STAFF REPORT FOR ADMINISTRATIVE DECISION

APPLICANT: SHN Consulting Engineers & Geologists, Inc.

OWNER: Weyerhaeuser NR Company
PO Box 9777
Federal Way WA 98063-9777

REQUEST: A review of a revised supplemental application narrative, which revision proposes a new condition of approval to settle an appeal without hearing through the reissuance of a revised, reconsidered decision imposing the new condition of approval agreed to by the appellant.

DECISION: Approved with Conditions

STAFF CONTACT: Jill Rolfe, Interim Planning Director

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 25 Range 13 Section 03/04 Tax Lots 200/100

PROPERTY LOCATION

The property is located north of the City of North Bend immediately east of Jordan Cove Road. The property was a mill site that has been demolished.

SPECIAL DISTRICTS

Coos Bay School District Coos Bay-North Bend Water Board
Oregon International Port of Coos Bay North Bay RFPD

APPLICABLE CRITERIA

Coos County Zoning and Land Development Ordinance (LDO) and Coos County Comprehensive Plan (CCCP)

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<td>Reconsideration of Administrative Decision</td>
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<td>Commercial-Industrial Zoning Districts – Utility Facility Generation of Power for public sale</td>
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<td>4.2.600, Table 4.2e</td>
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<td>V, Article 5.6</td>
<td>Design and Site Plan Review</td>
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1. BASIC FINDINGS

A. Lawfully Created Parcel: The property was lawfully created in accordance with LDO Section 3.3.800.

B. Zoning: The majority of the property has been zoned for industrial use since 1975. The Coos County Comprehensive Plan was adopted and acknowledged by the Land Conservation and Development Commission (LCDC) to be consistent with the statewide planning goals in 1985. The Coos County Zoning and Development Ordinance (LDO) was enacted pursuant to the provisions of ORS 92.044, 92.046, 203.035, 203.065, 215.050 and 215.110 and the Coos County Comprehensive Plan (Plan). The Plan and LDO were updated in periodic review under state land use statutes which was completed in 2000. The historically the property has been zoned IND (Industrial). The IND zone has both historically and currently allowed utility facilities, including utility facilities for the generation of power for public sale, plus other types of industrial facilities for the assembly, manufacturing, processing or production of a variety of products as permitted uses. All provisions of the LDO remain in compliance with the Plan. The Plan and LDO have been amended to adopt any new requirement in land use statutes, statewide land use planning goals or rules implementing the statutes or the goals that would be applicable to the development of the property for the proposed use.

This property has been an established industrial property prior to applied zoning in 1975. The use and future uses of the property were taken into consideration when the CCCP and the LDO were developed and acknowledged by LCDC. The zoning is very specific about the appropriate permitted uses for industrial zoning. Processing and utility facilities are permitted in the IND without public hearing requirements. The other review processes listed were developed to ensure that all development will address any special or unique consideration that apply to this property.

The owner’s property has split zoning, but the development under review is limited to the IND zoning. The zoning is described below:

7-Development Shorelands (7-D) Western boundary - the Roseburg Forest Products access road and a line extending to the north where the road curves to the east. Eastern boundary - the Southern Pacific Railroad line. Northern boundary - the inland limits of the 100-year floodplain (including freshwater wetlands associated with it).

SECTION 4.5.285. Management Objective: This shoreland district, which borders a natural aquatic area, shall be managed for industrial use. Continuation of and expansion of existing non-water-dependent/non-water-related industrial uses shall be allowed provided that this use does not adversely impact Natural Aquatic District #7. In addition, development shall not conflict with state and federal requirements for the wetlands located in the northwest portion of this district.

ARTICLE 4.1. ZONING-GENERAL Industrial - The purpose of the “IND” district is to provide an adequate land base necessary to meet industrial growth needs and to encourage diversification of the area’s economy accordingly. The “IND” district may be located without respect to Urban Growth Boundaries, as consistent with the Comprehensive Plan. The “IND” designation is appropriate for industrial parcels that are needed for development prior to the year 2000, as consistent with the Comprehensive Plan.

C. Site Description: The property is a vacant mill site. Currently there is no development on the property.

D. Surrounding Land Uses: The North Spit has a mix of industrial, recreational and natural areas.
E. **Background:** The Weyerhaeuser NR Company is the owner of the subject property. This subject property has been historically used as a mill site and the ground heavily impacted from activities associated with the mill. Below are pictures of the historical uses.

![Historical Uses](image1.png) ![Historical Uses](image2.png)

On November 15, 2012, staff rendered a decision to approve the site plan with conditions. However, at the applicant's request the decision was withdrawn for reconsideration.

The applicant then submitted a supplemental narrative and modified site plans regarding compliance with the site plan’s surface water disposal system. After a complete review of the changes provided by the applicant, the Planning Director modified the approval as set forth in the prior report and issued a reconsidered decision dated December 13, 2012. Notice of the reconsidered decision was provided on that date in the same manner as the original administrative notice, with any appeal of that decision to proceed on that date pursuant to Article 5.8 of the LDO.

That December 13, 2012 decision was then appealed by Jody McCaffree, Citizens Against LNG Inc., on December 28, 2012. After reviewing the appeal issues with Ms. McCaffree and the applicant’s attorney, it was agreed that the parties could settle the appeal if the applicant would submit a revised, supplemental narrative which would invite a new condition requested by the applicant, to the effect that the applicant shall comply with applicable local, state and federal regulations and laws including regulations regarding impacts to jurisdictional wetlands and natural hazard areas under ORS 455.466 through ORS 455.449, as required by local, state and federal agencies having jurisdiction. It was agreed that this new condition will replace the condition of approval number two that was made in the December 13, 2012 staff report.

After reviewing the new, revised condition of approval, and with all parties in agreement, staff is issuing a staff report and notice of revised, reconsidered decision on file number SP-12-02 which improves the new, agreed upon condition of approval. The appeal filed on December 28, 2012 has been withdrawn.

### II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>LDO Section 4.2.600, Table 4.2e</th>
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**FINDING:** The applicant is requesting to site a utility facility project that will include the generation and
distribution of electricity plus the processing of natural gas, a natural resource, into a condition suitable for liquification prior to distribution. The production or generation of conditioned gas for distribution also falls within the definition of "utility facility". A utility facility has several different definitions in LDO Section 2.1.100. The purpose of the facility is for the generation and distribution of a public or private service, including electricity and conditioned gas, and may include the generation and distribution of power for public sale. This type of utility facility is listed as permitted in LDO Section 4.2.600, Table 4.2e. The processing component of the project can also be characterized as a processing facility use that is also listed in Table 4.2e as a permitted use. Whether the gas conditioning is characterized as a utility facility use or a resource processing facility use is not meaningful, because either use characterization is subject to the same review criteria under an integrated site plan. Even though these are uses listed as permitted uses in LDO Table 4.2e, LDO Section 4.2.100 explains that other regulations may apply under Article 4.6 Overlay Zones; Article 4.7 Special Considerations; Chapter V, Administration (Article 5.6 Design and Site Plan Review); and Article 4.4 General Development Standards which requires Chapter 10 to be considered in this review process as well. After reviewing all of the applicable sections it was determined that an administrative site plan review was required by LDO Section 4.4.610. Staff is reviewing the application under all applicable standards and criteria found in this report.

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<th>Overlay Zones</th>
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FINDING: A portion of the subject property is located within the floodplain; however, the development will remain in the IND zoning district and it has been determined in past applications that the IND portion of this subject property is outside of the floodplain.

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<th>Article 4.7</th>
<th>Special Considerations</th>
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FINDING: This area is in a potentially significant archeological site. There is an archeological site in the southeast corner; therefore, as a condition of approval that applicant is required to confer with the affected local tribe prior to the issuance of a zoning compliance letter. The applicant will be required to comply with the procedures in the following condition:

At least 90 days prior to the issuance of a zoning compliance (verification) letter for building and/or septic permits under LDO 3.1.200, the County Planning Department shall make initial contact with the Tribe(s) regarding the determination of whether any archaeological sites exist within the area proposed for development, consistent with the provisions of LDO 3.2.700. Once the Tribe(s) have commented or failed to timely comment under the provisions of LDO 3.2.700, the county shall take one of the following actions: (1) if no adverse impacts to cultural, historical or archaeological resources on the site have been identified, the county may approve and issue the requested zoning compliance (verification) letter for the related development proposal; (2) if the Tribe(s) and the applicant reach agreement regarding the measures needed to protect the identified resources, the development can be approved with any additional measures the county believes are necessary to protect those resources; or (3) if the county finds that there will be adverse impacts to identified CBEMP Policy #18 resources on the site and the applicant and Tribe(s) have not reached agreement regarding protection of such resources, then the County Board of Commissioners shall hold a quasi-judicial hearing to resolve the dispute. The hearing shall be a public hearing at which the governing body shall determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body.

1 “Natural resources” are defined in the LDO as air, land and water and the elements thereof which are valued for their existing and potential usefulness to man.
2 Application ABI-12-01
to protect the cultural, historical and archeological values of the site. For purposes of this condition, the public hearing shall be subject to the provisions of LDO 5.8.200 with the Board of Commissioners serving as the Hearings Body, and the related notice provisions, of LDO 5.0.900(A).

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<th>LDO Table 4.4-c</th>
<th>Property Development Standards Commercial – Industrial zones</th>
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<tr>
<td>FINDING: This subject property does not have any setbacks because it does not abut residential or controlled development zoning districts. The applicant is required to address Chapter X of the LDO.</td>
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<th>Chapter V, Article 5.6</th>
<th>Design and Site Plan Review</th>
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<td>SECTION 5.6.100 <strong>Purpose.</strong> The purpose and objectives of site development requirements and the site review design procedure:</td>
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<td>1. Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development…</td>
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<td>FINDING: The application proposes an innovative site plan for an integrated utility and processing facility with shared access, parking, landscaping and other amenities. The proposed site plan is consistent with this stated purpose.</td>
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| SECTION 5.6.200 **Site Review and Approval Criteria.** The County finds that … the lack of proper attention to site development and landscaping … limits the opportunity to attain the optimum use of value of land and improvement… |
| FINDING: An integrated site plan for the utility and processing facilities achieves the optimum use and value of the land and improvements in satisfaction of the County's statement of purpose for the site review and approval criteria. |

| SECTION 5.6.400. **Site Development Criteria and Standards.** These standards are intended to provide a frame of reference for the applicant to the development of a site and building plans as well as a method of review. These standards shall not be regarded as inflexible requirements, nor do they advocate any particular architectural style, for they are intended to encourage creativity, invention and innovation. The following standards shall be utilized in reviewing the plans, drawings, sketches and other documents required under Section 5.6.500: |
| 1. **Landscaping:** |
| a. The landscape shall be such to minimize soil erosion and lessen the visual impact; |
| FINDING: The area will be landscaped with native dune vegetation seed mix, American dune grass plantings and gravel surfacing to ensure that there will be no erosion problems. The landscaping will be located around the perimeter of the private access road to provide at-grade visual buffering, erosion control, and will comply with the landscaping requirements of Chapter X. The interior of the industrial facility will not be open to the public and landscaping should only be regulated around the perimeter for the purpose of lessening visual impacts at grade level from that view perspective. |

In past applications, the County has applied the visual impact criterion on-site and has not taken into consideration visual relationships outside of the subject property and proof of prior visual impacts can be found on page 2 of this staff report. The applicant has prepared a detailed site plan to show how vegetation will be utilized around the northern boundary of the subject property to lessen the visual impact.

The native plantings will continue to flourish even if the development does not remain in use and this is very important to conserve the County’s natural beauty and visual character and aesthetic charm especially by taking into consideration the qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of the subject property.
The IND zone abuts the 7-Development Shorelands Development (7-D) on the south and east sides which is a development segment of the Coos Bay Estuary Management Plan. It would be impractical to add screening vegetation to buffer the development from the 7-D zone because of the grade changes and because it is not consistent with the purpose of the site plan criteria. The applicant will utilize dune grasses in some areas to lesson an impact to the subject property as much as possible without compromising the intent of IND zoning. Therefore, this criterion has been satisfied.

b. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.

FINDING: The site is situated within the northern portion of the North Spit of Coos Bay, an area designated for industrial development. Most of the neighboring areas remain covered with undulating dune formations which are varying in heights and grades, so the proposed grades on the site are in keeping with the general appearance of the neighboring areas.

2. Structures.

a. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings;

FINDING: The current terrain is barren, with hardscape covering much of the subject property with no existing buildings on subject property or in the vicinity of the subject property to create a visual relationship with. The terrain on the subject property and in the immediate vicinity of the subject property has been taken into consideration with the majority of the subject property remaining vegetated sand blending with the surrounding native dune and deflation plan environment. The applicant is proposing to use native plantings which will further blend the new development with the existing terrain. In the background section of the report staff provided some pictures of what the development on the subject property used to look like. The new development is a visual improvement. Therefore, staff finds that this criterion has been met.

b. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.

FINDING: In the past there were no screening or visual buffers at ground level from the development. The proposed development takes into consideration the visual impacts at grade level and works with sloping and native grass plantings to make the site blend in with the existing terrain at the outer edge of the development. The applicant has satisfactorily addressed these criteria.

3. Drives, Parking and Circulation. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to the location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient.

FINDING: The applicant has submitted a parking plan as required to address Chapter X. The parking plan provided contains all of the components as required to show that the parking areas are safe and convenient. The revised site plans submitted with the supplemental narrative incorporates the revision to the internal circulation and site access previously requested by the Roadmaster in his comments to the original site plans. Staff finds that this criterion is duplicated and will be addressed in more detailed under the Chapter X review.

4. Surface Water Drainage. Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring property, the public storm drainage system, or create environmental problems.

FINDING: The applicant’s site plan depicts a surface water drainage system in drawing 5. The system will catch all of the storm water generated from impervious surfaces. The majority of the subject property will
remain vegetated sand blending with the surrounding native dune and deflation plan environment. The applicant is proposing to use native plantings which will simulate natural drainage in those areas.

Any area that may be impacted by potential contaminants such as lubrication oil will be paved and curbed to contain the stormwater. The storm water resulting from impervious areas will be collected, treated and detained to be discharged on subject property pursuant to a stormwater management plan approved by DEQ or pumped to the Pacific Ocean via the exiting industrial waste water pipeline (IWP) that is located on subject property. The treated stormwater will be discharged to the Pacific Ocean as currently practiced pursuant to NPDES permit No. 101499; thereby, avoiding any adverse effects to neighboring property, the public storm drainage system, or the environment. Therefore, this criterion has been satisfied.

5. **Utility Service.**
   a. Whenever feasible, electric, telephone and other utility lines shall be underground;
   b. Any utility installations remaining above ground shall be located so as to have an harmonious relation to neighboring properties and the site;
   c. The proposed method of sanitary sewage disposal from all buildings shall be indicated.
   
   **FINDING:** All utilities lines to the power plant will be located underground in a 60 foot utility right-of-way. The method of sanitary sewage disposal has been indicated; however, sewage disposal is regulated by Oregon Department of Environmental Quality. Therefore, this criterion has been satisfied.

6. **Special Features.**
   a. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall be reasonably required to prevent their being incompatible with the existing or contemplated environment and the surrounding properties;
   b. Service, processing, and storage on property abutting a residential zone or commercial zone shall be wholly within an enclosed building or screened from view from such zone, street or highway by a permanently maintained, sight obscuring device or vegetation.
   
   **FINDING:** The applicant has explained the background of the subject property and the fact that historically the subject property has been used as an industrial mill site as shown in the pictures. The surrounding properties are being utilized for industrial uses. None of the other existing uses have screen plantings or other screening methods, nor does the industrial zone have required setbacks. The subject property does not abut residential or commercial zoning. The applicant has worked to screen the power plant from on site visual impacts from the area of the subject property open to the public. The majority of the subject property is not open to the public and will have a perimeter fence with privacy slats to obscure the visibility into the subject property. This criterion has been met.

7. **Application of Design Standards.** The standards of review outlined in (1) to (6) above also apply to all accessory buildings, structures, exterior signs and other site features however related to the major buildings or structures.

   **FINDING:** The applicant has submitted plans to show all elements of the facility including the exterior sign. The sign will be compatible with the design of the facility as well as the subject property; therefore, this criterion has been satisfied.

8. **Riparian Vegetation Protection:**
   a. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps, shall be maintained except that:
      1) Trees certified by the Coos Soil and Water Conservation District, a port district or U.S. Soil Conservation
Service posing an erosion or safety hazard may be removed to minimize said hazard; or

2) Riparian vegetation may be removed to provide direct access for a water-dependent use; or

3) Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or

4) Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan; or

5) Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish the purpose; or

6) Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water for the minimum amount necessary to site or maintain irrigation pumps.

b. The 50’ riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure’s “footprint.” [OR 92-05-009PL]

FINDING: The site plan shows no proposed impacts to riparian vegetation within 50 feet of a wetland, stream, lake or river; therefore, criterion has been met.

### Chapter X Offstreet Parking

#### SECTION 10.1.300. Parking Area Design

1. **Ingress and Egress.** In any zoning district, driveways or access ways providing ingress and egress for private parking areas or garages, public parking areas or garages and parking spaces shall be permitted, together with any appropriate traffic control devices in any required yard or setback area.

2. **Minimum Standards for Parking.** All public or private parking areas and parking spaces shall be designed and laid out to conform to the minimum standards as specified in the Parking Table and Diagram. All parking lot designs shall be reviewed and approved by the County Roadmaster.

3. **Service Drive.** Groups of three or more parking spaces, except those in conjunction with single-family or two-family dwelling structures on a single lot, shall be served by a service drive so that no backward movement, or other maneuvering of a vehicle within a public right-of-way, other than an alley, will be required. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety for ingress and egress and maximum safety of pedestrians.

FINDING: John Rowe, Coos County Roadmaster has reviewed the site plans and made some comments to ensure safety. The applicant has provided more than the required number of parking and bicycle spaces. The applicant has provided all of the required design elements for the Roadmaster to review. The Roadmaster commented on November 5, 2012, and requested some changes in the design. The applicant worked with the Roadmaster to revise the site plans to address all parking area design concerns. On December 13, 2012, the Roadmaster gave his approval on the revised site plans. Therefore, these criteria have been addressed.

4. **Lighting.** Any lights provided to illuminate any public or private parking area shall be so arranged as to reflect the light away from any abutting or adjacent residential district or use.

FINDING: This subject property does not abut any residential; therefore, this criterion does not applies.

5. **Landscaping.** For every 10 required parking spaces, 16 square feet of landscaping will be required. Each 16 square foot area should include one tree and three one-gallon shrubs or living ground cover.
FINDING: The applicant has submitted a plan for landscaping for 0.68 acres which exceeds the amount of landscaping that is required. Therefore, this criterion has been met.

III. ANALYSIS

Please note, all applications are subject to review of all applicable review criteria in the Coos County Comprehensive Plan (CCCP), the Coos County Zoning and Land Development Ordinance (LDO), and all land use regulations. Please be aware the burden of proof rests with the applicant.

IV. NOTIFICATION

The Planning Department mailed individual written notice of the decision to the owners of record of all property located as required in Section 5.0.900. Notice of Decision with a copy of the staff report was forwarded to Applicant(s), Owner(s) and Dave Perry, DLCD. Notice of Decision was also provided to the following: Coos County Planning Commission, the special districts identified above, Water Resource Department, Oregon Department of State Lands, and DEQ. In addition, notice of the decision was posted at the Coos County Courthouse, Coquille Annex and North Bend Annex. All notices were mailed and posted on January 22, 2013.

V. NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Coos County Hearings Body pursuant to Article 5.8 of the Coos County Zoning and Land Development Ordinance within 15 days from the date of written notice. This means that appeals must be received in the Planning Department by 5 p.m. on February 6, 2013, in order to be considered. This decision will not be final until the period for filing an appeal has expired. Detailed information about the appeal process, filing fees and additional information will be provided by the Planning Department upon request. The decision is based upon the submitted application, supporting evidence, facts, and findings to the criteria.

VI. CONDITIONS OF APPROVAL

1. At least 90 days prior to the issuance of a zoning compliance (verification) letter for building and/or septic permits under LDO 3.1.200, the County Planning Department shall make initial, contact with the Tribe(s) regarding the determination of whether any archaeological sites exist within the area proposed for development, consistent with the provisions of LDO 3.2.700. Once the Tribe(s) have commented or failed to timely comment under the provisions of LDO 3.2.700, the county shall take one of the following actions: (1) if no adverse impacts to cultural, historical or archaeological resources on the site have been identified, the county may approve and issue the requested zoning compliance (verification) letter for the related development proposal; (2) if the Tribe(s) and the applicant reach agreement regarding the measures needed to protect the identified resources, the development can be approved with any additional measures the county believes are necessary to protect those resources; or (3) if the county finds that there will be adverse impacts to identified CBEMP Policy #18 resources on the site and the applicant and Tribe(s) have not reached agreement regarding protection of such resources, then the County Board of Commissioners shall hold a quasi-judicial hearing to resolve the dispute. The hearing shall be a public hearing at which the governing body shall determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body to protect the cultural, historical and archeological values of the site. For purposes of this condition, the public hearing shall be subject to the provisions of LDO 5.8.200 with the Board of Commissioners serving as the Hearings Body, and the related notice provisions, of LDO 5.0.900(A).

2. The applicant shall comply with applicable local, state and federal regulations and laws including regulations regarding impacts to jurisdictional wetlands and natural hazard areas under ORS 455.446 through ORS 455.449, as required by local, state and federal agencies having jurisdiction.

3. The applicant will provide a stormwater management plan approved by DEQ.