non-structural solutions where practicable.’ Plan, p. [67]. However, the PIS goes on to state that it is implemented ‘by making Consistency Statements required for State and Federal permits’ for structural protection measures only in certain circumstances. Id. Accordingly, Natural Hazards PIS 5 does not apply to this Plan and ZLDO amendment proceeding." 2003 ES&F, pp. 86-87.

The 2010 ES&F added the following update:

“The single proposed nonstructural use authorized by the proposed amendment [(Preserve Course)] does not involve grading or other alterations to streambanks, ocean-fronts, or foredunes and does not create or increase hazards addressed in the above findings.” 2010 ES&F, p. 87.

Section VIII.G of these findings provides:

“*** The Preserve Course area of the resort has not been identified or inventoried as being subject to any of the listed [natural] hazards. The current amendments authorize two small structures (total < 700 sq.ft.) in an area of conditionally stable dunes. These structures will have to comply with the acknowledged ZLDO 4.10.030.I requirements for construction in areas of conditionally stabilized dunes implementing Goal 18 (Beaches and Dunes). These amendments also authorize the relocation of the existing Beach Trail on state parks property slightly north, to the BDR property. Construction of this trail will also have to comply with the acknowledged ZLDO 4.10.030.I requirements implementing Goal 18. It is not necessary, therefore, to impose additional measures to maintain compliance with Goal 7.”

Compliance at the time of FDP approval with the requirements of ZLDO 4.10.030.I for development within “areas of limited suitability,” and the “not suitable” area south of the Cut creek delta, which incorporates the requirements of Plan Policy 5.10, PIS 2, will be sufficient to ensure that the two small golf service structures on the preserve Course and the relocated beach trail, authorized by these amendments, are sufficiently protected from natural hazards.

K. Air, Land & Water Quality

Plan Air, Land & Water Quality Goal 5.12 provides:

“Coos County shall exercise sound land use practices to maintain the quality of its air, land, and water resources in a manner that reflects County citizens' desires for a quality environment and a healthy economy.” Plan, p. 69.
The acknowledged 2003 Exception Statement and Findings address this issue as follows:

"County policies in this area express a desire for balance between maintenance of environmental quality versus avoidance of overly strict controls which stifle legitimate development. Most of the [Plan Implementation Strategies] are directed at other agencies such as the federal Environmental Protection Agency, the state Department of Environmental Quality and the Coos Soil and Water Conservation District. Plan, p. [69]. As such, there seems to be little direct connection between these policies and the approved expansion of the Bandon Dunes Resort.

"The Air, Land & Water Quality Goal does, however, require the county to ‘exercise sound land use practices to maintain the quality of its air, land and water resources in a manner that reflects the County citizens’ desires for a quality environment and a healthy economy.’ Plan, p. [69]. Also, Air, Land & Water Quality PIS 5 requires the County to ‘comply with state air, water quality and noise source standards that are established as law.’ Id.

"Other portions of these findings discuss various aspects of sound land use practices that are incorporated into the Bandon Dunes project's design. These practices deal with such things as obtaining permits for waste disposal and fill and removal, retention of riparian vegetation, retention of wetlands which have a multiplicity of environmental functions, encouragement of non-automobile transportation, solar orientation and others. With regard to water quality, air quality and noise, see the findings in Section VIII.E.5.d(4) (environmental consequences) and those in Section VIII.F (Statewide Planning Goal 6).” 2003 ES&F, p. 169.

The 2010 ES&F added the following update:

"The single proposed nonstructural recreational use authorized by the proposed amendments will involve only minor construction and maintenance activities generating a negligible amount of emissions. All such activities will be subject to the same safeguards as those described in the above findings, which do not require further supplementation.” 2010 ES&F, p. 88.

The currently proposed design modifications to the Preserve Course will comply with legally established state air, water quality and noise source standards, as required by Air, Land & Water Quality PIS 5. See Sec. VIII.F of these findings.

L. Economic Development

The acknowledged 2003 Exception Statement and Findings address this issue as follows:

"Although this section of the Plan is entitled ‘Industrial and Commercial Lands,’ it is the Plan’s general economic development section. The Bandon Dunes project will help Coos
County, in a substantial way, to satisfy this area of its planning obligations.

"The Plan Economic Development Goal 5.16 requires Coos County ‘to diversify and improve its regional economy.’ Plan, p. [73]. PIS 2 and 3 require the county to ‘sanction and support the economic development efforts’ of the Coos-Curry-Douglas Economic Improvement Association and to ‘support the regional economic goals and objectives periodically adopted by the Coos County Overall Economic Development Program Committee.’ Plan, p. 76.

"Among the problems cited as underlying the County's policies are: high and unstable unemployment, past reliance on lumber and wood products, poor transportation, rugged terrain and relative isolation of the area. Plan, p. 74. The Plan goes on to discuss undue emphasis on preservation of farm and forest lands to the detriment of other economic activities, and also advances the opinion that some commercial activities should be allowed outside of UGBs.

"In making the case for extra-urban commercial development, the Plan cites several examples which serve a legitimate purpose in providing goods and services to farmers and rural residents. It is equally true that destination resorts are legitimately located outside of UGBs. As one commentator noted, ‘When you are locating the sea lion caves, you have to go where the sea lions are.’ The Oregon Legislature recognized this fact when it created the statutory provisions which allow destination resorts to locate in rural areas without a goal exception.

"The chief attributes of the Bandon Dunes Resort expansion project are that it fosters economic diversification, creates jobs and stabilizes a basic industry which brings in outside money to the region. In all of these ways, the Bandon Dunes Resort expansion project helps the county meet its planning obligation to diversify its economy and provide land areas for all legitimate economic activities. See, in particular, the discussion of the ERA report in Sections VIII.F.5.d(4) and IX.A.1.

"The adopted exception and related plan and zoning ordinance amendments will provide Bandon Dunes with additional depth, breadth, and staying power. It will enable Bandon Dunes to provide more jobs and revenue. It will enhance the attractiveness of Coos County as a place to visit, recreate, work, relocate, and retire. It will support the continuation and enhancement of commercial and general aviation connections through North Bend and Bandon Airports. It will provide Coos County’s youth with jobs, a reason to stay in the community, the ability to finance an education, and the experience of working in a highly professional service organization. In short, the findings of 1996 have been more than validated. Except to the degree that they understated the potential marketing area, which has turned out to be worldwide, and the potential for job creation, which has turned out to be more than double what was expected (and will be even greater as a result of the proposed expansion), the 1996 findings are equally
applicable to this application. **p. 169-170.

The 2010 ES&F added the following update:

“As explained earlier in these findings, the proposed [Preserve Course] has dual environmental and economic purposes, both of which reinforce core elements of the Bandon Dunes Destination Resort that help assure its long-term sustainability and health, which in turn enable it to continue to provide the benefits identified in the acknowledged exception statements.” 2010 ES&F, p. 89.

The proposed design modifications to the Preserve Course and relocation of the Beach Trail will positively affect the golfing and recreational experiences of resort visitors and guests and, therefore, will contribute to the long-term sustainability and economic health of the Bandon Dunes Resort and its program for eradicating non-native species and safeguarding the dunal habitat within and adjacent to the Preserve Course and in other coastal locations.

N. Public Facilities and Services

The acknowledged 2003 Exception Statement and Findings address this issue as follows:

“The Plan notes that Statewide Goal 11 requires appropriate levels of planned facilities and services and requires that rural services must be planned so as not to misdirect urban growth. Plan, p. 78. It also recognizes that recreational planned developments are a unique form of land use which will import tourist income and which will need community-type urban services outside of urban growth boundaries. Plan, p. 79, Issue 4.

“Development of an expanded Bandon Dunes Resort will not misdirect growth because its community services will be self-contained, on-site and will not serve as a magnet for other urban development. This is in contradistinction, for example, to running a large sewer or water main across miles of farm land to serve a regional shopping mall. There will be no utility lines extending urban services from the City of Bandon, for example, to the Bandon Dunes site.

“Public services such as power, communications and solid waste disposal will be provided by the usual franchised utilities operating in the area. Fire and police protection will be provided by the development or will be contracted for from local service providers. However, the demand, especially for police protection, is expected to be low. None of these services are of the type which stimulates urban sprawl. Streets, sidewalks, and storm drainage will be self-contained and provided at the developer’s expense.

“The services provided at an expanded Bandon Dunes Resort will be consistent with those identified as appropriate for rural parcels by Public Facilities & Services PIS 2a. Of the types of uses discussed in Public Facilities & Services
PIS 3 through 6, the Bandon Dunes Resort is most similar in nature to, although certainly greater in extent than, a recreational planned unit development (PUD). Public Facilities & Services PIS 5 recognizes that self-contained community water and sewer systems are appropriate for recreational PUDs.

“In summary, the Bandon Dunes project will further the County's planning obligations to the extent it facilitates a planned recreational development. In all other respects it is consistent with plan policies.” 2003 ES&F, pp. 171-172ff.

The 2010 ES&F added the following update:

“The single proposed additional use will not require additional public facilities and services and will not place additional demands on existing public facilities and services. No change to the above findings is required.” 2010 ES&F, p. 90.

The proposed design modifications to the previously approved Preserve Golf Course authorize construction of the “Preserve Bunker,” a limited service restroom and snack bar to serve primarily people golfing on the western end of the Preserve Course. Water and sewer service to the Preserve Bunker will be extended from the existing resort water and sewer system infrastructure serving the Trails Clubhouse to the southeast. Surface runoff from the maximum additional four acres of turf authorized by the proposed amendments will be handled by a system of inlet drains and underground stormwater lines leading to a soakage pit, consistent with the Surface Runoff section of the BDR Supplemental Master Plan. SMP, p. 40.

O. Transportation

Plan Transportation Goal 5.19 provides:

“Coos County shall strive to provide and encourage a transportation system that promotes safety and convenience for citizens and travelers and that strengthens the local and regional economy by facilitating the flow of goods and services.” Plan, p. 80.

The 2003 Exception Statement and Findings address this issue as follows:

“The policy thrust of the Plan is to relate the development of transportation systems to the health of the economy. Plan, p. 83. Both the Plan Transportation Goal and PIS 1 require the County to ‘strive to provide and encourage a transportation system that promotes safety and convenience for citizens and travelers and that strengthens the local and regional economy by facilitating the flow of goods and services.’

“The applicant's TIA, by Kittelson & Associates, demonstrates that the proposed expansion of the Bandon Dunes Resort can be carried out without overloading the capacity or function of Highway 101 or the affected county roads. Specific
requirements of the TPR and the County TSP are addressed in Section VIII.I.

“In addition, the Bandon Dunes Resort expansion is designed to encourage and facilitate non-auto modes of transportation. Specifically it includes expanding the resort’s trail system, connecting private and public recreational sites and nature areas. See SMP, Fig. 13. The trail system will include all-weather paths for walking, bicycling and, perhaps, horseback riding. In addition, the resort’s shuttle bus system will be expanded to serve all activity centers in the proposed expansion areas, including the RV park and the proposed cultural/visitor center on the Tear Drop Site. The resort may also try using electric vehicles or small-scale tour busses (airport shuttle vehicles).” 2003 ES&F, p. 172.

The 2010 ES&F added the following update:

“The single additional use [(Preserve Course)] authorized by the proposed amendments is not expected to generate additional traffic to and from the site. It will not affect LOS or volume-to-capacity ratios and will not require reclassification, improvements, or alterations to any public transportation facilities. On the contrary, it is expected to enable the resort to improve retention of destination resort guests by giving them an additional onsite amenity that can be easily accessed as desired.” 2010 ES&F, p. 91.

The proposed design modifications to the Preserve Course are not expected to result in generation of additional traffic to and from the site, but rather will contribute to retention of destination resort guests by improving the golfing experience at the Preserve Course through providing the convenience of the Starters Shack and Preserve Bunker, while improving the protection of the set-aside conservation areas for dunal habitat by decreasing the probability that golfers will walk through the sandy set-aside areas. Similarly, the relocation of the Beach Trail is not expected to attract additional users to the resort, thereby generating more traffic, but rather to provide existing resort guests and visitors with an additional safe and attractive recreational option.

P. Recreation

The Plan Section 5.19 Recreation Goal provides:

“Coos County shall strive to meet the recreational needs of its citizens and visitors.” Plan, p. 82.

The above Goal is relevant to the proposed Plan and ZLDO amendments because the design modifications to the Preserve Course will better meet the recreational needs of citizens and visitors. As previously explained, the Preserve Course increases the variety of golfing opportunities available at the Bandon Dunes Resort. The proposed design modifications will improve the golfing experience for the guests and visitors using the Preserve Course because they will be able to check their golf bags and get starting information at the Starters Shack, will
have an additional hole to play, will have narrow but continuous greens to follow from tee to
green (rather than trudging through open sand areas), will have restrooms, water and snacks
available at the Preserve Bunker when playing the west end of the Preserve Course and will not
have to worry about their shots hitting hikers traversing the Course. In addition, the relocated
Beach Trail will better meet the needs of hikers in that they will experience a scenic portion of
the Trails Course and will not have to run the risk of being hit by a golf ball while crossing the
line of play on the Preserve Course.

Recreation Section 5.19, PIS 6, provides:

“Coos County shall continue to cooperate with the [Oregon Parks and Recreation
Department] to assure coordination * * * in addressing the Goal #5 requirements
of OAR [Chapter 660, Division 23], should site-specific routes for coastal
recreation trails be proposed in the County.”

In this case, the applicants have coordinated with OPRD by including in their proposed
amendments the relocation of the Beach Trail from the north end of Bullards Beach State Park to
resort property between the BDR southern boundary line and the southern side of the Cut Creek
delta, as requested by OPRD. Approving the Plan amendments authorizing the relocation of the
Beach trail would further compliance with Recreation PIS 6.

Q. Energy

The Plan Section 5.21 Energy Goal provides:

“Coos County shall strive to: (1) conserve energy, and (2) make wise use of its
energy resources.” Plan, p. 85.

The 2003 acknowledged Exception Statement and Findings address this issue as follows:

“The goal is to be implemented through a series of strategies, the first of which
encourages exploration and recovery of non-renewable resources such as coal, gas
and oil on lands on which the County holds an ownership interest. Energy PIS 1.
Reference to the ‘Special Considerations’ map for energy resources shows that
the proposed resort expansion areas are not within an area of potential coal fields,
but are within a broadly defined area within which oil and gas leases may exist.
However, because this policy affects only County ownerships, the Bandon Dunes
property is exempt from further consideration as [an energy] resource site.

“* * * * *

‘The County policy with regard to energy conservation is to build energy
conservation standards into its development code. Energy PIS 6. The expanded
resort development will be subject to those standards. At a minimum, all of the
heated structures will be built to comply with the Oregon Energy Code. Beyond
that, the developers have indicated they will monitor developments in solar technology and integrate those which are practicable and in keeping with the selected design themes of the built portions of the resort.

"Also, as noted elsewhere in these findings, the expanded Bandon Dunes Resort will contribute toward energy conservation directly by encouraging non-motorized transportation and indirectly through minimizing use of fertilizers and other chemicals which rely on petro-resources as a constituent or as part of the manufacturing process." 2003 ES&F, p. 174.

The 2010 ES&F added the following update:

"The single proposed additional use will not be located on a site identified in any plan inventory or otherwise for energy generation, transmission, or mining. It will be a walk-only course and will not require any additional roads, parking lots, heating, or cooling. If anything, it will reduce vehicle usage by providing an additional activity for resort guests within easy walking distance of the Village Center and the resort's overnight lodging facilities." 2010 ES&F, p. 93.

The proposed amendments will do nothing to decrease the energy efficiency of the walk-only, centrally located Preserve Course. Both of the additional structures authorized by the proposed Plan and BDR zone amendments have been designed to minimize their construction footprint. The Starter Shack will be an open air structure, using only a de minimus amount of electricity for lighting. Although the restroom and snack bar portions of the Preserve Bunker will be enclosed, and have electricity for lighting, microwave operation, etc., they will not require heating or air-conditioning and, therefore, will conserve energy.

X. COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE

Amendments to the text of the Coos County Comprehensive Plan or Zoning and Land Division Ordinance (ZLDO) are governed by ZLDO Article 1.2 (Legislative Amendments), which does not establish substantive criteria for text amendments.

A. ZLDO 1.2.200 – Who May Seek Change

"A text amendment may be initiated by the Board of Commissioners, Planning Commission or by application of a property owner or their authorized agent. An application by a property owner shall be accompanied by the required fee."

This application was filed by Don Stastny, FAIA, FAICP, the authorized agent of the property owners Bandon Dunes, L.P., and Bandon Resort Properties, LLC. The application was accompanied by the required fee for a Plan/Ordinance Text Amendment.
B. ZLDO 1.2.325 – Procedure for Legislative Amendment

ZLDO 1.2.325 requires the Board of commissioners to conduct one or more public hearings with 10 days advance published notice before each hearing. The notice of a Board hearing shall “state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance [sic amendments] under consideration.”

In addition, ZLDO 1.2.325 requires the County to provide notice to DLCD “45 days prior to the initial hearing per ORS 197.610,” and also to provide notice of the adoption of legislative amendments as required by ORS 197.615. See Section VII.B of these findings.

XI. CONCLUSION

For the reasons set forth above, the applicants respectfully request that the proposed text amendments to the Bandon Dunes Resort Goal Exception Statement, Supplemental Master Plan and BDR Zone be approved.