September 3, 2013

Hearings Officer Andrew Stamp
c/o Jill Rolfe, Planning Director
Coos County Planning Department
250 N. Baxter, Coos County Courthouse
Coquille, Oregon 97423


OREGON SHORES’ ADDITIONAL STATEMENT

Hearings Officer Stamp:

This office represents Oregon Shores Conservation Coalition and its members living in Coos County (collectively “Oregon Shores”). Please accept this letter on behalf of Oregon Shores in the record for this application pursuant to the first open record period following the close of the July 13, 2013, hearing. Oregon Shores incorporates here by reference all previous submittals and attachments.

The site plan application lacks adequate information required to determine compliance with the relevant standards and criteria. In particular, the applicant proposes development in areas of 7-D zone and beaches and dunes of limited development suitability. Oregon Shores provides this additional discussion and clarification regarding issues raised during the July 13, 2013, hearing.

1. Uses Allowed in the 7-D Zone

The site plan (most recent edition) proposes structures and development within the 7-D zone. Industrial and Utility uses are permitted with general conditions (“P-G”) within the 7-D zone. General condition 1 allows uses as set forth in CBEMP policy 14. CBEMP policy 14 does not explicitly allow non-water dependent industrial uses. “Other uses” are allowed pursuant to policy 14(g), provided that the county makes a determination that the use satisfies a need which cannot be accommodated at other upland locations or in urban or urbanizable areas, and that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in the plan. This policy is consistent with the management objective for the 7-D zone, which provides for the “[e]xisting non-water-dependent or non-water-related industrial uses” provided the use does not adversely impact the Natural Aquatic District # 7 (NA-7 district). CCZO 4.5.285 (emphasis added). Therefore, if the applicant chooses to locate development and structures within the 7-D zone, it must demonstrate compliance with CBEMP Policy 14.
2. Comprehensive Plan Policy 5.11 as an Applicable Criterion

Coos County Comprehensive Plan section 5.11 discusses the County’s responsibility to provide appropriate safeguards from natural hazards through land use planning. Specifically, the county includes “ocean flooding” and earthquakes as natural disasters or hazards within the scope of CCCP 5.11. During the hearing, Hearings Officer Stamp questioned whether 5.11 is an applicable criterion for this application. Mr. Stamp suggested that a prior LUBA decision had determined that 5.11 is not an applicable criteria. Oregon Shores believes that Mr. Stamp was referring to the decision in Southern Oregon Pipeline Information Project, Inc. v. Coos County, 57 Or LUBA 44 (2008). In that case, LUBA determined that policy 5.11 was not applicable to the proposed LNG terminal because the terminal was located entirely within the Coos Bay Coastal Shorelands and was therefore subject only to CBEMP policies, not the general Coos County Comprehensive Plan policies:

“Even if the issue had not been waived, this subassignment of error fails on the merits because it relies on CCCP Section 5.11(1) which does not apply within the Coos Bay Estuary. ... The CBEMP applies within the Coos Bay Estuary. The CREMP applies within the Coquille River Estuary. The CCCP applies in all other parts of the county outside those two estuaries.... Because CCCP Section 5.11(1) does not apply to the subject property, Prince’s argument under the first assignment of error provides no basis for reversal or remand.”

Id. at 71–72. In contrast, here the development proposed within the IND (industrial) district falls outside of the coastal shorelands boundary, and is therefore subject to CCCP Section 5.11(1).

Thank you for the opportunity to provide this comment.

Respectfully Submitted,

[Signature]

Courtney Johnson
On Behalf of Oregon Shores