



Coos County Planning Department

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Jill Rolfe, Planning Director

Staff Report

FILE # HBCU-19-003
REPORT DATE: September 23, 2019
HEARING DATE: September 30, 2019 @ 2:30 p.m.
LOCATION: Owen Building Large Conference room
201 N. Adams, Coquille
APPLICANT: Jordan Cove Energy Project, LLC

I. REQUEST:

This is a request for concurrent Land Use Applications by Jordan Cove Energy Project L.P. The proposal is for components of the Liquefied Natural Gas Terminal.

This Application proposes the following new developments and activities:

- A meteorological station in the 4-CS zone;
- An industrial wastewater pipeline in the IND zone;
- A concrete batch plant in the IND zone;
- A safety, security, and emergency preparedness, management and response center in the IND zone;
- A helipad in the IND zone;
- Corporate and administrative offices in the IND zone;
- Temporary workforce housing in the IND zone;
- A wastewater treatment facility in the IND zone;
- A park and ride in the IND zone;
- Temporary construction laydown uses and activities in the IND, 6-WD, 3-WD, and 3-NWD zones;
- A temporary barge berth in the 6-DA zone;
- Shoreline stabilization within the 5-WD zone;
- Pile dike rock apron in the 5-DA zone;
- Provision of primary access to the LNG Terminal in the 6-WD zone (driveway confirmation);
- Temporary dredge transport lines in the 6-DA, 7-NA, 13B-NA, and 14-DA zones;
- Gas processing in the 6-WD zone; and
- A fire station in the 6-WD zone.

II. BACKGROUND

The applicant submitted a concurrent land use application on April 11, 2019 via email followed by a hard copy. Staff reviewed the application and found the application to be incomplete on May 9, 2019. Staff provided a letter of incompleteness in accordance with Coos County Zoning and Land Development Ordinance (CCZLDO) Section 5.0.200. The applicant responded with a revised narrative and exhibits (10 through 15) on August 9, 2019. Staff reviewed the revised application and found it to be complete for the purpose of review on August 29, 2019. Staff set a hearing date of September 30, 2019 and provided notice as required by the CCZLDO Section 5.0.900.

Below is a map to show where the proposed uses and activities will be located (Applicant's Exhibit 2). The map contains other uses that are not subject to review but it is helpful in providing a description. The applicant has provided additional detailed maps of the uses within the application and staff will reference the detail when necessary to determine compliance with the criteria.

Within the application that applicant provides other documents to show compliance and they will be referenced throughout this report.

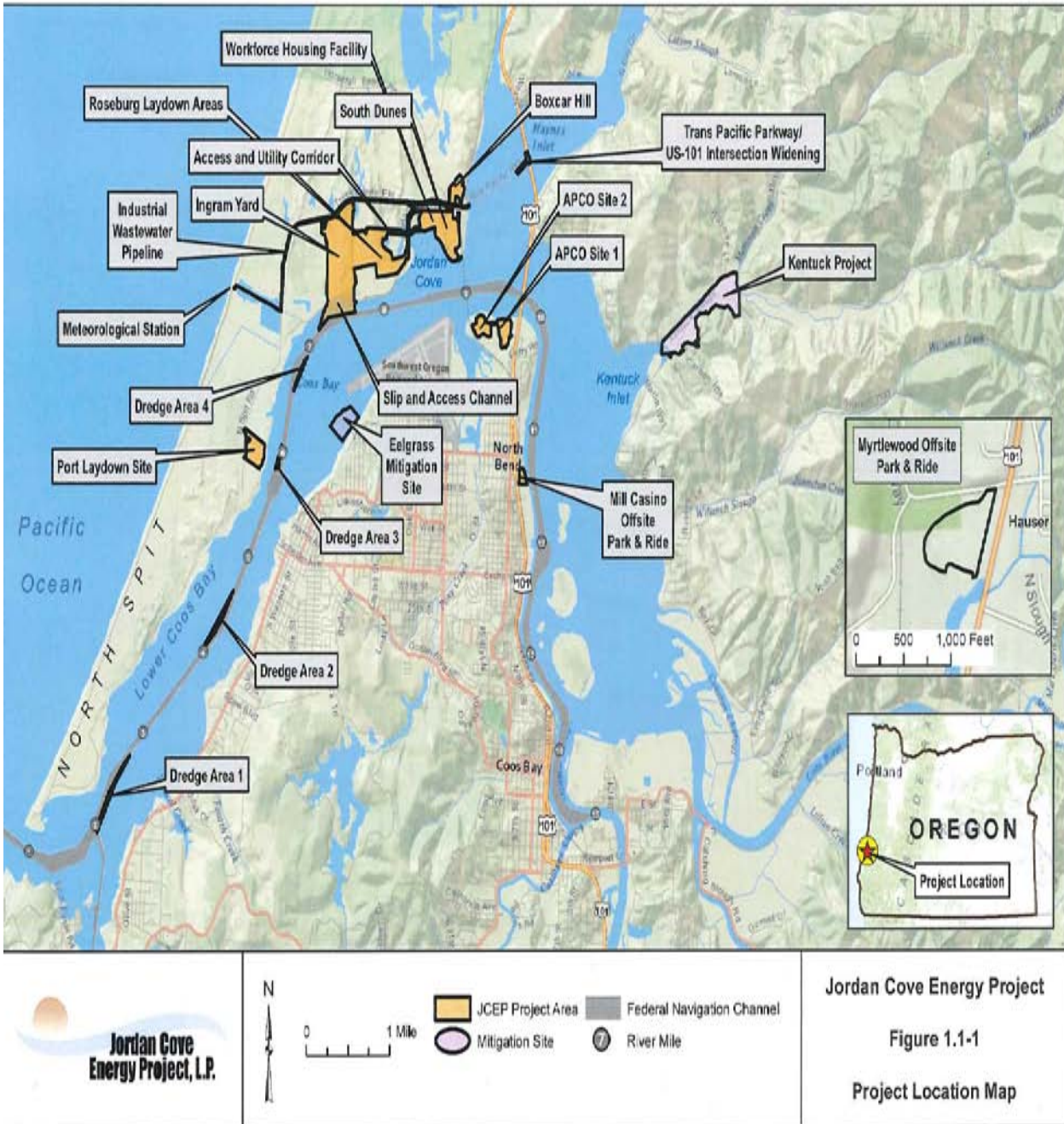


Exhibit 2

I. APPLICABLE CRITERIA

Staff found for ease of review it was logical to cite to the applicable chapter and then list the uses and activities that are subject to review under those chapters. The first Section covers any use or activity subject to review under the Coos Bay Estuary management plan and the second is all uses and activities subject to balance of county zoning districts. Under the identified chapter may be a set of instructions for how an article is set up to provide context to the reader.

A. COOS BAY ESTUARY MANAGEMENT PLAN – CHAPTER 3

SECTION 3.2.150. HOW TO USE THIS ARTICLE.

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

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

- 1. Locate the subject site on the General Index Map.*
- 2. Note the General Location Index Map (i.e. Lower Bay, Upper Bay, etc.) which is referenced on the General Index Map and advance to the General Location Index Map.*
- 3. Locate the subject site on the General Location Index Map. Note the numbers and abbreviated district designations (i.e. “UD”, “UW”, “CS”, etc.) for applicable zoning districts. (Note: management segments in the Plan are the same as zoning districts.)*
- 4. Turn to the pages in the Ordinance which contain specific zoning district provisions which correspond to the map designations for the subject site.*
- 5. For each applicable Shoreland or Aquatic District:*

*a) Review the districts Management Objective. This narrative provides **general policy guidance regarding uses and activities that are, or may be, allowed in the district.***

b) Review the district’s Uses, Activities, and Special Conditions Table to determine whether or not a proposed use or activity is allowable outright, allowable with conditions, or conditionally allowable subject to an Administrative or Hearings Body Conditional Use. Symbols denote whether or not the specific use or activity listed in the tables is permitted outright, may be allowed subject to an Administrative Conditional Use, may be allowed subject to a Hearings Body conditional use, or prohibited in the specific district. The following symbols are pertinent:

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

S - Indicates that the use or activity may be allowed subject to “Special Conditions” presented following the use and activity table. A few of the special conditions are non- discretionary, but most require local judgment and discretion and the development of findings to support any final decision about whether or not to allow the use or activity. Some uses and activities may be identified as being subject to a special condition that is not discretionary or may not apply to a site-specific request. If such is the situation, the Planning Director shall make such determination and if “General Conditions” are not applicable regard the use or activity as permitted outright. Such determination shall consist of a statement of facts supporting the decision.

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

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

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

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

N - means the use or activity is prohibited.

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

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

Applicable Policies #

The following Policies will be referenced and addressed in the staff report under the use or activity that has been applied for. The applicable policies are determined by the use and or activity that have been applied for and will be address in under each section.

#5a Temporary Alterations

- I. Local governments shall support as consistent with the Plan: (a) temporary alterations to the estuary, in Natural and Conservation Management Units provided it is consistent with the resource capabilities of the management units. Management unit in Development Management Units temporary alterations which are defined in the definition section of the plan are allowed provided they are consistent with purpose of the Development Management Unit. b) alterations necessary for federally authorized Corps of Engineers projects, such as access to dredge material disposal sites by barge or pipeline or staging areas, or dredging for jetty maintenance.*
- II. Further, the actions specified above shall only be allowed provided that:*
 - a. The temporary alteration is consistent with the resource capabilities of the area (see Policy #4);*
 - b. Findings satisfying the impact minimization criterion of Policy #5 are made for actions involving dredge, fill or other significant temporary reduction or degradation of estuarine values;*
 - c. The affected area is restored to its previous condition by removal of the fill or other structures, or by filling of dredged areas (passive restoration may be used for dredged areas, if this is shown to be effective); and*

- d. *The maximum duration of the temporary alteration is three years, subject to annual permit renewal, and restoration measures are undertaken at the completion of the project within the life of the permit.*

Mitigation shall not be required by this Plan for such temporary alterations.

This Policy shall be implemented through the administrative conditional use process and through local review and comment on state and federal permit applications.

This Policy is based on the recognition that temporary estuarine fill and habitat alterations are frequently legitimate actions when in conjunction with jetty repair and other important economic activities. It is not uncommon for projects to need staging areas and access that require temporary alteration to habitat that is otherwise protected by this Plan.

#9 Solutions to Erosion and Flooding Problems

Local government shall prefer nonstructural solutions to problems of erosion and flooding to structural solutions. Where shown to be necessary, water and erosion control structures such as jetties, bulkheads, seawalls and similar protective structures and fill whether located in the waterways or on shorelands above ordinary high water mark shall be designed to minimize adverse impacts on water currents, erosion and accretion patterns.

- I. *Further, where listed as an "allowable" activity within the respective management units, riprap may be allowed in Development Management Units upon findings that:*
 - a. *Land use management practices and nonstructural solutions are inadequate; and*
 - b. *Adverse impacts on water currents, erosion and accretion patterns are minimized; and*
 - c. *It is consistent with the Development management unit requirements of the Estuarine Resources Goal.*

- II. *Further, where listed as an "allowable" activity within respective management units, riprap shall only be allowed in Conservation Aquatic (CA) units upon findings that:*
 - a. *Land use management practices and nonstructural solutions are inadequate; and*
 - b. *Adverse impacts on water currents, erosion and accretion patterns are minimized; and*
 - c. *Riprap is consistent with the resource capabilities of the area and the purposes of maintaining Conservation management units.*

- III. *Further, where listed as an "allowable" activity within respective management units, riprap shall only be allowed in Natural Aquatic (NA) units upon findings that:*
 - a. *There is a need to protect from erosion: uses existing as of October 7, 1977, unique natural resources and historic archaeological values, or public facilities;*
 - b. *Land use management practices and nonstructural solutions are inadequate;*
 - c. *It is consistent with the natural management unit as set forth in this Plan and required by Goal #16; and*
 - d. *Adverse impacts on water currents, erosion and accretion patterns and estuarine organisms and their habitat are minimized.*

Implementation of this strategy shall occur through local review of and comment on state and federal permit applications for such projects.

This strategy is based on the recognition that nonstructural solutions are often more cost-effective as corrective measures, but that carefully designed structural solutions are occasionally necessary. The strategy also recognizes LCDC Goal #16 and #17 requirements and the Oregon Administrative Rule classifying Oregon estuaries (OAR 660-17-000 as amended June, 1981).

#13 Overall Use Priorities within Coastal Shorelands

I. Local government shall maintain the following priorities for the overall use of coastal shorelands (from highest to lowest):

- a. Promote uses which maintain the integrity of estuaries and coastal waters;*
- b. Provide for water-dependent uses;*
- c. Provide for water-related uses;*
- d. Provide for nondependent, nonrelated uses which retain flexibility of future use and do not prematurely or inalterably commit shorelands to more intensive uses;*
- e. Provide for development, including nondependent, nonrelated uses, in urban areas compatible with existing or committed uses;*
- f. Permit nondependent, nonrelated uses which cause a permanent or long-term change in the features of coastal shorelands only upon a demonstration of public need.*

In addition, priority uses for flood hazard and floodplain areas outside of incorporated cities shall include agriculture, forestry, recreation and open space.

This strategy recognizes that the Coos Bay Estuary Management Plan's shoreland designations, and permitted uses and activities are based upon and establish general priorities for the use of coastal shoreland resources.

#14 General Policies on Uses within Rural Coastal Shorelands

I. Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan, except for areas where mandatory protection is prescribed by LCDC Goal #17 and CBEMP Policies #17 and #18:

- a. Farm uses as provided in ORS 215.203;*
- b. Propagation and harvesting of forest products;*
- c. Private and public water-dependent recreation developments;*
- d. Aquaculture;*
- e. Water-dependent commercial and industrial uses, water-related uses, and other uses only upon a finding by the Board of Commissioners or its designee that such uses satisfy a need which cannot be accommodated on uplands or shorelands in urban and urbanizable areas or in rural areas built upon or irrevocably committed to non-resource use.*
- f. Single-family residences on lots, parcels, or units of land existing on January 1, 1977, when it is established that:*
 - 1. The dwelling is in conjunction with a permitted farm or forest use, or*
 - 2. The dwelling is in a documented "committed" area, or*
 - 3. The dwelling has been justified through a goal exception; and*
 - 4. Such uses do not conflict with the resource preservation and protection policies established elsewhere in this Plan;*

- g. *Any other uses, including non-farm uses and non-forest uses, provided that the Board of Commissioners or its designee determines that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this Plan.*

This strategy recognizes (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration, and (2) that LCDC Goal #17 places strict limitations on land divisions within coastal shorelands. This strategy further recognizes that rural uses "a through "g" above, are allowed because of need and consistency findings documented in the "factual base" that supports this Plan.

#16 Protection of Sites Suitable for Water-Dependent Uses and Special Allowance for new Non-Water-Dependent Uses in "Urban Water-Dependent (UW) Units"

Local government shall protect shorelands in the following areas that are suitable for water-dependent uses, for water-dependent commercial, recreational and industrial uses.

- a. *Urban or urbanizable areas;*
- b. *Rural areas built upon or irrevocably committed to non-resource use; and*
- c. *Any unincorporated community subject to OAR Chapter 660, Division 022 (Unincorporated Communities).*

This strategy is implemented through the Estuary Plan, which provides for water-dependent uses within areas that are designated as Urban Water-Dependent (UW) management units.

- I. *Minimum acreage. The minimum amount of shorelands to be protected shall be equivalent to the following combination of factors:*
 - a. *Acreage of estuarine shorelands that are currently being used for water-dependent uses; and*
 - b. *Acreage of estuarine shorelands that at any time were used for water-dependent uses and still possess structures or facilities that provide or provided water-dependent uses with access to the adjacent coastal water body. Examples of such structures or facilities include wharves, piers, docks, mooring piling, boat ramps, water intake or discharge structures and navigational aids.*
- II. *Suitability. The shoreland area within the estuary designated to provide the minimum amount of protected shorelands shall be suitable for water-dependent uses. At a minimum such water-dependent shoreland areas shall possess, or be capable of possessing, structures or facilities that provide water-dependent uses with physical access to the adjacent coastal water body. The designation of such areas shall comply with applicable Statewide Planning Goals.*
- III. *Permissible Non-Water-Dependent Uses. Unless otherwise allowed through an Exception, new non-water-dependent uses which may be permitted in "Urban Water-dependent (UW)" management units are a temporary use which involves minimal capital investment and no permanent structures, or a use in conjunction with and incidental and subordinate to a water-dependent use. Such new non-water-dependent uses may be allowed only if the*

following findings are made, prior to permitting such uses:

1. *Temporary use involving minimal capital investment and no permanent structures:*
 - a. *The proposed use or activity is temporary in nature (such as storage, etc.); and*
 - b. *The proposed use would not pre-empt the ultimate use of the property for water-dependent uses; and*
 - c. *The site is committed to long-term water-dependent use or development by the landowner.*

2. *Use in conjunction with and incidental and subordinate to a water-dependent use:*
 - a. *Such non-water-dependent uses shall be constructed at the same time as or after the water-dependent use of the site is established, and must be carried out together with the water-dependent use.*
 - b. *The ratio of the square footage of ground-level indoor floor space plus outdoor acreage distributed between the non-water-dependent uses and the water-dependent uses at the site shall not exceed one to three (non-water-dependent to water-dependent).*
 - c. *Such non-water-dependent uses shall not interfere with the conduct of the water-dependent use.*

This policy shall be implemented through provisions in ordinance measures that require an administrative conditional use application be filed and approved, and the above findings be made prior to the establishing of the proposed uses or activities.

*#17 Protection of "Major Marshes" and "Significant Wildlife Habitat" in Coastal Shorelands
Local governments shall protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise.*

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

- II. *This strategy shall be implemented through:*
 - a. *Plan designations, and use and activity matrices set forth elsewhere in this Plan that limit uses in these special areas to those that are consistent with protection of natural values; and*
 - b. *Through use of the Special Considerations Map, which identified such special*

- areas and restricts uses and activities therein to uses that are consistent with the protection of natural values. Such uses may include propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low-intensity water-dependent recreation.*
- c. *Contacting Oregon Department of Fish and Wildlife for review and comment on the proposed development within the area of the 5b or 5c bird sites.*

This strategy recognizes that special protective consideration must be given to key resources in coastal shorelands over and above the protection afforded such resources elsewhere in this Plan.

#18 Protection of Historical, Cultural and Archaeological Sites

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

- I. *This strategy shall be implemented by requiring review of all development proposals involving a cultural, archaeological or historical site, to determine whether the project as proposed would protect the cultural, archaeological and historical values of the site.*
- II. *The development proposal, when submitted shall include a Plot Plan Application, showing, at a minimum, all areas proposed for excavation, clearing and construction. Within three (3) working days of receipt of the development proposal, the local government shall notify the Coquille Indian Tribe and Coos, Siuslaw, Lower Umpqua Tribe(s) in writing, together with a copy of the Plot Plan Application. The Tribe(s) shall have the right to submit a written statement to the local government within thirty (30) days of receipt of such notification, stating whether the project as proposed would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.*

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

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

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

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

Plot Plan Application and shall:

- a. *Approve the development proposal if no adverse impacts have been identified, as long as consistent with other portions of this plan, or*
 - b. *Approve the development proposal subject to appropriate measures agreed upon by the landowner and the Tribe(s), as well as any additional measures deemed necessary by the local government to protect the cultural, historical and archaeological values of the site. If the property owner and the Tribe(s) cannot agree on the appropriate measures, then the governing body shall hold a quasi-judicial hearing to resolve the dispute. The hearing shall be a public hearing at which the governing body shall determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body to protect the cultural, historical and archaeological values of the site.*
- IV. *Through the "overlay concept" of this policy and the Special Considerations Map, unless an exception has been taken, no uses other than propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low intensity water-dependent recreation shall be allowed unless such uses are consistent with the protection of the cultural, historical and archaeological values, or unless appropriate measures have been taken to protect the historic and archaeological values of the site.*

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

#20 Dredged Material Disposal Sites

Local government shall support the stockpiling and disposal of dredged materials on sites specifically designated in Plan Provisions, Volume II, Part 1, Section 6, Table 6.1, and also shown on the "Special Considerations Map". Ocean disposal is currently the primary disposal method chosen by those who need disposal sites. The dredge material disposal designated sites on the list provided on Table 6.1, has decreased because the ocean has become the primary disposal method, the in-land DMD sites have diminished and those which have remained on the DMD list are sites which may be utilized in the future and not be cost-prohibitive. Consistent with the "Use/Activity" matrices, designated disposal sites shall be managed so as to prevent new uses and activities which could prevent the sites' ultimate use for dredge material disposal. A designated site may otherwise only be released for some other use upon a finding that a suitable substitute upland site or ocean dumping is available to provide for that need. Sites may only be released through a Plan Amendment. Upland dredged material disposal shall be permitted elsewhere (consistent with the "Use/Activity" matrices) as needed for new dredging (when permitted), maintenance dredging of existing functional facilities, minor navigational improvements or drainage improvements, provided riparian vegetation and fresh-water wetlands are not affected. For any in-water (including intertidal or subtidal estuarine areas) disposal permit requests, this strategy shall be implemented by the preparation of findings by local government consistent with Policy #5 (Estuarine Fill and Removal) and Policy #20c (Intertidal Dredged Material Disposal). Where a site is not designated for dredged material disposal, but is used for the disposal of dredged material, the amount of material disposed shall be considered as a capacity credit toward the total identified dredged material disposal capacity requirement.

- I. *This policy shall be implemented by:*

- a. *Designating "Selected Dredge Material Disposal Sites" on the "Special Considerations Map"; and*
 - b. *Implementing an administrative review process (to preclude pre-emptory uses) that allows uses otherwise permitted by this Plan but proposed within an area designated as a "Selected DMD" site only upon satisfying all of the following criteria:*
 - 1. *The proposed use will not entail substantial structural or capital improvements (such as roads, permanent buildings and nontemporary water and sewer connections); and*
 - 2. *The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site (such as extensive site grading/excavation or elevation from fill); and*
 - 3. *The proposed use must not require site changes that would prevent the expeditions conversion of the site to estuarine habitat.*
 - c. *Local government's review of and comment on applicable state and federal waterway permit applications for dike/tidegate and drainage ditch actions.*
- II. *This strategy recognizes that sites designated in the Comprehensive Plan reflect the following key environmental considerations required by LCDC Goal #16:*
- a. *Disposal of dredged material in upland or ocean waters was given general preference in the overall site selection process;*
 - b. *Disposal of dredged material in estuary waters is permitted in this Plan only when such disposal is consistent with state and federal law;*
 - c. *Selected DMD sites must be protected from pre-emptory uses.*

#23 *Riparian Vegetation and Streambank Protection*

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

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

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

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

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

This policy references Section 3.2.180

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

1. *The following standards shall govern riparian corridors within the Coos Bay Estuary Management Plan: Riparian vegetation within 50 feet of a estuarine wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps, shall be maintained except that:*
 - a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
 - b. *Riparian vegetation may be removed to provide direct access for a water dependent use; or*
 - c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or*
 - d. *Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, USFS stream enhancement plan; or*
 - e. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish the purpose; or*
 - f. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water for the minimum amount necessary to site or maintain irrigation pumps.*
2. *The 50' riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure's "footprint".(ORD 92-05-009PL)*
3. *The 50' measurement shall be taken from the ordinary high water mark using a right angle from the ordinary high water mark.*

#27 Floodplain Protection within Coastal Shorelands

The respective flood regulations of local government set forth requirements for uses and activities in identified flood areas; these shall be recognized as implementing ordinances of this Plan.

This strategy recognizes the potential for property damage that could result from flooding of the estuary.

#30 Restricting Actions in Beach and Dune Areas with "Limited Development Suitability" and Special Consideration for Sensitive Beach and Dune Resources (moved from Policy #31)

- I. *Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" on the Coos Bay Estuary Special Considerations Map only upon the establishment of findings that shall include at least:*
 - 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; and*
- e. *Whether drawdown of groundwater would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies.*

Implementation shall occur through an administrative conditional use process which shall include submission of a site investigation report by the developer that addresses the five considerations above.

II. *This policy recognizes that:*

- a. *The Special Considerations Map category of "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stabilized foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding;*
- b. *The measures prescribed in this policy are specifically required by LCDC Goal #18 for the above-referenced dune forms, and that*
- c. *It is important to ensure that development in sensitive beach and dune areas is compatible with, or can be made compatible with, the fragile and hazardous conditions common to beach and dune areas.*

III. *Permits for beachfront protective structures shall be issued only where development existed on January 1, 1977 (see Section 3. Definitions for "development"). Criteria for review of all shore and beachfront protective structures shall provide that:*

- a. *Visual impacts are minimized;*
- b. *Necessary access to the beach is maintained;*
- c. *Negative impacts on adjacent property are minimized; and*
- d. *Long-term or recurring costs to the public are avoided.*

IV. *Local government shall cooperate with state and federal agencies in regulating the following actions in beach and dune areas by sending notification of Administrative Conditional Use decision:*

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

#49 *Rural Residential Public Services*

Coos County shall provide opportunities to its citizens for a rural residential living experience, where the minimum rural public services necessary to support such development are defined as police (sheriff) protection, public education (but not necessarily a rural facility), and fire protection (either through membership in a rural fire protection district or through appropriate on-site fire precaution measures for each dwelling).

Implementation shall be based on the procedures outlined in the County's Rural Housing State Goal Exception.

I. *This strategy is based on the recognition:*

- a. *that physical and financial problems associated with public services in Coos Bay and North Bend present severe constraints to the systems' ability to provide urban level services, and*
- b. *that rural housing is an appropriate and needed means for meeting housing needs of Coos County's citizens.*

#50 Rural Public Services

Coos County shall consider on-site wells and springs as the appropriate level of water service for farm and forest parcels in unincorporated areas and on-site DEQ-approved sewage disposal facilities as the appropriate sanitation method for such parcels, except as specifically provided otherwise by Public Facilities and Services Plan Policies #49, and #51. Further, Coos County shall consider the following facilities and services appropriate for all rural parcels: fire districts, school districts, road districts, telephone lines, electrical and gas lines, and similar, low-intensity facilities and services traditionally enjoyed by rural property owners.

This strategy recognizes that LCDC Goal #11 requires the County to limit rural facilities and services.

#51 Public Services Extension

- I. *Coos County shall permit the extension of existing public sewer and water systems to areas outside urban growth boundaries (UGBs) and unincorporated community boundaries (UCB's) or the establishment of new water systems outside UGB's and UCB's where such service is solely for:*
 - a. *development of designated industrial sites;*
 - b. *development of "recreational" planned unit developments (PUDs);*
 - c. *curing documented health hazards;*
 - d. *providing domestic water to an approved exception for a rural residential area;*
 - e. *development of "abandoned or diminished mill sites" as defined in ORS 197.719(1) and designated industrial land that is contiguous to the mill site.*
- II. *This strategy shall be implemented by requiring:*
 - a. *that those requesting service extensions pay for the costs of such extension; and*
 - b. *that the services and facilities be extended solely for the purposes expressed above, and not for the purpose (expressed or implied) of justifying further expansion into other rural areas; and*
 - c. *that the service provider is capable of extending services; and*
 - d. *prohibiting hook-ups to sewer and water lines that pass through resource lands as allowed by "I, a through d" above; except, that hook-ups shall be allowed for uses covered under "II, a through d" above.*
 - e. *That the service allowed by "e" above is authorized in accordance with ORS 197.719.*

Uses and Activities

- 1. **Meteorological Station** – Located in Township 25 Range 13 Section 06 tax lot 101 which is zoned Coos Bay Estuary Management Plan, 4-Conservation Shoreland subject to Policies #14, #13, #30, #49, #50, #51, #17, and #18.

Description of the project

The applicant proposes to construct a meteorological station in the County's 4-CS CBEMP zone. The applicant's Exhibit 2 shows the proposed location of the meteorological station, which is on the west side of the lagoon adjacent to the northern extent of the snowy plover nesting area. The station will be mounted on an approximately 40-foot-high lattice tower or wooden pole, with a 30-foot-by-30 foot triangular or square footprint. The purpose of the meteorological station is to provide real-time meteorological data for ships transporting liquefied natural gas and their support vessels, both as they enter and leave the Coos Bay Deep Draft Navigation Channel.

Criteria

SECTION 3.2.255. Management Objective:

This shoreland district shall be managed to maintain the existing lagoon and its ability to handle effluents and to allow development of a freshwater marsh.

SECTION 3.2.256. Uses, Activities and Special Conditions.

Table 4-CS sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 4-CS also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

A. Uses:

15. Utilities

a. Low-intensity

P-G

GENERAL CONDITIONS:

- 1. Uses in this district are only permitted as stated in Policy #14 "General Policy on Uses within Rural Coastal Shorelands". Except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this policy.*
- 2. All permitted uses are subject to Policy #13 which states general use priorities in coastal shorelands.*
- 3. All permitted uses in dune areas shall be consistent with the requirements of Policy #30.*
- 4. In rural areas (outside of UGBs) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.*
- 5. Inventoried resources requiring mandatory protection in this unit are subject to Policies #17 and #18.*

FINDINGS: The use proposed is a meteorological station for the purpose of communicating weather information to guide waterborne transportation. Given the definition of the use it seems that this is a utility facility for water navigation pursuant to Section 2.1.200 Specific Definitions:

UTILITY FACILITY-AIR AND WATER NAVIGATION AIDS: *A facility or aid to determine position, course, distance traveled, or other facility to help navigate aircraft or waterborne vehicles.*

In the CBEMP there are two different categories of utilities:

UTILITIES: *Public service structures which fall into two categories:*

- 1. low-intensity facilities consist of communication facilities (including power and telephone lines), sewer, water and gas lines, and*
- 2. high-intensity facilities, which consist of storm water and treated waste water outfalls (including industrial waste water).*

Note: in shoreland units this category also includes sewage treatment plants, electrical substations and similar public service structures. However, these structures are defined as "fill for non-water-dependent/related uses" in aquatic areas.

This facility is for the purpose of communicating information. Therefore, it is permitted subject to general consistency with the management unit and general conditions. According to the review procedures under "How to Use this Article" a review of the districts Management Objective contains a narrative that provides general policy guidance regarding uses and activities that are, or may be, allowed in the district. The purpose of the management unit is to maintain the existing lagoon and its ability to handle effluents and to allow development of a freshwater marsh and this use will not interfere as it will not be located in the lagoon but next to the lagoon. This use is subject to the general conditions which require Policies #14, #13, #30, #49, #50, #51, #17 and #18.

- Policy # 14 states Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan. This is not a Rural Shoreland Areas (RS) as it is designated Conservation Shoreland. Therefore, this may be a generalized policy but it is not meant to apply to this zoning designation.
- Policy #13 provides a set of priorities and directives for the CBEMP but does not provide any criteria that are required to be addressed. Therefore, this policy is not applicable to this use.
- Policy #30 requires an evaluation of areas designated as "Beach and Dune Areas with Limited Development Suitability" on the Coos Bay Estuary Special Considerations Map. Staff does not have the Special Consideration Map available; however, this is not a substitute for the detailed plan maps which staff does have available. This area is designated with the overlay of "Beaches and Dunes Area with Limited Development Suitability" but more specifically, after reviewing the applicant's map in their application (Exhibit 2, Page 1) it appears the meteorological station is located in the Recently Stabilization Fore dune (FD, Applicant's page 18 of their Exhibit 10). "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stabilized foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding. The applicant has provided a report from SHN which is Civil engineering, Environment Services, Geosciences, Planning & Permitting Company. The assessment is to determine if the development that is subject to Policy #30 can address the suitability criteria.

Policy #30 requires that the type of use proposed and the adverse effects it might have on the site and adjacent areas;

Considerations Map only upon the establishment of findings that shall include at least:

- 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; and*
- e. Whether drawdown of groundwater would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies.*

According to the applicant's report (starting on page 13 of 50, Applicant's Exhibit 10) the adverse impacts to the land, lagoon and wildlife have been taken into consideration. The potential impacts would come from the removal of vegetation, soil disturbance and impacts to birds. The report states that construction will not occur during snowy plover nesting season (March 15 to September 15). In addition, bird deterrent measures would be added to the station to reduce potential impacts. Staff further suggests as a possible condition of approval that the applicant work with Oregon Department of Fish and Wildlife to ensure all impacts to wildlife are considered. This is a very small area of disturbance and CBEMP does not have any inventoried wildlife shown on the actual site. The Snowy Plover habitat is mapped near the site but the applicant's report has addressed the criteria.

The applicant's report provides for both temporary and permanent stabilization programs for vegetation and erosion impacts. Staff would suggest these also become conditions in the event the proposal is approved. The report also explains the need to obtain a 1200c permit from Department of Environmental Quality. This will ensure there a little to no impacts on adjacent waters and soil.

Again, the tower is very small as far as impacts on the ground. There are no anticipated impacts other than the ones discussed. This does not pose a hazard to life, public and private property, and the natural environment that is regulated by this CBEMP. There will be no impacts to groundwater on this site. This site is surrounding by large tract dune land with no other development in the area. The tower itself would be a benefit to the public by increasing safety for waterborne transportation. Therefore, the applicant has addressed this policy with the suggested conditions by staff.

- Policy #49 provide opportunities to its citizens for a rural residential living experience, where the minimum rural public services necessary to support such development are defined as police (sheriff) protection, public education (but not necessarily a rural facility), and fire protection (either through membership in a rural fire protection district or through appropriate on-site fire precaution measures for each dwelling. The applicant is not proposing a residential use or a public service for a residential use. There are no criteria in this policy that apply to the proposed use. Therefore, this policy is not applicable.
- Policy #50 Strategy recognizes that LCDC Goal #11 requires the County to limit rural facilities and services. There are no rural facilities proposed that are regulated by Statewide Planning Goal 11; therefore, this policy is not applicable.
- Policy #51 regulates the extension of urban services regulated by Statewide Planning Goal #11. Again, there is no proposed service extensions planned. Therefore, this policy is not applicable to this request.
- Policy #17 Protection of "Major Marshes" and "Significant Wildlife Habitat" requires the local government to protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise. This requires staff to review the detail plan maps identified in the linkage matrices to determine if protections are required. Upon review of the plan maps there are no inventoried significant wildlife habitats, major marshes, or coastal headlands in the area of this project. Therefore, this policy has been addressed.
- Policy #18 Protection of Historical, Cultural and Archaeological Sites. This policy provides for a notice to both local tribes to allow comments to regarding protection of Historical,

Cultural and Archaeological Sites. Staff provided a request for comments within three days of the application being deemed complete. The tribes comments are required to address if the project, as proposed, would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.

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

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

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

First, the County has not found an inventoried mapped site where the tower is proposed and second, the applicant did submit a signed agreement with the tribe for protections in the event there are unanticipated discoveries made. The evidence from the applicant also, consists of studies done on the site. The tribes have not commented on the proposal but as of the date of this report it is still within their 30 days.

The applicable criteria for this requested utility facility has been addressed.

2. **Shoreline Stabilization** - Located in Township 25S Range 13W Section 00 Tax Lot 200 within the 5-Water-Dependent Development zone. Shoreline stabilization in the form of approximately 100-foot-long extension of the sheet pile bulkhead at the northwest corner of the slip and access channel. This activity is subject to Sections 3.2.260, 3.2.261, 3.2.262.B.6.c. (ACU-S,G) Policies #14, #27, #30, #20, #17, #18, #49, #50, #51, and #9;

Description of the project

JCEP proposes in the 5-WD zone shoreline stabilization in the form of an approximately 100-foot-long extension of the sheetpile bulkhead at the northwest corner of the slip and access channel to minimize slope cut-back at this location.

The pile dike rock apron will be located along the side slope of the access channel. Exhibit 2 shows the location of and applicant's Exhibit 7 shows a conceptual design of the pile dike rock apron. The purpose of the pile dike rock apron is to protect Pile Dike 7.3, which is located immediately west of the access channel. The rock apron will arrest slope migration (or equilibration) before it progresses to a condition that has potential negative impacts on Pile Dike 7.3. The design is a 50-foot-wide by 3-foot-high by approximately 1,100-foot-long rock apron set back approximately 20 feet from the top (slope catch point) of the side slope of the access

channel. The proposed rock size is a well-graded 6- inch to 22-inch angular stone with a median size of 14 inches. This median stone size and gradation will be sufficient to protect against potential stone displacement due to anticipated wave action or currents. The proposed design adds additional rock to proactively maintain the current function and longevity of Pile Dike 7.3. The new rock apron will be placed directly over the visible apron rock in a careful manner, so the new rock apron will not extend towards the access channel beyond the end-line of the existing visible rock.

Criteria

SECTION 3.2.260 Management Objective:

A large portion of this district, compared to other areas of the bay, possesses characteristics that make it an exceptional future development resource not only for the Bay Area, but for Coos County and the State of Oregon as well. The site's location on the deep-draft channel in the lower bay gives it even greater attributes as a water-dependent industrial development site. Therefore, the Plan reserves this portion of the district for an integrated industrial use that takes advantage of the site's unique characteristics, particularly its attributes for deep-draft development. Uses need not be limited to those specifically mentioned in Exception #22.

Utilizing the site for development purposes as described will require the filling of 123 acres of freshwater and saltwater wetlands, commonly known as Henderson Marsh (Dredged Material Site #4x).

The Plan intends that development within the road corridor will be for the purposes of developing and maintaining an access road, rail and utility corridor, and pulp mill effluent pipeline.

SECTION 3.2.261 Uses, Activities and Special Conditions.

Table 5-WD sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 5-WD also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

Uses and Activities listed below can occur while the planned fill and mitigation are on-going and are consistent with state and federal permits.

B. Activities:

- | | |
|----------------------------|----------|
| 6. Shoreline stabilization | |
| a. Vegetative | P-G |
| b. Riprap | ACU-S, G |
| c. Retaining wall | ACU-S, G |

GENERAL CONDITIONS:

1. *Uses in this district are only permitted as stated in Policy #14, "General Policy on Uses Within Rural Coastal Shorelands". Except as permitted outright, or where findings are made in the Plan (see Coastal Shorelands Goal "Linkage Findings" section), uses are only allowed subject to the findings in this policy.*
2. *All permitted uses shall be consistent with the respective flood regulations of local*

governments, as required in Policy #27.

3. *Wherever possible, dredged material, especially from the federal channel or other major project, is to be used for the fill material. This method of obtaining fill will be incorporated into the overall project phasing, unless it can be demonstrated that it will have an adverse impact on the development effort.*
4. *All permitted uses in dune areas shall be consistent with the requirements of Policy #30.*
5. *No use or activity shall pre-empt the use of the designated dredged material disposal site in this district, as required by Policy #20.*
6. *Inventoried resources requiring mandatory protection in this unit are subject to Policies #17 and #18.*
7. *In rural areas (outside UGBs) utilities, public facilities and services shall only be provided subject to Policies, #49, #50, and #51.*

SPECIAL CONDITIONS:

Activities:

6b.,6c. A retaining wall is a temporary activity that will not pre-empt the ultimate use of the site. These activities, where occurring at the interface with the estuary, are only permitted subject to the findings required by Policy #9, "Solutions to Erosion and Flooding Problems".

FINDINGS: The request is for shoreline stabilization (structural) and it lists specifically across from the activity - ACU-S, G. In the first part of this section it explains "How to Use this Article" and gives a very descriptive list of what the initials mean and how to apply.

The ACU means the use or activity may be permitted as provided above or subject to "Special or General" conditions pursuant to an Administrative Conditional Use. This use is subject to both an Administrative Conditional Use and "General" and "Special Conditions". Most Special Conditions require local judgment, discretion, and the development of findings to support any final decision about whether or not to allow the use or activity. Some uses and activities may be identified as being subject to a special condition that is not discretionary or may not apply to a site-specific request. If such is the situation, the Planning Director shall make a determination and if "General Conditions" are not applicable the use or activity shall be regarded as permitted outright. Such determination shall consist of a statement of facts supporting the decision. "General Conditions" provide a convenient cross-reference to applicable Baywide Policies which may further limit or condition the uses and activities.

A few "General Conditions" may not apply to a site specific request. If such is the situation, the Planning Director shall make a determination and if "Special Conditions" are not applicable, the use or activity shall be regarded as permitted outright. Such determination shall consist of a statement of facts supporting the decision. Staff only goes into detail to remind the decision maker in this case that the management objective in this case seems to be background and a general statement regarding the zoning unit but a condition use is not subject to addressing the management objective directly according to "How to Use this Article".

The extension of the sheetpile bulkhead at the northwest corner of the access channel qualifies as a retaining wall for the purpose of shoreline stabilization and is thus allowed in the 6-WD zone. CCZLDO 2.1.200 defines "shoreline stabilization" as "The protection of the banks of tidal or non-tidal streams, rivers or estuarine waters by nonstructural (vegetative) or structural (riprap, bulk heading, etc.) means." The same section defines "bulkhead" as "A retaining wall along a waterfront that separates uplands from aquatic areas." JCEP's proposed shoreline stabilization in the 5-WD zone is an extension of the sheetpile bulkhead at the northwest corner of the slip and access

channel, which bulkhead separates upland and aquatic areas. The purpose of the bulkhead is to minimize slope cut-back at this location. Therefore, the bulkhead extension satisfies the definition of retaining wall shoreline stabilization and is thus allowed in the 5-WD zone, subject to general and special conditions and the management objective of the zone.

Policies that have been identified to review for applicability and findings are Policies #14, #27, #30, #20, #17, #18, #49, #50, #51, and #9.

- **Policy # 14** states Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan. This is not a Rural Shoreland Areas (RS) as it is designated Conservation Shoreland. Therefore, this may be a generalized policy but it is not meant to apply to this zoning designation specifically. In the event this criteria is found to be applicable the applicant has addressed.
- **Policy #27** requires that the County's flood hazards policies be complied with. This will be done under Balance of County Chapter 4 later in this report.
- **Policy #30** requires an evaluation of areas designated as "Beach and Dune Areas with Limited Development Suitability" on the Coos Bay Estuary Special Considerations Map. Staff does not have available the Special Consideration Map; however, this is not a substitute for the detailed plan maps which staff does have available. This area is designated with the overlay of "Beaches and Dunes Area with Limited Development Suitability" but more specifically, after reviewing the applicant's map in their application (Exhibit 2, Page 1) it appears the shoreline stabilization is located in the Wet Deflation Plan. "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stabilized foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding. This proposal is not within a mapped area subject to Policy #30.
- **Policy #20** Local government shall support the stockpiling and disposal of dredged materials on sites specifically. The proposed shoreland stabilization will not consist of dredge material disposal and will not be in a location where it is authorized for dredge material disposal. Therefore, this policy is not applicable to the requested activity.
- **Policy #17** Protection of "Major Marshes" and "Significant Wildlife Habitat" requires the local government to protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise. This requires staff to review the detail plan maps identified in the linkage matrices to determine if protections are required. Upon review of the plan maps there are no inventoried significant wildlife habitats, major marshes, or coastal headlands in the area of this proposal. Therefore, this policy has been addressed.
- **Policy #18** Protection of Historical, Cultural and Archaeological Sites. This policy provides for a notice to be provided to both local tribes to allow comments regarding Protection of Historical, Cultural and Archaeological Sites. Staff provided a request for comments within three days of the application being deemed complete. The tribes comments are required to address whether the project, as proposed, would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.

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

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

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

- **Policy #49** provide opportunities to its citizens for a rural residential living experience, where the minimum rural public services necessary to support such development are defined as police (sheriff) protection, public education (but not necessarily a rural facility), and fire protection (either through membership in a rural fire protection district or through appropriate on-site fire precaution measures for each dwelling. The applicant is not proposing a residential use or a public service for a residential use. There are no criteria in this policy that apply to the proposed use. Therefore, this policy is not applicable.
 - **Policy #50** Strategy recognizes that LCDC Goal #11 requires the County to limit rural facilities and services. There are no rural facilities proposed that are regulated by Statewide Planning Goal 11; therefore, this policy is not applicable.
 - **Policy #51** regulates the extension of urban services regulated by Statewide Planning Goal #11. Again, there is no proposed service extensions planned. Therefore, this policy is not applicable to this request.
 - **Policy #9** states where it is shown to be necessary, water and erosion control structures such as jetties, bulkheads, seawalls and similar protective structures and fill whether located in the waterways or on shorelands above ordinary high water mark shall be designed to minimize adverse impacts on water currents, erosion and accretion patterns.
- I. Further, where listed as an "allowable" activity within the respective management units, riprap may be allowed in Development Management Units upon findings that:**
- a. Land use management practices and nonstructural solutions are inadequate; and**
 - b. Adverse impacts on water currents, erosion and accretion patterns are minimized; and**
 - c. It is consistent with the Development management unit requirements of the Estuarine Resources Goal.**

This policy itself directs that structural shoreline stabilization is allowed subject to three criteria.

The applicant states that the purpose of the shoreline stabilization is to protect against slope cut-back and erosion that would degrade Pile Dike 7.3, which protection facilitates navigation in the deep draft navigation channel, which in turn facilitates water-dependent industrial development. Specifically, the shoreline stabilization supports the LNG Terminal and associated industrial development, which development qualifies as “integrated industrial use.” The shoreline stabilization will not interfere with the management objective. This property was zoned to take advantage of water dependent industrial uses and this activity.

According to the applicant during JCEP’s early coordination with the United States Army Corps of Engineers (“USACE”) Northwest Division, Portland District, Section 408 Project Development Team, a need was identified to protect Pile Dike 7.3 from slope migration (erosion) or equilibration. JCEP and USACE determined that implementing a pile dike rock apron (riprap) is the necessary protective measures to arrest slope migration before it progresses to a condition that will negatively impact Pile Dike 7.3. The pile dike rock apron is riprap, a nonstructural solution. Further, the pile dike rock apron complies with paragraph I of Policy #9. Land use management practices and nonstructural solutions are inadequate to protect Pile Dike 7.3. Without protective riprap, wind, waves, and currents will erode Pile Dike 7.3. The design of the pile dike rock apron will minimize adverse impacts on water currents, erosion and accretion patterns. The pile dike rock apron is consistent with the development management unit requirements of the Estuarine Resources Goal (16). Goal 16 explains that development management units “provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses,” and that permissible uses include “navigation and water-dependent commercial and industrial uses.” A primary purpose of Pile Dike 7.3 is to assist with navigation in the Coos Bay Deep Draft Navigation Channel. Thus, the riprap is a use that will facilitate navigation, which in turn will facilitate industrial development of the North Spit, including creation of a slip and access channel for maritime navigation that will support that development. Goal 16 allows such uses in development management units. Paragraphs II and III do not apply to the pile dike rock apron or the shoreline stabilization. Therefore, the pile dike rock apron and shoreline stabilization complies with CBEMP Policy #9.

The criteria have been addressed with the exception of Policy #30. Staff suggest the applicant explain why Policy #30 does not apply

3. **Pile Dike** – The pile dike is rock apron located in Township 25S Range 13W Section 05 which is zoned 5-Development Aquatic zone. This activity is subject to Sections 3.2.270, 3.2.271.B.8.b (ACU-S) Policy #9 ;

Project Description

JCEP seeks approval for a pile dike rock apron in the 5-DA zones. The pile dike rock apron will be located along the side slope of the access channel. Exhibit 2 shows the location of and applicant’s Exhibit 7 shows a conceptual design of the pile dike rock apron. The purpose of the pile dike rock apron is to protect Pile Dike 7.3, which is located immediately west of the access channel. The rock apron will arrest slope migration (or equilibration) before it progresses to a condition that has potential negative impacts on Pile Dike 7.3. The design is a 50-foot-wide by 3-foot-high by approximately 1,100-foot-long rock apron set back approximately 20 feet from the top (slope catch point) of the side slope of the access channel. The proposed rock size is a well-graded 6- inch to 22-inch angular stone with a median size of 14 inches. This median stone size and gradation will be sufficient to protect against potential stone displacement due to anticipated wave action or currents. The proposed design adds additional rock to proactively maintain the

current function and longevity of Pile Dike 7.3. The new rock apron will be placed directly over the visible apron rock in a careful manner, so the new rock apron will not extend towards the access channel beyond the end-line of the existing visible rock.

Criteria

SECTION 3.2.270. Management Objective:

This district shall be managed so as to efficiently this district shall be managed so as to efficiently utilize the aquatic area for access to the deep-draft channel in support of upland water-dependent uses.

SECTION 3.2.271. Uses, Activities and Special conditions.

Table 5-DA sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 5-DA also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

B. Activities:

- | | | |
|----|-------------------------|-------|
| 8. | Shoreline Stabilization | |
| a. | Vegetative | P |
| b. | Rip-rap | ACU-S |
| c. | Bulkheads | ACU-S |

GENERAL CONDITIONS (the following condition applies to all uses and activities):

None

SPECIAL CONDITIONS

Activities:

8b, 8c. These activities are only permitted subject to the general findings required by Policy #9, "Solutions to erosion and flooding problems" preferring non-structural to structural solutions, and to the specific findings for rip-rap.

In addition, bulkheads are only allowed subject to findings that adverse impacts have been minimized (see Policy #5); and to Policy #8 requiring mitigation.

FINDINGS: The request is for shoreline stabilization (structural) and it is listed specifically across from the activity - ACU-S. In the first part of this section it explains "How to Use this Article" and gives a very descriptive list of what the initials mean and how to apply.

The ACU means the use or activity may be permitted as provided above or subject to "Special or General" conditions pursuant to an Administrative Conditional Use. This use is subject to both an Administrative Conditional Use and "Special Conditions". A few of the special conditions are non-discretionary, but most require local judgment and discretion and the development of findings to support any final decision about whether or not to allow the use or activity. Some uses and activities may be identified as being subject to a special condition that is not discretionary or may not apply to a site-specific request. If such is the situation, the Planning Director shall make a determination and if "General Conditions" are not applicable regard the use or activity as permitted outright.

Such determination shall consist of a statement of facts supporting the decision. In this case there is no general conditions only Special Conditions.

Staff only goes into detail to remind the decision maker in this case that the management objective in this case seems to be background and a general statement regarding the zoning unit but a conditional use is not subject to addressing the management objective directly. The applicant has addressed it but staff does not find it was necessary in this case if you follow the directive of “How to Use this Article”. Therefore, the policies that have been identified to review for applicability and findings are Policies #9.

CCZLDO 2.1.200 defines “shoreline stabilization” as “the protection of the banks of tidal or non-tidal streams, rivers or estuarine waters by nonstructural (vegetative) or structural (riprap, bulk heading, etc.)” The same section defines “riprap” as “a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used.”

The applicant states that supporting navigation channels is one of the primary functions of pile dikes, including Pike Dike 7.3. Moreover, Pile Dike 7.3 is proximate to the slip and access channel so that ships can access in and out of Ingram Yard. Thus, the pile dike rock apron will have a primary function of facilitating access to the deep-draft navigation channel in support of upland water-dependent industrial uses. Staff agrees with the applicant. The applicant has addressed Subsection I(a)(b) and (c) and Subsections II and III are not applicable to this proposal.

This criteria has been addressed.

4. **Gas Processing (Industrial & Port Facilities)** - The gas processing is the private use of land for “processing” of natural gas located in Township 25S Range 13W Section 05 tax lot 200 which is zoned 6-Water-Dependent Development Shorelands. This use is subject to Sections 3.2.275, 3.2.276.A.6 (ACU-S,G), Policies #17, #18, #23, #14, #27, #30, #49, #50, #51 and #16.

Description of the project

JCEP previously proposed gas processing in the IND zone. JCEP proposes in this Application to relocate that gas processing proposal to the 6-WD zone. Applicant’s Exhibit 2 shows the new location of the gas processing at the Ingram Yard site. The gas processing conditions natural gas transmitted to the LNG Terminal site by the Pacific Connector Gas Pipeline, for which JCEP has sought approval in separate applications in the County and elsewhere. Processing prepares the gas for liquefaction and storage and transport at and from the LNG Terminal. The gas will undergo mercury (Hg) and acid gas (CO₂ and H₂S) removal and dehydration to remove moisture. The relocation of gas processing for which JCEP here seeks approval will increase the efficiency of the conditioning process by consolidating all gas processing near the liquefaction area and reducing its necessary footprint by using only one liquefaction train instead of two, which the prior design proposed to use.

Criteria

SECTION 3.2.275. Management Objective:

This district shall be managed so as to protect the shoreline for water-dependent uses in support of the water-related and non-dependent, non-related industrial use of the area further inland. To assure that the district shoreline is protected for water-dependent uses while still allowing non-water-dependent uses of the inland portion of the property (outside of the Coastal Shoreland Boundary), any new proposed use of the property must be found by the Board of County Commissioners (or their designee) to be located in

such a manner that it does not inhibit or preclude water-dependent uses of the shoreline. Further, use of wetlands in the district must be consistent with state and federal wetland permit requirements.

SECTION 3.2.276. Uses, Activities and Special conditions.

Table 6-WD sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 6-WD also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

- A. Uses:
6. Industrial & Port facilities ACU-S,G

GENERAL CONDITIONS (the following condition applies to all uses and activities):

1. Inventoried resources requiring mandatory protection in this district are subject to Policies #17 and #18.
2. All permitted uses and activities shall be consistent with Policy #23 requiring protection of riparian vegetation.
3. Uses in this district are only permitted as stated in Policy #14 "General Policy on Uses within Rural Coastal Shorelands". Except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this policy.
4. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.
5. All permitted uses in dune areas shall be consistent with the requirements of Policy #30.
6. In rural areas (outside of UGBs) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.

SPECIAL CONDITIONS

Uses:

- 4.,6.,16.,17. These uses are subject to review and approval when consistent with Policy #16.

FINDINGS: The request is for an Industrial and Port Facility and it is listed specifically across from the activity - ACU-S, G. In the first part of this section it explains "How to Use this Article" and gives a very descriptive list of what the initials mean and how to apply them.

The ACU means the use or activity may be permitted as provided above or subject to "Special or General" conditions pursuant to an Administrative Conditional Use. This use is subject to both an Administrative Conditional Use and "General" and "Special Conditions". Most Special Conditions require local judgment and discretion and the development of findings to support any final decision about whether or not to allow the use or activity. Some uses and activities may be identified as being subject to a special condition that is not discretionary or may not apply to a site-specific request. If such is the situation, the Planning Director shall make a determination and if "General Conditions" are not applicable the use or activity shall be regarded as permitted outright. Such determination shall consist of a statement of facts supporting the decision. "General Conditions" provide a convenient cross-reference to applicable Baywide Policies which may further limit or condition the uses and activities.

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

facts supporting the decision. Staff only goes into detail to remind the decision maker in this case that the management objective in this case seems to be background and a general statement regarding the zoning unit but a condition use is not subject to addressing the management objective directly according to “How to Use this Article”.

The applicant addressed the management unit by stating the gas processing does not preclude or inhibit in the zone water-dependent uses of the shoreline. Moreover, the gas processing is not located within and will not affect wetlands. Therefore, even though it may not have been required to be address the gas processing is consistent with the management objective of the 6-WD zone.

- **Policy #17 Protection of "Major Marshes" and "Significant Wildlife Habitat"** requires the local government to protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise. This requires staff to review the detail plan maps identified in the linkage matrices to determine if protections are required. Upon review of the plan maps there are no inventoried significant wildlife habitats, major marshes, or coastal headlands in the area of this proposal. Therefore, this policy has been addressed.
- **Policy #18 Protection of Historical, Cultural and Archaeological Sites.** This policy provides for a notice to both local tribes to allow comments regarding protection of Historical, Cultural and Archaeological Sites. Staff provided a request for comments within three days of the application being deemed complete. The tribes comments are required to address whether the project, as proposed, would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.

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

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

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

- **Policy #23** requires maintaining riparian vegetation within the shorelands of the estuary, and when appropriate, restore or enhance it, as consistent with water-dependent uses. This is done through provisions for riparian vegetation is set forth in the CCZLDO Section 3.2.180. The applicant stated that the gas processing facility will “strive” to implement the provisions of CCZLDO 3.2.180, which requires maintenance of riparian vegetation

within 50 feet of an estuarine wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps except in certain identified circumstances. The gas processing is not within riparian vegetation within 50 feet of an inventoried estuarine wetland, stream, lake or river identified on County maps. Therefore, staff agrees with the applicants findings.

- Policy # 14 states Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan. This is not a Rural Shoreland Areas (RS) as it is designated Conservation Shoreland. Therefore, this may be generalized policy but it is not meant to apply to this zoning designation specifically. If the policy is found to apply, the Port and Industrial facility is considered a water dependent use.
- Policy #27 requires that the County's flood hazards policies be complied with. This will be done under Balance of County Chapter 4 later in this report.
- Policy #30 requires an evaluation of areas designated as "Beach and Dune Areas with Limited Development Suitability" on the Coos Bay Estuary Special Considerations Map. Staff does not have the Special Consideration Map available; however, this is not a substitute for the detailed plan maps which staff does have available. This area is designated with the overlay of "Beaches and Dunes Area with Limited Development Suitability" but more specifically, after reviewing the applicant's map in their application (Exhibit 2, Page 1) it appears the gas processing is located within the Recently Stabilization. "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stabilized foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding. The applicant has provided a report from SHN which is Civil engineering, Environment Services, Geosciences, Planning & Permitting Company. However, the applicant states that Policy #30 does not apply and staff has verified this is outside of a mapped area that required review under this policy.
- Policy #49 provides opportunities to its citizens for a rural residential living experience, where the minimum rural public services necessary to support such development are defined as police (sheriff) protection, public education (but not necessarily a rural facility), and fire protection (either through membership in a rural fire protection district or through appropriate on-site fire precaution measures for each dwelling. The applicant is not proposing a residential use or a public service for a residential use. There are no criteria in this policy that apply to the proposed use. Therefore, this policy is not applicable.
- Policy #50 Strategy recognizes that LCDC Goal #11 requires the County to limit rural facilities and services. There are no rural facilities proposed that are regulated by Statewide Planning Goal 11; therefore, this policy is not applicable.
- Policy #51 regulates the extension of urban services regulated by Statewide Planning Goal #11. Again, there is no proposed service extensions planned. Therefore, this policy is not applicable to this request.
- Policy #16 This strategy is implemented through the Estuary Plan, which provides for water-dependent uses within areas that are designated as Urban Water-Dependent (UW) management units. This is not an Urban Water-Dependent (UW) management unit. CBEMP Policy 16 implements Goal 17 and OAR 660-037-0080(3) and requires, in relevant part, that "nonwater-dependent uses" (such as residential development, etc.) within urban water dependent zones be "incidental and subordinate" to water-dependent uses. See

generally Oregon Shores Conservation Coalition v. Coos County, 51 Or LUBA 500, 503-4 (2005). This policy does not apply.

The criteria have been addressed with the exception of Policy #30. Staff suggest the applicant explain why Policy #30 does not apply.

- 5. **Wastewater Pipeline** - A wastewater pipeline (high-intensity utility) located in Township 25S Range 13W Sections 04 and 05 which is zoned 7-Development Shorelands and right-of-way. This use is subject to Sections 3.2.285, 3.2.286.A.15.b (P-G), Policies #14, #17, #18, #23, #27, #30, #49, #50 and #51;

Description of the project
This proposal to construct a new industrial wastewater pipeline (“IWWP”) at the location shown in the applicant’s Exhibit 3. The IWWP will support the function of various facilities that JCEP has proposed that are associated with the LNG Terminal, including by transporting industrial waste to an ocean outfall. Most of the IWWP is within the public right-of-way (Trans Pacific Parkway). However, as Exhibit 3 shows, the easternmost portion of the IWWP exits the public right-of-way and crosses the County’s IND and 7-D zones and is exempt from permitting under Section 1.1.800 Exclusions from permit requirements.

Criteria

SECTION 3.2.285. 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.

SECTION 3.2.286. Uses, Activities and Special Conditions.

Table 7-D sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 7-D also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

- A. *Uses:*
 - 15. *Utilities*
 - a. *Low-intensity* P-G
 - b. *High-intensity* P-G

GENERAL CONDITIONS (the following condition applies to all uses and activities):

- 1. *Uses in this district are only permitted as stated in Policy #14 "General Policy on Uses within Rural Coastal Shorelands". Except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this policy.*
- 2. *Inventoried resources requiring mandatory protection in this unit district are subject to Policies #17 and #18.*
- 3. *All permitted uses and activities shall be consistent with Policy #23 requiring protection of riparian vegetation.*
- 4. *All permitted uses shall be consistent with the respective flood regulations of local governments as required in Policy #27.*

5. *All permitted uses in dune areas shall be consistent with the requirements of Policy #30.*
6. *In rural areas (outside of UGBs) utilities, public facilities, and services shall only be provided subject to Policies #49, #50, and #51.*

FINDINGS: The proposed use is an industrial wastewater pipeline, pursuant to Section 2.1.200
Specific Definitions:

UTILITIES: Public service structures which fall into two categories:

- 1. low-intensity facilities consist of communication facilities (including power and telephone lines), sewer, water and gas lines, and*
- 2. high-intensity facilities, which consist of storm water and treated waste water outfalls (including industrial waste water).*

Note: in shoreland units this category also includes sewage treatment plants, electrical substations and similar public service structures. However, these structures are defined as "fill for non-water-dependent/related uses" in aquatic areas.

This proposal is considered a high-intensity utility which is subject to the management unit and general conditions. According to the review procedures under "How to Use this Article" a review of the district's Management Objective as it contains a narrative that provides general policy guidance regarding uses and activities that are, or may be, allowed in the district. The use is to facilitate an Industrial Use; therefore, it is consistent with the management unit. The use is subject to the general conditions which require Policies #14, #13, #30, #49, #50, #51, #17 and #18.

- Policy # 14 states Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan. This is not a Rural Shoreland Areas (RS) as it is designated Conservation Shoreland. Therefore, this may be generalized policy but it does not apply to this zoning designation. In the event it found to be applicable the applicant has addressed.
- Policy #17 Protection of "Major Marshes" and "Significant Wildlife Habitat" requires the local government to protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise. This requires staff to review the detail plan maps identified in the linkage matrices to determine if protections are required. Upon review of the plan maps there are no inventoried significant wildlife habitats, major marshes, or coastal headlands in the area of the proposal. Therefore, this policy has been addressed.
- Policy #18 Protection of Historical, Cultural and Archaeological Sites. This policy provides for a notice to both local tribes to allow comments to regarding protection of Protection of Historical, Cultural and Archaeological Sites. Staff provided a request for comments within three days of the application being deemed complete. The tribes comments are required to address whether the project, as proposed, would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.

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

- a. Retaining the prehistoric and/or historic structure in site or moving it intact to another site; or*

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

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

First, the County has not found an inventoried mapped site where the tower is proposed and second, the applicant did submit a signed agreement with the tribe for protections in the event there are unanticipated discoveries made. The evidence from the applicant also, consists of studies done on the site. The tribes have not commented on the proposal but as of the date of this report it is still within their 30 days.

The applicable criteria for this requested utility facility has been addressed.

- Policy #23 requires maintaining riparian vegetation within the shorelands of the estuary, and when appropriate, restore or enhance it, as consistent with water-dependent uses. This is done through provisions for riparian vegetation is set forth in the CCZLDO Section 3.2.180. The applicant stated that the outfall will “strive” to implement the provisions of CCZLDO 3.2.180, which requires maintenance of riparian vegetation within 50 feet of an estuarine wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps except in certain identified circumstances. The wastewater pipeline is not within riparian vegetation within 50 feet of an inventoried estuarine wetland, stream, lake or river identified on County maps. Therefore, staff agrees with the applicants findings.
- Policy #27 requires that the County’s flood hazards policies be complied with. This will be done under Balance of County Chapter 4 later in this report.
- Policy #30 requires that the type of use proposed and the adverse effects it might have on the site and adjacent areas;

Considerations Map only upon the establishment of findings that shall include at least:

- 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; and*
- e. Whether drawdown of groundwater would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies.*

According to the applicant's report (starting on page 10 of 50, Applicant's Exhibit 10) the Industrial Wastewater Pipeline is buried 16-inch diameter PVC pipe that will convey project wastewater to the existing Treatment Lagoon west of the proposed LNG Plant. The potential impacts would come from the removal of vegetation and soil disturbance. The report provides for erosion control and stabilization on pages 10 and 11 of the report. Staff would suggest these also become conditions in the event the proposal is approved. The report also explains the need to obtain a 1200c permit from Department of Environmental Quality. This will ensure there a little to no impacts on adjacent waters and soil.

This does not pose a hazard to life, public and private property, and the natural environment that is regulated by this CBEMP. There will be no impacts to groundwater on this site. Therefore, the applicant has addressed this policy with the suggested conditions by staff.

- **Policy #49 provides opportunities to its citizens for a rural residential living experience, where the minimum rural public services necessary to support such development are defined as police (sheriff) protection, public education (but not necessarily a rural facility), and fire protection (either through membership in a rural fire protection district or through appropriate on-site fire precaution measures for each dwelling. The applicant is not proposing a residential use or a public service for a residential use. There are no criteria in this policy that apply to the proposed use. Therefore, this policy is not applicable.**
- **Policy #50 Strategy recognizes that LCDC Goal #11 requires the County to limit rural facilities and services. There are no rural facilities proposed that are regulated by Statewide Planning Goal 11; therefore, this policy is not applicable.**
- **Policy #51 regulates the extension of urban services regulated by Statewide Planning Goal #11. Again, there is no proposed service extensions planned. Therefore, this policy is not applicable to this request.**

The criteria have been addressed with some conditions of approval suggested to comply with Policy #30.

6. **Laydown Areas** - Temporary areas for laydown will include offices, trailers, overflow parking, storage of construction materials and these areas are considered a "Special Temporary Use" in accordance with Sections 3.1.450.4 and 2.1.200 "Temporary Use". They are located in:
 - Township 25S Range 13W Section 04 Tax lot 300 which is zoned 6-Water-Dependent Development.
 - Located in Township 25S Range 13W Section 18 tax lot 100, and a portion of tax lot 202 which is zoned 3-Water-Dependent Development.
 - Township 25S Range 13W Section 18 tax lot 202 portion of which is zoned 3-Non-Water Dependent Development;

Description of the project

The laydown in the 3-WD and 3-NWD zone is located at the Port Laydown site. The construction laydown in the 6-WD zone is located at Ingram Yard. The applicant's Exhibit 2 shows the location of the laydown sites described above. The temporary construction laydown will include offices, trailers, overflow parking, storage of material, and fabrication of construction materials. The purpose of the laydown is to store and fabricate materials necessary for the construction of the LNG Terminal and related facilities.

SECTION 3.1.450 Supplemental provisions that apply to all zoning listed in Article 3.

4. *Special Temporary Uses.* The special temporary uses and their accessory structures and uses may be temporarily permitted by the Planning Director as set forth in the Zoning Districts. The Planning Director's decision may be reviewed by the Hearing's Body.

CCZLDO Section 3.1.450.4 provides that "the special temporary uses and their accessory structures and uses may be temporarily permitted by the Planning Director as set forth in the Zoning Districts." No CBEMP zone explicitly references "special temporary use." However, CCZLDO 3.1.450 is entitled "[s]upplemental provisions that apply to all zoning listed in Article 3." Therefore, the reasonable interpretation of CCZLDO 3.1.450.4 is that "special temporary uses" are allowed in all CBEMP zones unless explicitly prohibited. Neither the 3-WD, 3-NWD, nor the 6-WD zone explicitly prohibits "special temporary uses." Therefore, such uses are allowed in all three zones.

CCZLDO 2.1.200 defines "temporary use" as "a use that is not lasting or permanent but is in effect for a certain amount of time only." The definition also explains that "temporary uses include but are not limited to medical hardship dwellings or dwellings that are allowed while building a new home" and that once a temporary use is no longer needed, it must be removed. The construction laydown at the Port Laydown and Ingram Yard sites is a use that is in effect for a certain amount of time only--namely, only as long as necessary to complete construction of the authorized Port and Industrial facility and accessory improvements. Upon completion of construction, JCEP will terminate the laydown as soon as that task is completed. The laydown is thus similar to a temporary dwelling used while building a new home because its purpose is to provide necessary storage and other support for constructing the LNG Terminal and other related uses. Special Temporary Uses do not require the management objectives to be addressed; however, the applicant did address them.

Staff finds that the uses are allowed as Special Temporary Uses.

7. **Temporary Barge Berth** - Located in Township 25S Range 13W Section 04 (abutting tax lot 100) zoned 6-Developemnt Aquatic zone. The temporary barge berth has been applied for as a "Special Temporary use" in accordance with Section 3.1.450.4;

Description of the project

JCEP proposes to construct a temporary barge berth in the 6-DA zone. Exhibit 2 shows the location (Access Channel) and Exhibit 6 is a conceptual design of the temporary barge berth. For the temporary barge berth. JCEP proposed in the Application On Remand to construct a Material Offloading Facility ("MOF") (previously referred to as a "barge berth") and a slip and access channel. JCEP proposes in this Application to modify that previous proposal to include, during the construction of the MOF and slip and access channel, a temporary material barge berth within the footprint of the slip and access channel. This small reconfiguration will facilitate safer and more efficient unloading. Its purpose is to receive materials until the MOF is capable of doing so. JCEP cannot complete the MOF within a single in-water work window. The temporary barge berth will be utilized to convey large cargoes such as steel LNG tank elements, as well as potentially other bulk supplies that may include steel pipe pile, sheet pile or aggregate, other project elements, such as major equipment may also be delivered to the site. In this manner, fewer truck trips to site will be required, thus reducing project related traffic. The temporary barge berth will be sized to accommodate ocean going barges ranging in length from 100 to 250 feet long, and 45 to 55 feet wide with a loaded draft of 10 feet. The barges will be berthed with

one end pushed approximately 60 feet into the excavated slot and tied off to piling driven into the berm around the berth opening. The excavated floor of the berth will be approximately 65 feet wide and extend approximately 500 feet from the back of the berth to the point where EL - 12 MLLW meets the natural submarine slope. The temporary barge berth will be operational during the majority of the tidal changes, however restricted during low to extreme low water events to prevent the grounding of a barge. JCEP will remove the temporary barge berth when it excavates the berm in which the temporary barge berth sits. Exhibit 6 shows the conceptual design of the temporary barge berth.

Criteria

SECTION 3.1.450 Supplemental provisions that apply to all zoning listed in Article 3.

4. *Special Temporary Uses.* The special temporary uses and their accessory structures and uses may be temporarily permitted by the Planning Director as set forth in the Zoning Districts. The Planning Director's decision may be reviewed by the Hearing's Body.

The applicant states that the temporary barge berth qualifies as a "special temporary use" in accordance with CCZLDO 3.1.450.4, which provides that "the special temporary uses and their accessory structures and uses may be temporarily permitted by the Planning Director as set forth in the Zoning Districts." No CBEMP zone explicitly references "special temporary use." However, CCZLDO 3.1.450 is entitled "[s]upplemental provisions that apply to all zoning listed in Article 3." Therefore, the reasonable interpretation of CCZLDO 3.1.450.4 is that "special temporary uses" are allowed in all CBEMP zones unless explicitly prohibited.

The 6-DA zone does not explicitly prohibit "special temporary uses." Therefore, such uses are allowed in the zone. CCZLDO 2.1.200 defines "temporary use" as "a use that is not lasting or permanent but is in effect for a certain amount of time only." The definition also explains that once a temporary use is no longer needed, it must be removed. The temporary barge berth is a use that will remain effective for a certain amount of time only--namely, only as long as necessary to complete construction of the MOF. JCEP will dismantle the temporary barge berth once the MOF is constructed. Therefore, staff agrees with the applicant that the temporary barge berth is allowed as a "special temporary use."

8. **Dredge transport lines** - Temporary dredge transport lines are considered a "Special Temporary Use" in accordance with Sections 3.1.450.4 and 2.1.200 "Temporary Use". There are two different lines located in Township 25S Range 13W Sections 04/11A/12A and 12B crossing zones 6-Development Aquatic, 7-Natural Aquatic, 13B-Natural Aquatic, and 14-Development Aquatic zones;

Description of the project

JCEP proposes to construct two temporary dredge lines. JCEP proposes to construct the first temporary dredge line in the 6-WD and 7-D zones. This temporary dredge line will transport dredged material from JCEP's dredging in the slip and access channel to a disposal site in South Dunes. Applicant's Exhibit 2 shows the location of this dredge line. JCEP proposes to construct the second temporary dredge line in the 13B-NA and 14-DA zones. This temporary dredge line will transport dredged material from the Coos Bay Deep Draft Navigation Channel, which JCEP seeks approval to widen in a separate pending application, to the Kentuck Mitigation Site.

SECTION 3.1.450 Supplemental provisions that apply to all zoning listed in Article 3.

4. *Special Temporary Uses.* The special temporary uses and their accessory structures and uses may be temporarily permitted by the Planning Director as set forth in the Zoning Districts. The Planning Director's decision may be reviewed by the Hearing's Body.

FINDINGS: According to the applicant the temporary dredge line in the 6-WD and 7-D zones qualifies as a "special temporary use" in accordance with CCZLDO 3.1.450.4. JCEP requires the dredge line to facilitate dredging and the construction of the MOF and temporary barge berth in the slip and access channel. CCZLDO 3.1.450.4 provides that "the special temporary uses and their accessory structures and uses may be temporarily permitted by the Planning Director as set forth in the Zoning Districts." No CBEMP zone explicitly references "special temporary use." However, CCZLDO 3.1.450 is entitled "[s]upplemental provisions that apply to all zoning listed in Article 3." Therefore, the reasonable interpretation of CCZLDO 3.1.450.4 is that "special temporary uses" are allowed in all CBEMP zones unless explicitly prohibited. The 6-WD and 7- D zones do not prohibit "special temporary uses," and accordingly, special temporary uses are allowed in the 6-WD and 7- D zones.

CCZLDO 2.1.200 defines "temporary use" as "a use that is not lasting or permanent but is in effect for a certain amount of time only." The definition also explains that "temporary uses include but are not limited to medical hardship dwellings or dwellings that are allowed while building a new home" and that once a temporary use is no longer needed, it must be removed. The temporary dredge line is a use that is in effect for a certain amount of time only--namely, only as long as necessary to transport dredge material from the dredging of the slip and access channel to a disposal site at South Dunes. JCEP will dismantle the dredge line when that dredging is completed.

Staff agrees that temporary dredge line in the 6-WD and 7-D zones is allowed as a "special temporary use." The dredge line satisfies the management objective of the 6-WD and 7- D zones. The applicant did address the management objectives but staff does not find that is necessary.

The temporary dredge lines will be located in the 13B-NA and 14-DA zones as well. The applicant has taken a conservative approach and stated this is not just temporary uses but "temporary alterations".

Section 2.1.200 defines "temporary alteration" as "dredging, filling, or another estuarine alteration occurring over a specified short period of time which is needed to facilitate a use allowed by an acknowledged plan." CCZLDO 2.1.200 further provides that temporary alterations cannot occur for more than three (3) years and the applicant must restore the affected area to its previous condition after that time."

The temporary dredge line is a temporary estuarine alteration. It will not last for more than three years, and JCEP will restore the area to its previous condition when the need to transport dredged material from JCEP's work widening the Coos Bay Deep Draft Navigation Channel has ended.

- SECTION 3.2.435. *Management Objective:*

This district shall be managed so as to protect the productivity of the extensive tideflats and subtidal beds in the aquatic area. Maintenance/repair of bridge crossing support structures is appropriate in this district.

1. SECTION 3.2.436. Uses, Activities and Special Conditions.

Table 13B-NA sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 13B-NA also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

B. Activities:

10. Temporary alterations ACU-S, G

- SECTION 3.2.445. Management Objective:

This area shall be managed to allow access to the natural Kentuck Channel for the purposes of transporting jetty stone quarried in the uplands above the district. This district also permits filling of the small bermed aquatic area at the western end of the existing fill, to provide additional space for rock loading. Dredging and other activities shall be limited to the minimum necessary to accomplish this purpose. That is, if necessary, a "bathtub" may be dredged adjacent to the existing barge off-loading site to allow moorage of a barge during low tide. However, access to and use of the natural channel shall only occur when tides are sufficiently high to facilitate safe navigation. Future dredging of the natural channel (beyond the "bathtub") in District 13B NA is otherwise not allowed. Upon completion of filling in the small bermed area, it will become part of Shoreland District 14 WD.

- SECTION 3.2.446. Uses, Activities and Special Conditions.

Table 14-DA sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 14-DA also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

B. Activities:

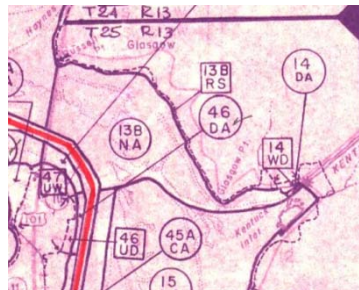
12. Temporary alterations ACU-S, G

Both require findings to Policies #17, #18 and #5a.

- **Policy #17 Protection of "Major Marshes" and "Significant Wildlife Habitat" requires the local government to protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise. This requires staff to review the detail plan maps identified in the linkage matrices to determine if protections are required. Upon review of the plan maps there are no inventoried significant wildlife habitats, major marshes, or coastal headlands in the area of the proposal. Therefore, this policy has been addressed.**
- **Policy #18 Protection of Historical, Cultural and Archaeological Sites. This policy provides for a notice to both local tribes to allow comments regarding protection of Historical,**

Cultural and Archaeological Sites. Staff provided a request for comments within three days of the application being deemed complete. The tribes comments are required to address whether the project, as proposed, would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.

- **Policy #5a Temporary Alterations** requires in the first paragraph that resource capabilities of Natural and Conservation Management units be provided. This does not apply to 14-DA as it is a Development Aquatic are but does apply to the 13B-NA. *see* management unit map below.



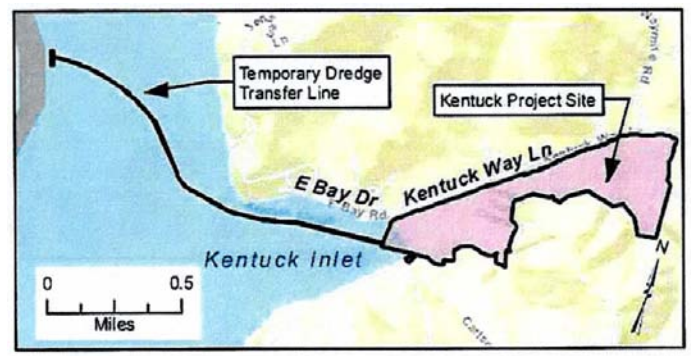
The Oregon Statewide Planning Goal 16 states that temporary alterations in the Goal is intended to allow alterations to areas and resources that the Goal otherwise requires to be preserved or conserved. This exemption is limited to alterations in support of uses permitted by the Goal; it is not intended to allow uses which are not otherwise permitted by the Goal.

Application of the resource capabilities test to temporary alterations should ensure:

1. That the short-term damage to resources is consistent with resource capabilities of the area; and
2. That the area and affected resources can be restored to their original condition.

This is consistent with CBEMP Polity #4 which is referenced in Policy #5a. Policy #4 provides a list of use and activities that have not had the resource capability test completed then the second part explains the deferral of resource capabilities for some type of uses and how they are required to be addressed at the time they are applied.

This requires staff to look at what inventoried resources may be in the area where the temporary alteration is going to occur and if it is found that the resources are there, the applicant is required to explain how they will not be affected or if affected how they can be restored to the original condition.



Staff has review the inventory maps and found:

Inventory Maps:

- **Estuarine Wetland Habitats: Marshes, Tide Flats and Aquatic Beds**
- **Significant Habitat of “Major” Importance**
- **Other Significant Estuarine Habitat (Is within the Other Significant Estuarine Habitat)**
- **Crustacean Habitats**
- **Clam Beds**
- **Clam Species – Soft-shell - Mocomma and Tellina,**
- **Fish Habitats – Feeding & Rearing for Salmonid, Shad and Bass.**
- **Habitat for waterfowl, shorebirds and wading birds – mapped area for resting, feeding and nesting habitats.**
- **Shoreland values for requiring mandatory protection**

The habitats identified are soft shell calms (Mocomma and Telina), Fish habitats (Salmonid, Shad and Bass), and waterfowl but does not identify type.

The applicant needs to provide the following:

A description of resources identified in the plan inventory;

- ii. An evaluation of impacts on those resources by the proposed use (see Impact Assessment procedure, below);
- iii. A determination of whether the proposed use or activity is consistent with the resource capabilities of the area, or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

Where the impact assessment requirement (of Goal #16 Implementation Requirements #1) has not been satisfied in this Plan for certain uses or activities (i.e., those identified above), then such uses or activities shall not be permitted until findings demonstrate the public's need and gain which would warrant any modification or loss to the estuarine ecosystem, based upon a clear presentation of the impacts of the proposed alteration, as implemented in Policy #4a.

III. An impact assessment need not be lengthy or complex, but it should give reviewers an overview of the impacts to be expected. It may include information on:

- a. the type and extent of alterations expected;
- b. the type of resource(s) affected;
- c. the expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary; and
- d. the methods which could be employed to avoid or minimize adverse impacts.

This policy is based on the recognition that the need for and cumulative effects of estuarine developments were fully addressed during the preparation of this Plan and may be mitigated by the imposition, as necessary, of conditions through the administrative conditional use process.

The applicant has provided details on the project but staff was not able to locate an impact assessment, however, they stated they will be compatible with resource capabilities of this area. The dredge line is temporary but the applicant should explain how they will ensure these inventoried resources will be protected or if impacts to the habitat how it will be mitigated. This may have been done through other permitting agencies and the applicant should provide the permits. This also may be addressed in the Draft Environmental Impact Statement and if it is then the applicant should provide the applicable section.

9. **Fires Station** - Located in Township 25S Range 13W Section 05 tax lot 200 which is zoned the 6-Water Dependent Shorelands. The Fire Station is an “Accessory Use” to the LNG Facility as listed under Section 3.1.450.5;

Description of the project

JCEP proposes to construct a fire station in the 6-WD zone. The use is a standalone fire department building within the access and utility corridor that JCEP has established for the LNG Terminal site. JCEP initially proposed to co-locate this use with the SORSC in the IND zone. JCEP now proposes to relocate the fire station proposal from the IND zone to the 6-WD zone. Exhibit 2 shows the location JCEP proposes for the fire station. Splitting the fire station from the SORSC and relocating it will improve emergency incident response time. Fire water storage tanks will be located and stored adjacent to and used by the fire station. The fire department will house Jordan Cove Fire Department chief and staff. The LNG Terminal will provide electric power for operation of the fire department building.

Criteria

SECTION 3.1.450 Supplemental provisions that apply to all zoning listed in Article 3.

5. *Accessory Uses. Uses customarily accessory to the lawfully established principal use shall be allowed in all cases unless specifically prohibited or restricted:*
 - a. *An accessory use may be located on the same lot, parcel or tract or on a contiguous lot, parcel or tract under the same ownership as the lot, parcel or tract that contains the principal use;*
 - b. *The use complies with the definition of “Accessory Structure or Use” pursuant to this Ordinance;*
 - c. *The noncontiguous lot, parcel or tract is in the “same ownership” as the lot, parcel or tract on which the principal use is located;*
 - d. *The accessory use shall only be allowed subject to an administrative conditional use and findings that establish that the use is compatible with surrounding uses or may be made compatible through the imposition of conditions.[OR 91-05-006PL 7/10/91]*

FINDINGS: The applicant states the fire station qualifies as an “accessory use” to the LNG Terminal, which is a primarily an industrial and port facility use. CCZLDO 3.1.450.5 requires that an accessory use (1) satisfy the definition in CCZLDO 2.1.200 of an accessory use, (2) “may be located on the same lot, parcel or tract or on a contiguous lot, parcel or tract under the same ownership as the lot, parcel or tract that contains the principal use,” and (3) “shall only be allowed subject to an administrative conditional use and findings that establish that the use is compatible with surrounding uses or may be made compatible through the imposition of conditions.” The fire station satisfies these criteria.

B. COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE –
BALANCE OF COUNTY - CHAPTER 4

The uses and activities in this section are subject to Balance of County Industrial Zone subject to the Coos County Zoning and Land Development Ordinance (CCZLDO) all uses in the Industrial Zones are subject to compliance with Sections 4.3.200, 4.3.220, 4.3.225, 4.3.330 and Special Development Considerations and Overlays identified in Section 4.11(Section 4.11 is only applicable if a development or structure is identified as located in a mapped development consideration or overlay area and some mapped hazard areas are required to address Section 5.11 Geological Assessments):

Due to the fact that all of these uses are located in the IND zone staff has listed the uses and descriptions all together and then will list out the criteria.

1. **Concrete Batch Plan** - A concrete batch plant is a listed use under “Mineral Processing of Aggregate” and this use is located in Township 25S Range 13 Section 34C Tax lot1700. This use is listed in Section 4.3.200.79 and subject to Section 4.3.210(58) which requires a public hearing.

Description of the project

JCEP proposes to construct a concrete batch plant in the IND zone. Applicant’s Exhibit 2 shows the location for the plant (Boxcar Hill). The plant will provide concrete supply for construction of the LNG Terminal and related facilities. The concrete needed for construction is approximately 130,000 cubic yards. Local aggregate sources have been investigated and have been found to have deficiencies (chert inclusions) that preclude their use for concrete. Regional sourcing for the availability of on-spec aggregates has been confirmed. A concrete washout area will be located adjacent to the batch plant to allow for containment and disposal of waste water related to concrete batching operations. The disposal of concrete waste water will follow all necessary environmental regulations. Any discharges from the concrete batch plant will be subject to measures that minimize the potential for accidental discharges during construction, and additional best practices, including containment for washout, will be utilized. JCEP will employ dust suppression techniques to mitigate any impacts to air quality from concrete batching. The batch plant will operate for 30-36 months

2. **Emergency Preparedness Response Center** - Southwest Oregon Regional Safety Center (“SORSC”) is considered a safety, security, and emergency preparedness, management and response center which is a listed use in Section 4.3.200.103 and is subject to Section 4.3.210(30). The use is located in Township 25S Range 13 Section 03 Tax Lot 200.

Description of the project

JCEP proposes to construct in the IND zone an emergency preparedness and response center, to be known as the Southwest Oregon Regional Safety Center (“SORSC”). The SORSC will be located adjacent to the LNG Terminal and will include an adjacent administration building. Exhibit 2 shows the location JCEP proposes for the SORSC and the administration building (South Dunes). The SORSC will manage safety, security and emergency response for the LNG Terminal and related facilities. The facility will provide a combined safety center for Jordan Cove Security Center, Sheriff’s Department, Sheriffs/911 Dispatch, and the Emergency Operations Center. The SORSC facility houses surveillance, communications, command and control systems, and supports security and response operations in the JC LNG area of operations and provides emergency dispatch to the entirety of Coos County. The goal of this facility is to fully support safety and security requirements of the LNG Terminal and related facilities. It is

also intended to serve as a cornerstone to improve communications between individual agencies and provide a platform for collaboration. This will increase efficiency of operations and improve the efficacy of emergency response throughout Coos County.

3. **Helipad** – This use is an accessory use to Emergency Services in Section 4.3.200.101 and is subject to Section 4.3.210(1), The helipad located in Township 25S Range 13 Section 03 Tax Lot 200.

Description of the project

JCEP proposes to construct a helipad on the site of the SORSC. The purpose of the helipad is to facilitate emergency incident management response by enabling enhanced emergency evacuation of or access to the LNG Terminal site.

4. **Offices** - Corporate and Administrative Offices Located in Township 25S Range 13W Section 03 Tax Lot 200. This use is listed in Section 4.3.200.57 and is subject to Section 4.3.210(64).

Description of the project

JCEP proposes to develop in the IND zone an administration building adjacent to the SORSC. The administrative and corporate offices will be located in the administration building, adjacent to the SORSC. Exhibit 2 shows the location JCEP proposes for the administration building. The administration building will provide business, administrative, and information management support for the operations of the LNG Terminal and related facilities.”

5. **Temporary Housing** - Temporary workforce housing located in Township 25S Range 13W Section 03 Tax Lot 200 and Section 04 Tax Lot 100. This use is listed in Section 4.3.200.32 and is subject to Section 4.3.210(27) Temporary Dwelling;

Description of the project

JCEP proposes to construct temporary workforce housing in the IND zone. Exhibit 2 shows the location of the workforce housing and Exhibit 4 is a conceptual plan that shows the location and layout for the temporary workforce housing. The temporary workforce housing will house construction workers during the construction of the SORSC and the administration building and other aspects of the LNG Terminal. It will include a kitchen and dining facility, a recreation complex, living quarters, and laundry facilities, among other things.

6. **Wastewater Treatment Facility** - A wastewater treatment facility located in Township 25S Range 13W Section 03 Tax Lot 200 and Section 04 Tax Lot 100. This is considered an accessory use as listed in Section 4.3.200.66 subject to Section 4.3.210(1);

Description of the project

JCEP proposes to construct in the IND zone wastewater treatment facilities to serve the LNG Terminal and related facilities. During construction of the LNG Terminal and related facilities, there may be wastewater streams discharged to the IWWP, including: effluent from temporary sanitary treatment facilities, water from construction dewatering, hydrostatic test water, effluent from the oily water separator, contact stormwater not managed under JCEP’s 1200-C permit (stormwater that flows into and through the oily water separator and then the sump) and wheel

wash and equipment wash water (no detergent or solvents used) that discharges into the oily water separator and then the IWWP. Seepage from settling ponds, currently discharged via Outfall 003, will continue in the early phases of construction, overlapping for a short time with discharge of construction-related wastewaters until the ponds are filled during re-grading of the South Dunes site. Exhibit 5 shows how, after construction, wastewater sources will be treated through permanent wastewater treatment facilities.

7. **Parking Lot** - A park and ride located in Township 24S Range 13W Section 15A Tax Lot 800. This is a listed use in Section 4.3.200.81 subject to Section 4.3.210(79)

Description of the project

JCEP proposes to construct a park and ride facility in the IND zone to transport workers to and from the construction sites for the LNG Terminal, including all related project components described herein. The park and ride has two component parts. The first is in South Dunes, near the construction site for the SORSC and Administration Building in this Application. At this location, JCEP proposes to pick-up/drop-off workers and store busses used for transportation. The pick-up/drop-off location will be a covered parking area, and JCEP proposes to use available onsite parking areas at the sites of the SORSC and Administration Building to store busses. Exhibit 4 shows the location in the area known as South Dunes where busses will pick up and drop off workers. The second part of the park and ride is a pick-up/drop-off point for workers that are located at the site of the Myrtlewood Factory (north of the JCEP campus). Exhibit 4 also shows the location of this site. Workers will park their vehicles at this site and board busses for pick-up and drop-off to construction sites for various components of the overall LNG Terminal project. Only IND-zoned areas of the site will be used for parking and pick-up/drop-off and JCEP will not make physical alterations to the site. JCEP understands there is currently at this site an ongoing parking violation associated with recreational vehicles. JCEP will, in conjunction with its use of the site as a pick-up/drop-off/parking location, remedy this ongoing violation. The applicant provided a revised map of the area proposed to be used that shows that area is only within the IND zone.

8. **Laydown Areas** - Temporary construction lay down area located in Township 25S Range 13 Section 34C Tax lot 1700 This is considered an accessory use as listed in Section 4.3.200.101 subject to Section 4.3.210(1).

Description of the project

The construction laydown in the IND zone is located at the Boxcar Hill and South Dunes laydown sites. The temporary construction laydown will include offices, trailers; overflow parking, storage of material, and fabrication of construction materials. The purpose of the laydown is to store and fabricate materials necessary for the construction of the LNG Terminal and related facilities.

Criteria

Section 4.3.200 Zoning Tables for Urban and Rural residential, mixed commercial-residential, commercial, industrial, minor estuary and south slough

The table indicates the type of review process that is required. Remember that CU is an conditional use review and the letter prior explain what level of conditional use is required (A = administrative and H=Hearing)

As used in the zoning tables the following abbreviations are defined as:

- “P” permitted and requires no review from the Planning Department. No review is required but other agencies may have requirements.
- “CD” compliance determination review (permitted with standards) with clear and objective standards (Staff review usually referred to as Type I process or ministerial action). These uses are subject to development standards in sections 4.3.22, 4.3.230 and notices requesting comments may be provided to other agencies as result. The process takes a minimum of 30 days to complete. Industrial zones may require additional review. All structures and uses shall meet the applicable Development and Siting Criteria or Special Development Considerations and Overlays for the zoning district in which the structure will be sited.
- “ACU” Administrative Conditional Use (Planning Director’s Decision usually referred to as a Type II Process)
- “HBCU” Hearing Body Conditional Use (Planning Commission, Board of Commissioner or Hearings Officer Decision usually referred to as a Type III Process)
- “PLA” Property Line Adjustments subject to standards found in Chapter 6.
- “P”, “SUB”, “PUD” = Partition, Subdivision, Planned Unit Development that require Land Division Applications subject to standards found in Chapter 6.
- The “Subject To” column identifies any specific provisions of Section 4.3.210 to which the use is subject.
- “N” means the use is not allowed.

The zoning table sets out Uses, Developments and Activities that may be listed in a zone and the type of review that is required within that zone. If there is a conflict between uses the more restrictive shall apply. Section 4.3.210 provides an explanation of the use category and the specific criteria that shall apply and if the use is identified as requiring a conditional use. Section 4.3.225 General Siting Standards apply to all regulated Uses, Developments, or Activities, but these are clear and objective standards that do not, in themselves, require a land use notice. Section 4.3.230 Specific Standards list specific siting standards by zones and 4.2.200 Additional Conditional Use Review and Standards for table 4.3.200 contains any additional criteria that applied to a Use, Development or Activity that has been identified by the following table as requiring.

In the table it lists the following:

Request	Use #	Use	Subject to Review Standard
Concrete Batch Plant	79	Mining or Mineral Processing – geo-thermal, <i>aggregate</i> , other mineral or subsurface resources	HBCU (58)
Emergency Preparedness Response Center	103	Emergency preparedness centers	CD (30)
Helipad	101	Accessory to Industrial Use	CD (1)
Offices	57	Offices – Administrative and Corporate	CD (64)
Temporary Housing	32	Temporary Dwelling during Construction	CD (27)(m)(i)

Wastewater Treatment Facility	66	Accessory to Industrial Use	CD (1)
Parking Lot/Transportation Facility	81/88	Storage Facility and Units including parking facilities and Transportation Facility	CD(79) and CD(80)
Laydown Areas	66	Accessory	CD(1)

- *Section 4.3.210 – CATEGORIES AND REVIEW STANDARDS*

The following categories provide a definition and specific standards that will regulate the Development, Use or Activity identified in the table above.

- (1) *Accessory structures and uses – shall be subordinate to any authorized primary use. Accessory structures shall meet the applicable Development and Siting Criteria or Special Development Considerations and Overlays for the zoning district in which the structure will be sited.*

FINDINGS: According to Section 2.1.200 Specific Definitions:

ACCESSORY USE: *A use, building or structure that is (1) customarily incidental and subordinate to the principal use, main building or structure, and (2) subordinate in extent, area and purpose to the principal use. A use that constitutes, in effect, conversion to a use not permitted in the district is not an accessory use.*

The applicant has requested a Helipad to be accessory to the emergency services center. Staff finds this meets the definition and is a listed use in the IND zone. It is subject to compliance with development standards and subject to any applicable Special Development Considerations and Overlays addressed in the next section of this report.

The applicant has requested a Waste Water Treatment Facility and Laydown areas for construction purposes. These are both considered accessory to the industrial use. The Industrial use is the LNG Facility. These are listed as permitted uses but are subject to criteria in Sections 4.3.225, 4.3.230 and 4.11 of the CCZLDO.

- (27) *Dwelling - Any building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes. A dwelling shall consist of a kitchen, bathroom(s) and living space. Dwellings do not including a RV, tent, teepee, yurt, hotels, motels, vacation rentals or boarding houses. Types of Dwellings are listed below. Long term rentals are not regulated by this ordinance. ****
 - m. *Temporary Residences or Structures –*
 - i. *During Construction - For the purpose of temporary habitation shall be permitted during the construction of a permitted or conditional permitted use. Such authorization shall not to exceed one (1) year, subject to renewal by authorization of the Planning Director or designee upon showing that such construction has not been completed and applicable development permits are valid.*

FINDINGS: The applicant proposes to construct temporary workforce housing in the form of temporary dwellings for construction workers (and related facilities) in the IND zone. The workforce housing qualifies as “Temporary Dwelling During Construction,” which is allowed in the IND zone subject to a CD process. The workforce housing will house workers until construction of the LNG Terminal, including all related project components described herein, are complete. CCZLDO 4.3.210.27.m.i. explains that Temporary Dwellings during Construction are allowed for

up to one year, subject to renewal if the construction they serve has not been completed. This is a listed permitted use but is subject to criteria in Sections 4.3.225, 4.3.230 and 4.11 of the CCZLDO.

- (30) *Emergency services – This category includes correctional institution, jail, penal farm, fire stations, police stations, emergency service training facilities (which may include firearms training), emergency preparedness centers, storage caches and standby power generating equipment for Essential Facilities. If a conditional use is required as indicated on the zoning table it shall comply with the compatibility standard found in Section 4.3.220.*

FINDINGS: This is a listed permitted use but is subject to criteria in Sections 4.3.225, 4.3.230 and 4.11 of the CCZLDO.

- (58) *Mining or Mineral Processing –This category includes geo-thermal, aggregate, other mineral or subsurface resources. This may include stock piles.*
- a. *For any mineral processing other than for aggregate the following applies:*
 - i. *All drill holes shall be filled and capped according to the following standards, and bonds to secure performance of this obligation shall be required as follows:*
 1. *The applicant shall provide the Coos County Watermaster with the location of each hole by township, range, section and driller's identification number of all holes drilled.*
 2. *A plot plan showing these locations will be furnished to the Watermaster.*
 3. *The applicant shall seal all test holes from the bottom within 2 feet of land surface with cement, native clay, betonies mixture (e.g., "Sure-Gel", Aqua Gel") of 9 pounds to 9-1/2 pounds of betonies per gallon of water.*
 - ii. *If artesian flows are encountered, the test hole will be:*
 1. *Abandoned according to the following abandonment procedures: The flow of artesian exploration holes to be abandoned shall be confined or restricted by cement grout applied under pressure, or by the use of a suitable well packer, or a wooden or cast lead plug placed at the bottom of the confining formation immediately above the artesian water-bearing zone. Cement grout or concrete shall be used to effectively fill the exploration hole to land surface. Or*
 2. *Developed for use of the artesian flow by a water well driller who is properly licensed and bonded by the State of Oregon.*
 - iii. *If unusual conditions occur at a test hole site and compliance to the above standards will not result in a satisfactorily abandoned hole, the driller shall request that special standards be prescribed by the Watermaster for the particular hole.*
 - iv. *The applicant shall notify the County Watermaster prior to the abandonment of all test holes, drill holes, exploration holes, etc. As used in this section the term 'abandonment' shall mean the act of filling any hole with the required sealing material.*
 - v. *In addition to complying with the procedures outlined above, the applicant shall post a surety bond in the amount of five thousand (\$5,000.00) dollars for each hole drilled or a bond for fifty thousand (\$50,000.00) dollars to cover all test holes. The surety bond shall be filed with the Board of Commissioners, and may be written by a surety company duly licensed by and authorized to do business in the State of Oregon. The release of such bond shall be conditioned upon the successful capping of all holes according to the procedure described above.*
 - vi. *Although it is recommended that the test hole be sealed prior to moving the drilling rig, in no case shall the drill hole be left open for more than five (5) days*

after the drilling rig is moved off the test hole without prior approval of the County's designated representative.

- b. The applicant shall be required to construct a catch basin around each drilling site to retain any possible run-off.*
- c. Abandonment procedure:*
 - i. At the discretion of the County's appointed representative (usually, the district Watermaster), this representative may require that the exploration hole abandonment not begin until he is present at the site.*
 - ii. In the event that paragraph "i" above, is implemented, the County's appointed representative may, if he is unable to be present during abandonment, otherwise authorize abandonment. This authorization may be given verbally by telephone.*
 - iii. The County's appointed representative may require that the exploration hole be abandoned with cement grout.*

FINDINGS: Among the IND Zone Proposals, only the temporary and non-commercial concrete batch facility is listed as a conditional use in the zoning table but is subject to 4.3.220, 4.3.225, 4.3.230 and 4.11 of the CCZLDO. The criteria above are not applicable but there are additional review criteria that area addressed under Section 4.3.220. Therefore, this has been addressed.

- (64) Offices- This category includes administrative and corporate offices and call centers. These businesses primarily serve other industries or deliver their products and services to the end user through means other than on-site customer visits. This use shall be an accessory use to another industrial use or uses. Few general public customer visits per day are generated*

FINDINGS: This is a listed permitted use but is subject to criteria in Sections 4.3.225, 4.3.230 and 4.11 of the CCZLDO.

- (79) Storage Facilities and Units – The category includes warehouse, mini-storage, parking lots or parking structures.*
- (80) Transportation Facility and Uses - This category includes the transportation of cargo using motor vehicles or rail spurs and may include loading docks and parking of cargo transport vehicles. Examples include freight terminals, parcel delivery services, moving companies, and parking facilities for long-haul trucks. These uses often are associated with warehousing facilities. This category also includes parking, storage, repair, and servicing of fleet vehicles used for the transport of people. Examples include ambulance services, mass transit and school bus fleet facilities. This category also includes commercial motor vehicle fueling services, such as card lock fueling stations; however, motor vehicle fueling stations that cater to the general public are prohibited.*

FINDINGS: This use could fall in two different categories so staff added both to be sure it was covered. The parking and the transportation uses are both located in Section 4.3.200. A “transportation facility” “includes any physical facility that moves or assists in the movement of people or goods.” CCZLDO 4.3.210.80 further explains that a “transportation facility” also includes “parking, storage, repair and servicing of fleet vehicles used for the transport of people.” The park and ride is a physical facility (the park and ride includes a covered pick-up/drop-off area at South Dunes and bus and parking areas, all of which qualify as physical facilities) that moves or assists in the movement of people, namely construction workers to the site of construction of the proposals in this Application. Moreover, it will store busses used for the transport of people. The park and ride is thus a valid “transportation facility” and is allowed subject to a CD process in the

IND zone. This is a listed permitted use but is subject to criteria in Sections 4.3.225, 4.3.230 and 4.11 of the CCZLDO.

- *Section 4.3.220 Additional Conditional Use Review Standards for uses, development and activities listed in table 4.3.200*

FINDINGS: There is only one listed use that is subject to the additional conditional use criteria and that is the mining and processing (batch plant). This project is not located in the Urban Growth Boundary or Urban Unincorporated Community. Therefore, the only applicable criterion to this use is Section 4.3.200(6) is subsection (f).

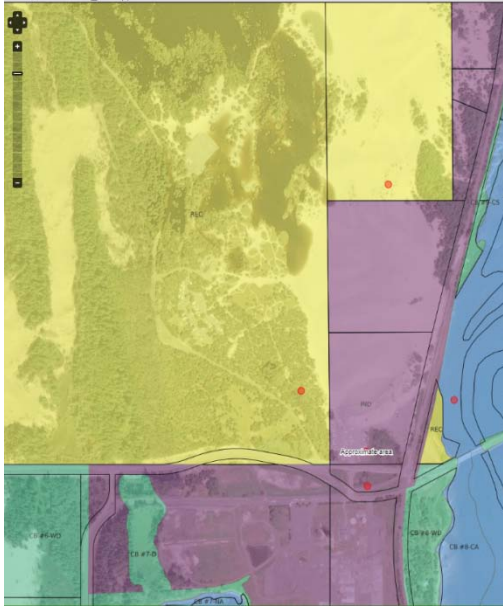
(f) Conditional Use Review Criteria - The following criteria only apply to Use, Activity or Development identified as a conditional uses in the zoning table:

- i. COMPATIBILITY: The proposed USE, ACTIVITY OR DEVELOPMENT is required to demonstrate compatibility with the surrounding properties or compatibility may be made through the imposition of conditions. Compatibility means that the proposed use is capable of existing together with the surrounding uses without discord or disharmony. The test is where the proposed use is compatible with the existing surrounding uses and not potential or future uses in the surround area.*
- ii. Within the a City Urban Growth Boundary: (This does not apply)*
- iii. Design Standards:*
 - 1. The landscape shall minimize soil erosion. The exterior portion of the property shall provide an ornamental, sight-obscuring fence, wall, evergreen or other screening/planting along all boundaries of the site abutting public roads or property lines that are common to other owners of property that are zoned for residential, except for points of ingress and egress;*
 - 2. 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 Urban Residential, Rural Residential or Controlled Development district.*
 - 3. Exposed storage areas, service areas, utility buildings and structures and similar accessory areas and structures shall be subject to the setbacks of the this zoning designation, screen plantings or other screening methods;*
 - 4. Trash service shall be provided to the facility and the area for trash receptacle or receptacles shall be identified on the plot plan; and*
 - 5. Hours of operation may be required in areas predominantly surrounded by residential zones.*

FINDINGS: Computability is defined in Section 2.1.200 as

COMPATIBILITY: Means that the proposed use is capable of existing together with the surrounding uses without discord or disharmony. The test is where the proposed use is compatible with the existing surrounding uses, and not potential or future uses in the surround area. The surrounding area consists of the notification area for the project as set out in § 5.0.900

The notification area is 250 feet of the exterior boundaries of the property ownership. The surrounding areas are zoned Industrial and Recreational Zoned. The batch plan is located near the other Industrial Zoned. The purple area is zoned IND and the yellow is Recreational Zoned.



The red dots show approximately 250 feet from the property boundary (contiguous property ownership). The uses occurring on the subject property are more recreational than industrial uses. However, given the limited area and uses the temporary batch plan is not anticipated to cause any discord or disharmony with existing surrounding uses.

The applicant has stated they will comply with the applicable design standards for the use outside of an urban area. This is a temporary use but the applicant has addressed all the criteria.

- Section 4.3.225 General Siting Standards

All NEW USES, ACTIVITIES and DEVELOPMENT are subject to the following siting standards:

- (1) Agricultural and Forest Covenant - Any applicant for a dwelling permit adjacent to a Forest or Exclusive Farm Zone shall sign a statement on the Compliance Determination or Zoning Clearance Letter acknowledging that: "the normal intensive management practices occurring on adjacent resource land will not conflict with the rural residential landowner's enjoyment of his or her property.
- (2) Fences, Hedges, and Walls: No requirement, but vision clearance provisions of Section 7.1.525 apply.
- (3) Limitation on uses of manufactured dwellings/structures for commercial purposes pursuant to ORS 466 et seq. Manufactured dwellings shall not be used for commercial purposes except:
 - (a) Where use of the manufactured dwelling for commercial purposes is authorized by the Building Codes Agency.
 - (b) Where used as a temporary sales office for manufactured structures; or
 - (c) As part of an approved home occupation. [OR-92-07-012PL]
- (4) New lots or parcels - Creation of lots or parcels, unless it meets the circumstances of § 5.6.130, shall meet the street frontage, lot width, lot depth and lot size. Minimum road frontage/lot width shall be met unless waived by the Planning Director in consultation with the County Surveyor and County Roadmaster due to creating an unsafe or irregular configuration:
 - (a) Minimum Street frontage should be at least 30 feet; and
 - (b) Minimum lot width and Minimum lot depth is 50 feet.

Minimum parcel/lot size cannot be waived or varied unless otherwise provided by a specific zoning regulation. Tax lot creation and consolidations do not change the legally created status of a lot or parcel.
- (5) Parking - Off-street access, parking and loading requirements per Chapter VII apply.
- (6) Riparian -
 - (a) Riparian vegetation setback within 50 feet of a estuarine wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps, shall be maintained except:

- i. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
 - ii. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
 - iii. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
 - iv. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
 - v. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
 - vi. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps; or*
 - vii. *The 50 foot riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration is not more than 100% of the size of the existing structure's "footprint".*
- (b) *Riparian removal within the Coastal Shoreland Boundary requires an Administrative Conditional Use application and review. See Special Development Considerations Coastal Shoreland Boundary.*
 - (c) *The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.*
- (7) *Setbacks:*
- (a) *All buildings or structures with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from the right-of-way line, whichever is greater. This setback may be greater under specific zoning siting requirements.*
 - (b) *Firebreak Setback - New or replacement dwellings on lots, parcels or tracts abutting the "Forest" zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions. Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees.*

FINDINGS: The only portions of the general siting standards that apply to this review are Parking, Riparian and Setbacks. The parking will be addressed in the Chapter 7 review. The applicant will comply with the riparian and setback requirements. All proposed development will be 35-feet from any road right-of-way centerline and there is no inventoried waterway that is required to setback back from. Therefore, the application meets the criteria.

- *Section 4.3.230 ADDITIONAL SITING STANDARDS*

This section has specific siting standards and criteria set by the zoning district for USES, ACTIVITIES and DEVELOPMENT:

- (6) *Industrial (IND) and Airport Operations (AO) - The following siting standards apply to all USES, activities and development within the IND and AO zoning districts.*

- (a) Minimum lot/parcel size –
- i. No minimum lots size standard for this zone.
 - ii. Minimum street frontage and minimum lot width is 20 feet.
- (b) Setback -
- i. Front, side and rear setbacks are 5 feet from abutting properties that are zoned Controlled Development or residential zoning districts.
 - ii. Setback exception – Front yard setback requirements of this Ordinance shall not apply in any residential district where the average depth of existing front yards on developed lots within the same zoning district block, but no further than 250 feet from the exterior side lot lines of the lot and fronting on the same side of the street as such lot, is less than the minimum required front yard building setback. In such cases the front yard setback requirement on any such lot shall not be less than the average existing front yard building setback.
- (c) Building Height - does not have any requirement, except those sites abutting a residential or controlled development zone shall have a max height of 35 feet plus one (1) additional foot in height for each foot of setback exceeding 5 feet (i.e. if the setback is 10 feet, the maximum building height would be 40 feet). However, spires, towers, domes, steeples, flag poles, antennae, chimneys, solar collectors, smokestacks, ventilators or other similar objects may be erected above the prescribed height limitations, provided no usable floor space above the height limits is added. Such over height object shall not be used for advertising of any kind.
- (d) Building Density or Size limits –
- i. For building or buildings located within an Unincorporated Community Boundary as adopted by the Coos County Comprehensive Plan Volume 1 Part 2 § 5.5 the following square foot requirements apply:
 1. Urban Unincorporated Community shall not exceed 60,000 square feet of floor space; or
 2. Rural Unincorporated Community shall not exceed 40,000 square feet of floor space.
- (e) Design Standards:
- i. The landscape shall minimize soil erosion. The exterior portion of the property shall provide an ornamental, sight-obscuring fence, wall, evergreen or other screening/planting along all boundaries of the site abutting public roads or property lines that are common to other owners of property that are zoned for residential, except for points of ingress and egress;
 - ii. 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 Rural Residential, Urban Residential or Controlled Development Zoning districts.
 - iii. Exposed storage areas, service areas, utility buildings and structures and similar accessory areas and structures shall be subject to the setbacks of the this zoning designation, screen plantings or other screening methods;
 - iv. Trash service shall be provided to the facility and the area for trash receptacle or receptacles shall be identified on the plot plan; and
 - v. Hours of operation may be required in areas predominantly surrounded by residential zones.

FINDINGS: The properties are not abutting any Controlled Development or Residential Zones and are not located within an Urban Growth Boundary or Unincorporated Community; therefore,

the only applicable criteria are design standards. The applicant has stated they will comply with all applicable design standards. Hours of operations may be imposed on any industrial use if necessary; however, given the area and the zonings staff is not recommending hours of operations be limited. Therefore, the applicant has addressed all of the applicable criteria.

C. COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE –
BALANCE OF COUNTY - CHAPTER 4 – SPECIAL DEVELOPMENT
CONSIDERATIONS AND OVERLAYS

ARTICLE 4.11 SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS

SECTION 4.11.125 Special Development Considerations:

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

1. Mineral & Aggregate Plan Implementation Strategies (Balance of County Policy 5.5)

The mineral & aggregate maps have inventoried the following:

- *Coal Basins*
- *Areas of Oil & Gas Exploration Leases*
- *Metal Mines & Prospects (Removed Per Ordinance 91-09-018PL 12-18-91)*
- *Crushed Rock Quarries*
- *Sand & Gravel Pits*
- *Other Aggregate Sites (Ordinance 92-05-008PL 3-7-92)*

Purpose Statement:

Coos County shall manage its identified mineral and aggregate resources (except black sand prospects) in their original character until mined, except where conflicting uses are identified during implementation of the Plan, and such uses are justified based on consideration of the economic, social, environmental and energy consequences of the conflicting uses, or where existing uses have been grandfathered. Where no conflicts are identified, agriculture, forest or similar open space zoning shall be used to implement this strategy.

- a. *When a conflicting uses which includes dwellings and any other structures within 500 feet of the resource site. is proposed at a given site, the decision about allowing development of the proposed use or the development or protection of the aggregate resource shall be made through a conditional use process where findings are developed which address the economic, environmental, social and energy consequences of allowing the proposed conflicting use, development of the aggregate resource, or both at the site. The following guidelines must be considered as part of the conditional use process:*
 - i. *Economic consequences: payroll, jobs, taxes, economic opportunity costs associated with developing or not developing each conflicting use, and other pertinent factors.*
 - ii. *Environmental consequences: the impacts on air, land and water quality and on adjacent farm and forest resources associated with developing each conflicting use, and other pertinent factors.*
 - iii. *Social consequences: the effect of the proposed uses on public service delivery, the general compatibility of the proposed uses with surrounding cultural land uses, and other pertinent factors.*
 - iv. *Energy consequences: the location of the proposed resource development site in relationship to market areas, and other pertinent factors.*

The decision to allow one or both of the conflicting uses shall be supported by findings which demonstrate that the decision will foster maximum public gain. Reasonable conditions may be imposed

on any authorized development to ensure compatibility. Such conditions may include screening, setbacks and similar measures.

- b. *Non-exploratory mining operations are conditional uses, where allowed by the zoning district.*
 - i. *Coos County shall regulate new recovery operations by designating such activities as conditional uses in appropriate zones, except where permitted outright in forest zones, to ensure compatibility with adjacent uses.*
 - ii. *Site restoration shall conform to the requirements of ORS 517.750 to 517.900, "Reclamation of Mining Lands".*
 - iii. *This strategy recognizes that project review by the Hearings Body is necessary to minimize the adverse impacts that are typically associated with mining operations, and which often make such recovery activities incompatible with adjacent uses.*
- c. *Coos County shall consider any "other aggregate sites" inventories by this plan pursuant to ORS 215.298(2) as "1B" resources in accordance with OAR 660-16-000(5)(b).*
 - i. *Black Sands, Coal and Other Aggregate Sites. Coos County has inventory black sand prospect areas as a "1B Resource", pursuant to OAR 660-16-000(5)(a). Accordingly, Coos County shall reconsider this decision during the scheduled update for this Plan, and 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 Oregon Department of Geology and Mineral Industries shall be consulted in this matter. This strategy is based on the recognition that black sand resource is available at the time of the adoption of this Plan to have an adequate understanding of the quantity and quality of the resource.*
 - ii. *Coos County recognizes the existence and extent of the coal deposits within the County. However, due to factors concerning the coal's quantity and quality, as well as subsurface location, the resource is not expected to be commercially extracted. Therefore, the resource is classified as a "5a" resource and will not be included as an identified Goal #5 resource. Permitted or conditionally permitted uses shall not be considered conflicting with Coal resources within a given zone. All mining activity shall remain subject to the specific Ordinance requirements of a given zone.*

Findings: Pursuant to the Coos County Comprehensive Plan ("Plan") Volume 1, Part 1, Section 5.5 and CCZLDO Strategy 1.c.ii, the coal basin is described as commercially unviable and, accordingly, not designated as a Goal 5 resource. Furthermore, the property is not identified as being located in the inventoried having minerals or aggregate on the property. Therefore, there is no criterion to address for the requested activities.

2. Water Resources (Balance of County Policy 5.8)

The water resources maps have inventoried the following:

- *Existing municipal watersheds;*
- *Watersheds for potential reservoir sites;*
- *Dam & Reservoir sites considered suitable by the Water Resources Department;*
- *Possible Future Reservoir sites suggested by Coos Bay-North Bend Water Board (April 4, 1985);*
- *Existing wells in the Dunes Aquifer;*
- *Approximate extent of Dunes Aquifer; and*

- *Existing Water District Withdrawal Points.*
- a. *Coos County shall not permit further new residential and commercial development in rural areas where the Oregon State Water Resources Department (OSWRD), the Oregon State Environmental Quality Commission (EQC), or the Coos County Health Department has submitted compelling evidence to Coos County that water resources within that area would be irreversibly degraded by new consumptive withdrawal or by additional septic tank or other waste discharges. Implementation measures in such areas may include a moratorium on construction permits for new residences or new commercial uses in the identified area. If an adequate solution to resolve the problem cannot be reached, such as extension of public water to the area in conformance with this plan, the County shall initiate a process to redesignate any undeveloped land within the area to a resource designation, and shall reallocate any other plan designations on such undeveloped land to other rural areas of the County on an acreage-by-acreage basis.*
 - b. *Coos County shall protect the following dam sites identified by the Oregon Water Policy Review Board for possible future water resource development or until alternative methods of meeting water needs are developed:*
 - *West Fork of the Millicoma River, site 223.*
 - *South Fork of Coquille River at Eden Ridge, Site 430.*
 - *North Fork Coquille River, Site 146A.*
 - *Rock Creek at Rasler Creek, Site 201.*
 - *Catching Creek, Site 101.*
 - *Fourmile Creek, Site 158.*
 - *Joe Ney Slough, (no site number)*
 - *North Fork Floras Creek at Oakietown, Site 435.*

(Source: Oregon State Water Resources Department) Implementation shall occur through appropriate designation on the Water Resource Map, which is an implementation measure." Interim uses shall be limited to farm and forest uses, as these do not materially interfere with the possible use of these sites for dams. This strategy recognizes: (1) the responsibility of the State Water Policy Board under ORS 536.300 to study and formulate programs for the use and control of water resources in the state, and (2) the responsibility of the county to protect potential water resources consistent with Oregon Statewide Planning Goal #5 provisions.

Findings: This proposed site is not near a mapped water resource area. Therefore, this criterion does not apply to this project.

3. Historical, Cultural and Archaeological Resources, Natural Areas and Wilderness (Balance of County Policy 5.7)

The Historical/Archeological maps have inventoried the following:

- *Historical;*
- *Area of Archaeological Concern;*
- *Botanical; and*
- *Geological Resources.*

Purpose Statement:

Coos County shall manage its historical, cultural and archaeological areas, sites, structures and objects so as to preserve their original resource value. This strategy recognizes that preservation of significant historical, cultural and archaeological resources is necessary to sustain the County's cultural heritage.

- a. Historical Structures: Coos County shall permit the expansion, enlargement or other modification of identified historical structures or sites provided that such expansion, enlargement or other modification is consistent with the original historical character of the structure or site:*
 - i. This strategy shall be implemented by requiring Planning Director review of site and architectural plans. The proposed project shall be consistent with the original historical character of the site and structure.*
 - ii. This strategy recognizes that enlargement, expansion or modification of historical structures is not inconsistent with Coos County's historic preservation goal. The Planning Director shall approve the alteration or modification if the proposal is found to be compatible with the character of the resource with respect to style, scale, texture and construction materials or it is found to enhance the historical value of the resource. Further, this strategy recognizes that the site and architectural modification may be necessary to preserve, protect or enhance the original historical character of the structure.*
 - iii. If there is evidence to show that the cost of repairs or restoration cost more than the value of the structure then the Planning Commission may authorize the structure to be removed and replaced with something of like value.*
 - iv. Staff shall refer to the Oregon State Historical Preservation Office data for details on locations of historical structures.*

- b. Areas of Archaeological Concern: Coos County shall continue to refrain from wide-spread dissemination of site-specific inventory information concerning identified archaeological sites. Rather, Coos County shall manage development in these areas so as to preserve their value as archaeological resources.*
 - i. This strategy shall be implemented by requiring development proposals to be accompanied by documentation that the proposed project would not adversely impact the historical and archaeological values of the project's site. "Sufficient documentation" shall be a letter from a qualified archaeologist/historian and/or a duly authorized representative of a local Indian tribe(s).*
 - ii. Properties which have been determined to have an "archaeological site" location must comply with the following steps prior to issuance of a "Zoning compliance Letter" for building and/or septic permits.*
 - 1) The County Planning Department shall make initial contact with the Tribe(s) for determination of an archaeological site(s). The following information shall be provided by the property owner/agent:*
 - a) Plot plan showing exact location of excavation, clearing, and development, and where the access to the property is located;*
 - b) Township, range, section and tax lot(s) numbers; and*
 - c) Specific directions to the property.*
 - 2) The Planning Department will forward the above information including a request for response to the appropriate tribe(s).*

- 3) *The Tribe(s) will review the proposal and respond in writing within 30 days to the Planning Department with a copy to the property owner/agent.*
 - 4) *It is the responsibility of the property owner/agent to contact the Planning Department in order to proceed in obtaining a "Zoning Compliance Letter" (ZCL) or to obtain further instruction on other issues pertaining to their request.*
- iii. *In cases where adverse impacts have been identified, then development shall only proceed if appropriate measures are taken to preserve the archaeological value of the site. "Appropriate measures" are deemed to be those, which do not compromise the integrity of remains, such as:*
- 1) *Paving over the sites;*
 - 2) *Incorporating cluster-type housing design to avoid the sensitive areas; or*
 - 3) *Contracting with a qualified archaeologist to remove and re-inter the cultural remains or burial(s) at the developer's expense. If an archaeological site is encountered in the process of development, which previously had been unknown to exist, then, these three appropriate measures shall still apply. Land development activities found to violate the intent of this strategy shall be subject to penalties prescribed by ORS 97.745 (Source: Coos Bay Plan).*
- iv. *This strategy is based on the recognition that preservation of such archaeologically sensitive areas is not only a community's social responsibility but is also a legal responsibility pursuant to Goal #5 and ORS 97.745. It also recognizes that historical and archaeological sites are non-renewable, cultural resources (Source: Coos Bay Plan).*
- c. *Botanical: Coos County shall protect sites of special botanical interest by use of appropriate zoning for the site inventoried on the Botanical Resources Map. Such significant Botanical Areas shall be preserved in their natural character, as consistent with the zoning established for the site. However, this is not meant to preclude the development of residences adjacent to the Yoakum Point Darlingtonia Bog; as otherwise allowed by the Coos County Comprehensive Plan, residences may be permitted adjacent to the bog provided care is taken during construction of such to ensure that the bog is not disturbed in any way.*
- This strategy recognizes the value of Significant Botanic Areas, and also that residential development can occur in a compatible way with the Yoakum Point Darlingtonia Bog.*
- d. *Geological Sites: Coos County shall protect the Geologic Sites inventories on the Geologic Resources Map through appropriate zoning that preserves the sites in their natural character. Appropriate zoning (as designated on the Official Zoning Map) and public ownership of the sites ensures that the sites will be preserved in their natural character. This strategy recognizes the value of inventoried Geologic Sites.*

Findings: Coos County has provided notice to both local Tribes with a request for comments. There are no county inventoried historical, archaeological, botanical or geological resources but this is in an area of interest to the local tribes. This is why notice was provided with a chance for comment. The applicant has provided evidence to show they have an agreement with the tribe to provide for protections in the event that any unanticipated or unknown historical or cultural resources are found. There have been no comments received.

4. Beaches and Dunes (Policy 5.10)

The Beaches and Dunes map has inventoried the following:

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

Purpose Statement:

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

- a. *Limited Suitability: "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding.*

The measures prescribed in this policy are specifically required by Statewide Planning Goal #18 for the above-referenced dune forms; and that this strategy recognizes that designated mitigation sites must be protected from other uses.

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

- i. *Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" only upon the establishment of findings that consider at least:*
 - a) *The type of use proposed and the adverse effects it might have on the site and adjacent areas;*
 - b) *The need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;*
 - c) *The need for methods for protecting the surrounding area from any adverse effects of the development; and*
 - d) *Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.*
- ii. *Further, Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown, which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies. Coos County shall cooperate with state and federal agencies in regulating the following actions in the beach and dune areas with limited development potential:*
 - a) *Destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage);*
 - b) *The exposure of stable and conditionally stable areas to erosion;*

- c) *Construction of shore structures which modify current air wave patterns leading to beach erosion; and*
 - d) *Any other development actions with potential adverse impacts.*
- b. *Unsuitable: Coos County shall prohibit residential development and commercial and industrial buildings within areas designated as "Beach and Dune Areas Unsuitable for Development". The "Beach and dune Areas Unsuitable for Development" includes: active foredunes; other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping; and interdune areas (deflation plains) that are subject to ocean flooding.*

The measures prescribed in this policy are specifically required by Statewide Planning Goal #18 for the above referenced dune forms, and that is important to ensure that development in sensitive beach and dune areas is compatible with or can be made compatible with, the fragile and hazardous conditions common to such areas.

Implementation shall occur through an Administrative Conditional Use process, which shall include submission of a site investigation report by a registered civil engineer or geologist that addresses this subsection. Coos County shall permit other developments in these areas only:

- i. *When specific findings have been made that consider at least:*
 - a) *the type of use proposed and the adverse effects it might have on the site and adjacent areas;*
 - b) *the need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;*
 - c) *the need for methods for protecting the surrounding area from any adverse effects of the development, and*
 - d) *hazards to life, public and private property, and the natural environment, which may be caused by the proposed use, and*
- ii. *When it is demonstrated that the proposed 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, and*
- iii. *When breaching of foredunes is contemplated the following specific criteria has to be addressed:*
 - a) *the breaching and restoration is consistent with sound principles of conservation, and either*
 - b) *the breaching is necessary to replenish sand supply in interdune areas, or*
 - c) *the breaching is done on a temporary basis in an emergency (e.g., fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards).*
- iv. *Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies. Coos County shall cooperate with state and federal agencies in regulating the following actions in the beach and dune areas with limited development potential:*
 - a) *Destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage);*
 - b) *The exposure of stable and conditionally stable areas to erosion;*

- c) *Construction of shore structures which modify current air wave patterns leading to beach erosion; and*
- d) *Any other development actions with potential adverse impacts.*

Finding: The Balance of County inventory map does not show the IND portion of the property within the Beach and Dunes.

5. Non-Estuarine Shoreland Boundary (Balance of County Policy 5.10)

The Coastal Shoreland Boundary map has inventoried the following:

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

Purpose Statement:

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

Coos County shall consider:

- i. *"Major marshes" to include certain extensive marshes associated with dune lakes in the Oregon Dunes National Recreation Area and wetlands associated with New River as identified in the Inventory text and maps, and on the Special Considerations Map;*
 - ii. *"Significant wildlife habitat" to include "sensitive big-game range", Snowy Plover nesting areas, Bald Eagle, and Osprey nesting areas, Salmonid spawning and rearing areas, and wetlands;*
 - iii. *"Coastal headlands" to include Yoakum Point, Gregory Point, Shore Acres, Cape Arago south to Three-Mile Creek, Five Mile Point, and Coquille Point;*
 - iv. *"Exceptional resources Aesthetic or Scenic Quality" to include the coastal headlands identified above, and other areas identified in the Coastal Shorelands Inventory Map; and*
 - v. *"Historical, cultural and archaeological sites" to include those identified in the Historical, Cultural and Archaeological Sites Inventory and Assessment.*
- a. *Uses allowed within the Coastal Shoreland Boundary: This strategy recognizes: (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration;*

and (2) that Statewide Planning Goal #17 places strict limitations on land divisions within coastal shorelands.

- i. *Uses within the Coastal Shoreland Boundary: Coos County shall manage its rural areas within the "Coastal Shorelands Boundary" of the ocean, coastal lakes and minor estuaries through implementing ordinance measures that allow the following uses:*
 - a) *Farm uses as provided in ORS 215;*
 - b) *Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act.*
 - c) *private and public water dependent recreation developments;*
 - d) *aquaculture;*
 - e) *water-dependent commercial and industrial uses and water-related uses are allowed only upon finding by the Board of Commissioners that such uses satisfy a need, which cannot otherwise be accommodated on shorelands in urban and urbanizable areas;*
 - f) *single family residences on existing lots, parcels, or units of land when compatible with the objectives and implementation standards of the Coastal Shorelands goal, and as otherwise permitted by the underlying zone; or*
 - g) *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 Statewide Planning Goal #17 to protect riparian vegetation and wildlife habitat;*
 - c. *The "other" use complies with the implementation standard of the underlying zone designation; and*
 - d. *In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.*
- ii. *A site plan and design review is only necessary when required in Coos County Comprehensive Plan Volume I Part 3 § 3.5: Structures associated with the above uses, with the exception of farm and forest uses, shall only be permitted after an Administrative Conditional Use Review or higher review addressing the criteria and requirements of this subsection below and upon a finding that such uses do not otherwise conflict with the Special Development Considerations and Overlay Zones found in this Ordinance.*
 - a) *Site Review and Approval Criteria.*

Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents as approved.

Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the purpose and objectives of this section. Proposed "substantial changes" shall be submitted to the Planning Director for approval.

All variances from the site development criteria which are deemed necessary by the applicant shall be requested pursuant to ARTICLE 5.3.

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 for this review:

1. Landscaping

- a. The landscape shall be such to minimize soil erosion and lessen the visual impact;
- b. Any grade changes shall be in keeping with the general appearance of neighboring developed 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;
- 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.

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 and must comply with the standards found in Chapter VII. The Roadmaster is responsible for determining compliance with this subsection.

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 properties, the public storm drainage system, or create environmental problems.

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.

b) Application Submittal and Review Procedure.

1. Submission of Documents - A prospective applicant for a building or other permit who is subject to site design review shall submit the following to the County Planning Director:

- a. A site plan, drawn to scale, shows the proposed layout of all structures and other improvements;
- b. A landscape plan, drawn to scale, showing the location of existing trees proposed to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials;
- c. Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction;
- d. Specifications as to type, color and texture of exterior surfaces of proposed structures including reflective surfaces of solar collectors;
- e. An application request which shall include:
 - 1) Name and address of applicant;

- 2) *Statement of applicant's legal interest in the property (owner, contract purchaser, lessee, renter, etc.) and a description of that interest, and in case the applicant is not the owner, verification of the owner's consent;*
 - 3) *Address and legal description of the property;*
 - 4) *Statement explaining the intended request;*
 - 5) *The required fee; and*
 - 6) *Any other materials or information as may be deemed necessary to assist in evaluation of the request. The request will be made prior to deeming the application complete. However, if this review is before the hearings body they may request for additional information to ensure compliance.*
2. *Threshold Standard. The Planning Director has the discretion to waive part or all of the site plan requirements if, in the Director's judgment, the proposed development is "de minimis" in extent to the existing development.*
- b. *Land Divisions within the Coastal Shoreland Boundary: This strategy recognizes that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration under Statewide Planning Goal #17. Coos County shall permit subdivisions and partitions within the "Coastal Shorelands Boundary" of the ocean, coastal lakes or minor estuaries in rural areas only upon finding by the governing body:*
- i. *That such land divisions will not conflict with agriculture and forest policies and ordinance provisions of the Coos County Comprehensive Plan and would be compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife and either;*
 - ii. *That the new land divisions fulfill a need that cannot otherwise be accommodated in other uplands or in urban and urbanizable areas;*
 - iii. *That the new land divisions are in a documented area, "committed" area; or*
 - iv. *That the new land divisions have been justified through a goal exception.*
- c. *Coastal Lakes and Minor Estuary Coastal Shorelands: Coos County shall consider the following general priorities for the overall use of ocean, coastal lake or minor estuary coastal shorelands (from highest to lowest):*
- i. *promote uses, which maintain the integrity of estuaries and coastal waters;*
 - ii. *provide for water-dependent uses;*
 - iii. *provide for water-related uses;*
 - iv. *provide for nondependent, nonrelated uses, which retain flexibility of future use and do not prematurely or inalterably commit shorelands to more intensive uses;*
 - v. *provide for development, including nondependent, nonrelated uses, in urban areas compatible with existing or committed uses;*
 - vi. *permit nondependent, nonrelated uses, which cause a permanent or long-term change in the features of coastal shorelands only upon a demonstration of public need.*

In addition, priority uses for flood hazard and floodplain areas shall include agriculture, forestry, recreation and open space uses, which are water-dependent. This strategy shall serve as a guide when evaluating discretionary zoning and land development actions. This strategy recognizes Statewide Planning Goal #17 requirements.

- d. *Non-structural solutions for erosion control: Coos County shall prefer non-structural solutions to problems of erosion and flooding to structural solutions in ocean, coastal lake or minor estuary shorelands. Where shown to be necessary, water and erosion control structures, such as jetties, bulkheads, seawalls, and similar protective structures and fill shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns. Implementation of this strategy shall occur through county review of and comment on state and federal permit applications for such projects. This strategy is based on the recognition that non-structural solutions are often more cost-effective as corrective measures but that carefully designed structural solutions are occasionally necessary.*
- e. *Riparian vegetation in Coastal Shoreland Boundary: Maintain, restore or enhancing riparian vegetation as consistent with water dependent uses requires a conditional use. Coos County shall maintain riparian vegetation within the shorelands of the ocean, coastal lakes, and minor estuaries, and when appropriate, restore or enhance it, as consistent with water-dependent uses. Variances to riparian vegetation setback shall not be permitted within the CSB unless it is to allow for a water dependent use as permitted by the zoning. If a property owner would like to remove vegetation in the Coastal Shoreland Boundary then a conditional use is required. The Planning Department will request comments from ODFW and DEQ regarding water quality and fish habitat. An applicant may provide reports from a qualified biologist.*

Timber harvest, if permitted in the zoning ordinance, shall be regulated by the Oregon Forest Practices Act. Where the County's Comprehensive Plan identifies riparian vegetation on lands in the coastal shorelands subject to forest operations governed by the FPA, the Act and Forest Practices Rules administered by the Department of Forestry will be used in such a manner as to maintain, and where appropriate, restore and enhance riparian vegetation. This strategy shall be implemented by County review of and comment on state permit applications for waterfront development.

This strategy is based on the recognition that prohibiting excessive removal of vegetative cover is necessary to stabilize the shoreline and, for coastal lakes and minor estuaries, to maintain water quality and temperature necessary for the maintenance of fish habitat.

Findings: The industrial area lies outside of the Coastal Shoreland Boundary. Therefore, this criterion does not apply.

6. Significant Wildlife Habitat (Balance of County Policy 5.6)

The Fish & Wildlife Habitat Map I (1985 Ordinance 85-08-011L) has inventoried the following:

- Anadromous¹ fish distribution (Salmon, Steelhead and Cutthroat Trout)
- 1-B Resources pursuant to OAR 660-16-000(5)(b)
 - Spotted Owl Habitat
 - Osprey Nest Site
 - Pigeon Spring

¹ An *anadromous fish*, born in fresh water, spends most of its life in the sea and returns to fresh water to spawn.

- 1-C Resources pursuant to OAR 660-16-000(5)(c)
 - Pigeon Spring
 - Bald Eagle Nest Sites
 - Blue Heron Nest Site

The Fish & Wildlife Habitat Map II has inventoried the following:

- Big Game Range (Elk & Deer)
 - Impacted – Limited or no Habitat Value
 - Peripheral – Supports Substantial Populations but habitat value is lessened by development
 - Sensitive – Supports majority of Big Game
- Western Limit of Elk Range
- Wetlands
 - Wetlands – Lands with hydric² soils and wetland plants
 - Wet Meadows in current agricultural use
 - Cranberry Bogs
 - Farm Ponds, Mill Ponds and Other Man-Made Water Bodies
 - Wetlands Formerly in Agricultural use; Potential Reclamation

The following shall be considered “5c” Goal #5 resources (pursuant to OAR 660-16-000) the following:

- "Sensitive Big-game Range"
- Salmonid Spawning and Rearing Areas
- Bird Habitat Sites (listed in the following table)

The following bird habitat areas that are considered Goal #5 "5c" resources:

	Township	Location Range	Section	Area
Bald Eagle Nests	23S	13W	23	(Tenmile)
	23S	11W	05	(Big Creek)
	23S	12W	21	(Willow Point)
	24S	12W	04	(Palouse)
	24S	13W	36	(Mettman)
	25S	11W	29	(Bessy Cr.)
	25S	11W	33	(Dellwood)
	25S	11W	22	(Rachel Cr.)
	25S	11W	32	(Morgan Ridge)
	26S	14W	14	(So. Slough)
	27S	13W	09	
	28S	10W	09	(Brewster Gorge)
	31S	12W	16	(Baker Creek)
	29S	14W	31	(Twomile Creek)

² *Hydric soil* is soil which is permanently or seasonally saturated by water, resulting in anaerobic conditions, as found in wetlands.

	28S	14W	11 (Randolph)
Great Blue Heron Colonies	24S	13W	27 SW¼
	25S	14W	24 SE¼
	23S	13W	26 (Saunders Lake)
	24S	13W	23 (North Bay)
	25S	11W	15 (Weyerhaeuser)
	25S	12W	31 NW¼ (Catching Slough)
	25S	14W	24 (North Spit)
	26S	14W	11 (So. Slough)
	25S	13W	24
	26S	14W	14NE¼ , SE¼
	27S	14W	35 SE½ ,NW¼ (Sevenmile)
	26S	14W	14 NW¼
	30S	15W	15 (Muddy Lake)
	23S	12W	28 (Templeton Arm)
Band-Tailed Pigeon Mineral Springs	24S	13W	24&25 (Haynes)
	25S	13W	24 (Cooston)
	26S	13W	01
	28S	14W	10 (Prosper)
	29S	11W	26
	29S	11W	35 (Blueslide)
	29S	11W	36 (Rock Quarry)

Uses and activities deemed compatible with the objective of providing adequate protection for all identified Statewide Planning Goal 5 resources are all uses and activities allowed, or conditionally allowed by the Zoning and Land Development Ordinance, except that special care must be taken when developing property adjacent to salmonid spawning and rearing areas so as to avoid to the greatest practical extent the unnecessary destruction of riparian vegetation that may exist along stream banks. The Oregon Forest Practices Act is deemed adequate protection against adverse impacts from timber management practices.

a. 5c Bird Sites protection shall be implemented by:

- i. County reliance upon the Oregon Department of Forestry and Oregon Department of fish and Wildlife insuring adequate protection of "5c" bird sites from possible adverse impacts of timber management practices thru the Forest Practices Act;*
- ii. Use of the Fish and Wildlife Plan Maps and detailed inventories above to identify "5c" bird sites subject to special protection;*
- iii. For "5c" bird site protection, stipulating in the Zoning and Land Development Ordinance that conflicting uses shall be reviewed by the Oregon Department of Fish and Wildlife to determine that any proposed use is not expected to produce significant and unacceptable environmental impacts on any of the "5c" bird sites; and*
- iv. Stipulating on County Zoning Clearance Letters that establishment of conflicting uses adjacent to "5c" bird sites shall be permitted only pursuant to the provisions of this policy.*
- v. Coos County shall require a location map for any development activity with the exception of grazing within its regulatory scope that is determined to be within a "5c" bird habitat.*

The location map shall be referred to the Oregon Department of Fish and Wildlife requesting an opinion within 10 days as to whether the development is likely to produce significant and unacceptable impacts upon the "5c" resource, and what safeguards it would recommend to protect the resource. If ODFW's determinations the development will impact the "5c" bird habitat a conditional use will be required by the applicant. ODFW's and the applicants findings will be reviewed based upon sound principles of conservation and appropriate balancing of the ESEE consequences so if conflicting uses are allowed the resource site is protected to some extent. The ACU will be processed pursuant to Article 5.0. If ODFW's determination does not show any impacts then a zoning compliance letter may be issued if the use is permitted or has completed a conditional use process.

b. *5b Bird Sites protection shall consider the following to be "5b" resources, pursuant to the inventory information available in this Plan and OAR 660-16-000(5)(b):*

- *Osprey Nesting Sites*
- *Snowy Plover Habitat (outside the CREMP)*
- *Spotted Owl Nesting Sites*

This policy recognizes the requirements of OAR 660-16. Coos County's Planning Staff is unable to perform ground verification; therefore, the County relies on ODFW for the applicable information.

Coos County shall require a location map for any development activity with the exception of grazing within its regulatory scope that is determined to be within a "5b" bird habitat. The location map shall be referred to the Oregon Department of Fish and Wildlife requesting an opinion as to whether the development is likely to produce significant and unacceptable impacts upon the "5b" resource. Oregon Department of Fish and Wildlife staff shall respond prior to any development.

c. **BIG GAME RESOURCES AND HABITAT**

Roosevelt elk, black-tailed deer, black bear and cougar are the big game species found in Coos County. Their estimated populations are given below:

<i>Estimated big game population in Coos County, 1976³</i>	
<i>Species</i>	<i>Estimated Population</i>
<i>Roosevelt Elk</i>	<i>4,953</i>
<i>Black-tailed Deer</i>	<i>10,632</i>
<i>Black Bear</i>	<i>1,066</i>
<i>Cougar</i>	<i>43</i>

The sensitive areas are entirely on the forestlands in the County, and there is no development in these areas. Peripheral areas have value as deer and elk habitat, but the wildlife value of these areas is reduced because of the density of existing development. The habitat value of impacted areas is limited or non-existent for big game because the density of development is too great. ODFW has recommended that residential development be kept to a general minimum of one dwelling per 80 acres in areas identified as sensitive big game range. ODFW intends that these recommended minimum densities be applied over a broad area. A location map shall be provided to the Oregon Department of Fish and Wildlife requesting

³ William W. Mines and Peter E. Perrin, Oregon Department of Fish and Wildlife, "Wildlife Protection Plan for Coos County" (1972), p.2

an opinion within 10 days as to whether the development is likely to produce significant and unacceptable impacts to the resource, and what safeguards it would recommend to protect the resource. This does not require a conditional use.

Findings: The proposed project and request for approval does not propose any uses or activities in sensitive big-game, bird habitat or salmonid spawning or rearing areas.

7. Natural Hazards (Balance of County Policy 5.11)

*The Natural Hazards map has inventoried the following **hazards**:*

- *Flood Hazard*
 - *Riverine flooding*
 - *Coastal flooding*
- *Landslides*
- *Earthquakes*
 - *Liquefaction potential*
 - *Fault lines*
- *Tsunamis*
- *Erosion*
 - *Riverine streambank erosion*
 - *Coastal*
 - *Shoreline and headlands*
 - *Wind*
- *Wildfire*
 - *High wildfire hazard*
 - *Gorse fire*

Purpose Statements:

Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property. Coos County considers natural disasters and hazards to include river and coastal flooding, landslides, liquefaction potential due to earthquakes, fault lines, tsunamis, river bank erosion, coastal erosion along shorelines and headlands, coastal erosion due to wind, and wildfires, including those areas affected by gorse.

This strategy shall be implemented by enacting special protective measures through zoning and other implementing devices, designed to minimize risks to life and property associated with new development. The determination of whether a property is located in one of the above referenced potentially hazardous areas shall be made by the reviewing body (Planning Director, Planning Commission, Board of Commissioners, or any designee based upon adopted inventory mapping). A specific site may not include the characteristics for which it is mapped. In these circumstances staff shall apply § 5.11.100.2.c.

Hazard review shall not be considered applicable to any application that has received approval and requesting an extension to that approval or any application that was deemed completed as of the date this ordinance effective (July 31, 2017). If a land use authorization has expired the applicant will be required to address any applicable hazards.

- a. *Flooding: Coos County shall promote protection of valued property from risks associated with river and coastal flooding along waterways in the County through the establishment of a floodplain overlay zone (/FP). See Sections 4.11.211-257 for the requirements of this overlay zone.*
- b. *Landslides: Areas subject to landslides (mass movement) include active landslides, inactive landslides, earth flow and slump topography, and rockfall and debris flow terrain as identified on the*

2015 Coos County Comprehensive Plan Hazards Map (mapped as the very high-existing landslides).

Coos County shall permit the construction of new structures in an inventoried Landslide hazard area (earth flow/slump topography/rock fall/debris flow) through a conditional use process subject to a geological assessment review as set out in Article 5.11.

- c. Tsunamis: Coos County shall promote increased resilience to a potentially catastrophic Cascadia Subduction Zone (CSZ) tsunami through the establishment of a Tsunami Hazard Overlay Zone (THO) in the Balance of County Zoning. See Sections 4.11.260-4.11.270 for the requirements of this overlay zone.*
- d. Earthquakes: Areas subject to earthquakes include fault lines and liquefaction potential, as identified on the 2015 Coos County Comprehensive Plan Natural Hazards Map.*

Coos County shall permit the construction of new structures in known areas potentially subject to earthquakes (fault line and liquefaction potential) through a conditional use process subject to a geologic assessment review as set out in Article 5.11. Coos County shall support Oregon State Building Codes to enforce any structural requirements related to earthquakes. Staff will notify Oregon State Building Codes by providing a copy of the geologic assessment report at the time of review.

- e. Erosion: Coos County shall promote protection of property from risks associated with shoreline, headland, and wind erosion/deposition erosion hazards.*

Coos County shall promote protection of property from risks associated with bank erosion along rivers and streams through necessary erosion-control and stabilization measures, preferring non-structural solutions when practical.

Any proposed structural development within a wind erosion/deposition area, within 100 feet of a designated bank erosion area, or on a parcel subject to wave attack, including all oceanfront lots, will be subject to a geologic assessment review as set out in Article 5.11.

- f. Wildfires: Coos County shall promote protection of property from risks associated with wildfires and gorse fires by requiring all new dwellings, permanent structures, and replacement dwellings and structures shall, at a minimum, meet the following standards on every parcel designated or partially designated as at-risk of fire hazard on the 2015 Coos County Comprehensive Plan Natural Hazards Map:*

- 1. The dwelling shall be located within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district or is provided fire protection by contract.*
- 2. When it is determined that these standards are impractical the Planning Director may authorize alternative forms of fire protection that shall comply with the following:*
 - a. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions, as established by credible documentation approved in writing by the Director;*
 - b. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons per dwelling or a stream that has a continuous year round flow of at least one cubic foot per second per dwelling;*
 - c. The applicant shall provide verification from the Water Resources Department that*

- any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and*
- d. *Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.*

3. *Fire Siting Standards for New Dwellings:*

- a. *The property owner shall provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free building setback.*
- b. *If another water supply (such as a swimming pool, pond, stream, or lake) is nearby, available, and suitable for fire protection, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.*

4. *Firebreak:*

- a. *A firebreak shall be established and maintained around all structures, including decks, for a distance of at least 30 feet in all directions.*
- b. *This firebreak will be a primary safety zone around all structures. Vegetation within this primary safety zone may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees.*
- c. *Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.*
- d. *The owners of the dwelling shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1.*

Table 1 – Minimum Primary Safety Zone

<i>Slope</i>	<i>Feet of Primary Safety Zone</i>	<i>Feet of Additional Primary Safety Zone Down Slope</i>
<i>0%</i>	<i>30</i>	<i>0</i>
<i>10%</i>	<i>30</i>	<i>50</i>
<i>20%</i>	<i>30</i>	<i>75</i>
<i>25%</i>	<i>30</i>	<i>100</i>
<i>40%</i>	<i>30</i>	<i>150</i>

- a. *All new and replacement structures shall use non-combustible or fire resistant roofing materials, as may be approved by the certified official responsible for the building permit.*
- b. *If a water supply exceeding 4,000 gallons is suitable and available (within 100 feet of*

the driveway or road) for fire suppression, then road access and turning space shall be provided for fire protection pumping units to the source during fire season. This includes water supplies such as a swimming pool, tank or natural water supply (e.g. pond).

- c. The structure shall not be sited on a slope of greater than 40 percent.*
- d. If the structure has a chimney or chimneys, each chimney shall have a spark arrester.*
- e. Except for private roads and bridges accessing only commercial forest uses, public roads, bridges, private roads, and driveways shall be constructed so as to provide adequate access for firefighting equipment. Confirmation shall be provided from the Coos County Road Department or local fire protection district that these standards have been met.*

- 5. Wildfires inside urban growth boundaries. Certain areas inside urban growth boundaries may present special risks and may be made subject to additional or different standards and requirements jointly adopted by a city and the county in the form of code requirements, master plans, annexation plans, or other means.*

FINDINGS: Staff addressed the hazards in order below.

The applicant addressed the floodplain but staff does not discuss until the next section.

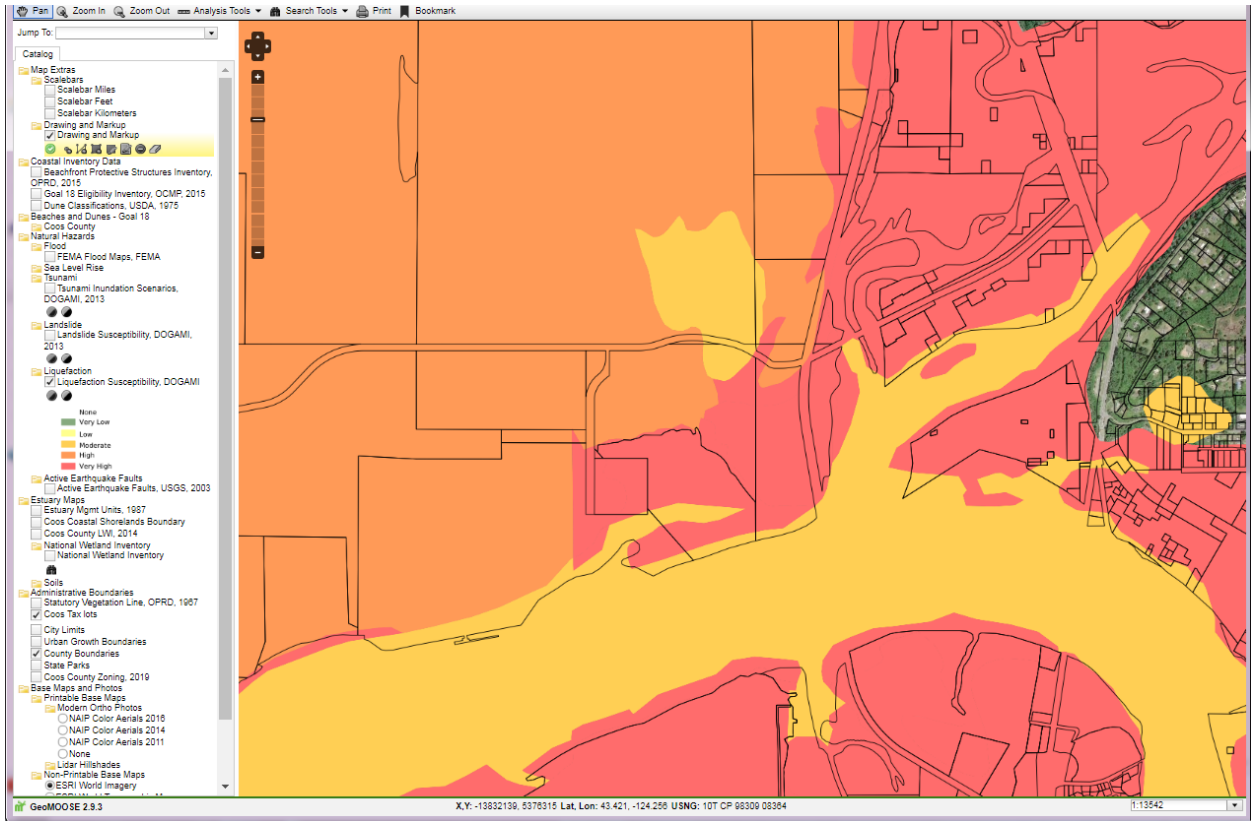
None of the IND Zone Proposals crosses any area that the County's Natural Hazards Map designates as "Very High - Existing Landslide." Therefore, this criterion does not apply to the IND Zone Proposals.

None of the IND Zone Proposals crosses any area that the County's Natural Hazards Map identifies as an area subject to earthquakes. Therefore, this criterion does not apply to the IND Zone Proposals.

None of the IND Zone Proposals are within a wind erosion/deposition area or within 100 feet of a designated bank erosion area, or on a parcel subject to wave attack. Therefore, this criterion does not apply to the IND Zone Proposals.

The properties are not identified as a wildfire hazard area that requires additional protections.

Some of the project is within the High and Very High Liquefaction area and mapped Tsunami overlay. Coos County amended the Coos County Comprehensive Plan and Implementing Ordinance to include earthquake hazards and tsunami overlays in 2015 to include the Balance of County zoning. In the Coos County Comprehensive Plan (CCCP) there are two different types of earthquake hazards – Fault Lines and Liquefaction. There are no mapped fault lines on the properties but it is mapped in the liquefaction area regulated as shown on the map below. The applicant is required to address Section 5.11 as part of the review; however, Staff is unable to confirm this was completed. Therefore, the applicant will need to address this portion for the industrial areas within the mapped area.



OVERLAY ZONE:

SECTION 4.11.200 Purpose:

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

OVERLAY ZONE: FLOODPLAIN

DESIGNATION: /FP

SECTION 4.11.211 AUTHORIZATION

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

SECTION 4.11.212 FINDINGS OF FACT

- 1. The flood hazard areas of Coos County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.*
- 2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.*

SECTION 4.11.213 STATEMENT OF PURPOSE

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

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

SECTION 4.11.214 METHODS OF REDUCING FLOOD LOSSES

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

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

SECTION 4.11.220 DEFINITIONS

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

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

mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

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

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

SECTION 4.11.231 LANDS TO WHICH THIS OVERLAY ZONE APPLIES

This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of Coos County that have been identified on the Flood Insurance Maps dated March 17, 2014 as described in Section 4.11.232.

SECTION 4.11.232 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

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

SECTION 4.11.233 INTERPRETATION

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

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

SECTION 4.11.234 WARNING AND DISCLAIMER OF LIABILITY

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

SECTION 4.11.235 ESTABLISHMENT OF DEVELOPMENT PERMIT

1. Floodplain Application Required

A floodplain application shall be submitted and approved before construction or regulated development begins within any area of special flood hazard established in Section 4.11.232. The permit shall be for all structures including manufactured homes, as set forth in the “DEFINITIONS,” and for all development including fill and other activities, also as set forth in the “DEFINITIONS.”

2. Application

An application shall be made on the forms furnished by the Planning Department and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage

of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

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

SECTION 4.11.242 DESIGNATION OF THE LOCAL ADMINISTRATOR

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

SECTION 4.11.243 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

1. Application Review
 - a. Reviews all applications to determine that the floodplain requirements of this Ordinance have been satisfied.
 - b. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334
 - c. Review all requested development to determine if it is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 4.11.254 are met.
2. Use of Other Base Flood Data (In A and V Zones)

When base flood elevation data has not been provided (A and V Zones) in accordance with Section 4.11.232, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 4.11.252, SPECIFIC STANDARDS, and 4.11.254 FLOODWAYS.
3. Information to be Obtained and Maintained
 - a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.11.243(2), obtain and record the actual elevation (in relation

- to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.11.243(2):
 - i. Verify and record the actual elevation (in relation to mean seal level); and
 - ii. Maintain the floodproofing certifications required in Section 4.11.24135(2)(c).
 - c. Maintain for public inspection all records pertaining to the provisions of this ordinance.
4. Alteration of Watercourses
- a. Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance & Mitigation Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Requirement to Submit New Technical Data
- a. ~~Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.~~
 - b. The property owner shall be responsible for preparing the technical and scientific data required by FEMA under paragraph (5)(a) of this section, and for paying any processing or application fees associated with FEMA's review of the submitted data.
 - c. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.
6. Interpretation of FIRM Boundaries
- The Floodplain Administrator shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.11.244.

SECTION 4.11.244 VARIANCE PROCEDURE

The variance procedures discussed in this section only apply to variance of floodplain standards and do not extend to other variance requests.

1. Appeal Board
 - a. In the case of an appeal the process under Section 5.8 shall apply.
 - b. The hearings body reviewing the appeal shall consider if there is an error in any requirement, decision, or determination made by the county in the enforcement or administration of this ordinance.

- c. *In passing upon such applications, the hearings body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:*
 - i. *The danger that materials may be swept onto other lands to the injury of others;*
 - ii. *The danger to life and property due to flooding or erosion damage;*
 - iii. *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;*
 - iv. *The importance of the services provided by the proposed facility to the community;*
 - v. *The necessity to the facility of a waterfront location, where applicable;*
 - vi. *The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;*
 - vii. *The compatibility of the proposed use with existing and anticipated development;*
 - viii. *The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;*
 - ix. *The safety of access to the property in times of flood for ordinary and emergency vehicles;*
 - x. *The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and*
 - xi. *The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.*
- d. *Upon consideration of the factors of Section 4.11.244(1)(c) and the purposes of this ordinance, the Planning Commission or Board of Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.*
- e. *The local floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance & Mitigation Administration upon request.*

2. Conditions for Variances

This variance language only applies to variance for floodplain standards and does not extend to other type of variance requests.

- a. *Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.11.244(1)(c) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.*
- b. *Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.*
- c. *Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.*
- d. *Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
- e. *Variances shall only be issued upon:*
 - i. *A showing of good and sufficient cause;*
 - ii. *A determination that failure to grant the variance would result in exceptional hardship to the applicant; and*
 - iii. *A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create*

nuisances, cause fraud on or victimization of the public as identified in Section 4.11.244(1)(c), or conflict with existing local laws or ordinances.

- f. Variances, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.*
- g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 4.11.244(2)(a), and otherwise complies with Sections 4.11.251(1-3) of the GENERAL STANDARDS.*
- h. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.*

SECTION 4.11.251 GENERAL STANDARDS

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

1. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure; and*
- b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).*

2. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;*
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and*
- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

3. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;*
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and*
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.*

4. Land Divisions Proposals

- a. All land division proposals shall be consistent with the need to minimize flood damage;*

- b. *All land division proposals that are proposing public utilities and facilities such as sewer, gas, electrical, and water systems shall be required to locate and construct them to minimize or eliminate flood damage;*
- c. *All land division proposals that consist of three or more lots shall have adequate drainage provided to reduce exposure to flood damage; and*
- d. *Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).*

5. *Review of Applications*

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source [Section 4.11.243(2)], applications for structural development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

6. *AH Zone Drainage*

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

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

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

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

8. *COMMUNITY OFFICIAL BASE FLOOD ELEVATION DETERMINATION REQUEST AND PROCEDURES:* *The Coos County Planning Department shall sign a community official base flood elevation (BFE) confirmation received from a mortgage insurance company if:*

- a. *The development is located outside of the mapped flood hazard area;*
- b. *A Letter of Map Revision or Amendment has been approved by FEMA; or*
- c. *The property has an approved flood hazard determination application that shows the development was built to flood proofing standards or is located above the base flood elevation.*

If the development is located within the mapped flood hazard area and there is not a flood hazard determination on file with the Coos County Planning Department a confirmation letter will not be signed until a flood hazard application has been approved as complying with Sections 4.11.211 through 4.11.252.

SECTION 4.11.252 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 4.11.232, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.11.243(2), Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

1. Residential Construction

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation; and*
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;*
 - ii. The bottom of all openings shall be no higher than one foot above grade; and*
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.**

2. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;*
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;*
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.11.243(3)(b);*
- d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 4.11.252(1)(b);*
- e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below);*
- f. Applicants shall supply a comprehensive Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure; and*
- g. Applicants shall supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.*

3. Manufactured Dwellings

- a. Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 4.11.252(1)(b) above;*
- b. The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE;*

- c. *The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques); and*
- d. *Electrical crossover connections shall be a minimum of 12 inches above BFE.*

4. Recreational Vehicles

Recreational vehicles placed on sites are required to:

- a. *Be on the site for fewer than 180 consecutive days; and*
- b. *Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or*
- c. *Meet the requirements of Section 4.11.252(3) above and the elevation and anchoring requirements for manufactured homes.*

5. Small Accessory Structures

Relief from elevation or floodproofing as required in Section 4.11.252(1) or 4.11.252(2) above may be granted for small accessory structures that are:

- a. *Less than 200 square feet and do not exceed one story;*
- b. *Not temperature controlled;*
- c. *Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;*
- d. *Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank, that is installed in compliance with this ordinance or stored at least one foot above Base Flood Elevation;*
- e. *Located and constructed to have low damage potential;*
- f. *Constructed with materials resistant to flood damage;*
- g. *Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;*
- h. *Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or:*
 - i. *provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;*
 - ii. *the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;*
 - iii. *openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention; and*
- i. *Constructed with electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.*

6. Below-Grade Crawlspace

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:

- a. *The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because*

of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas;

- b. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade;*
- c. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE;*
- d. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters;*
- e. The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade;*
- f. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas;*
- g. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means; and*
- h. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.*

For more detailed information refer to FEMA Technical Bulletin 11-01.

SECTION 4.11.253 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

SECTION 4.11.254 FLOODWAY

Located within areas of special flood hazard established in Section 4.11.232 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1. Except as provided in paragraph (3), prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses*

- performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;*
2. *If Section 4.11.254(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4.11.251 et seq;*
 3. **RESERVED**
 4. *Temporary structures placed in the floodway: Relief from no-rise evaluation, elevation or dry flood-proofing standards may be granted for a non-residential structure placed during the dry season (June – October) and for a period of less than ninety (90) days. A plan for the removal of the temporary structure after the dry season or when a flood event threatens shall be provided. The plan shall include disconnecting and protecting from water infiltration and damage all utilities servicing the temporary structure; and*
 5. *Temporary storage of goods and materials, not including hazardous materials, is allowed in the floodway for a period of less than ninety (90) days within the dry season (June – October).*

SECTION 4.11.255 STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

1. *New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified);*
2. *New construction and substantial improvements of nonresidential structures within AO zones shall either:*
 - a. *Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or*
 - b. *Together with attendant utility and sanitary facilities, be completely Flood Proofed to or above that level, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 4.11.252(2)(c).*
3. *Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; and*
4. *Recreational vehicles placed on sites within AO Zones on the community's FIRM either:*
 - a. *Be on the site for fewer than 180 consecutive days; and*
 - b. *Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or*
 - c. *Meet the requirements of Section 4.11.255 above and the elevation and anchoring requirements for manufactured homes.*

SECTION 4.11.256 COASTAL HIGH HAZARD AREAS

Located within areas of special flood hazard established in Section 4.11.232 are Coastal High Hazard Areas, designated as Zones VI-V30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this ordinance and state building code, the following provisions shall also apply:

1. *All new construction and substantial improvements in Zones VI-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:*
 - a. *The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and*

- b. *The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in and given year (100-year mean recurrence interval);*
- 2. *A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of 1 (a) and (b) of this section;*
- 3. *Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information;*
- 4. *All new construction shall be located landward of the reach of mean high tide;*
- 5. *Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:*
 - a. *Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and*
 - b. *The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).*
- 6. *If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation;*
- 7. *Prohibit man-made alteration of sand dunes which would increase potential flood damage;*
- 8. *The use of fill for structural support of buildings is prohibited.*
- 9. *All manufactured homes to be placed or substantially improved within Zones V1-V30, V, and VE on the community's FIRM on sites:*
 - a. *Outside of a manufactured home park or subdivision;*
 - b. *In a new manufactured home park or subdivision;*
 - c. *In an expansion to an existing manufactured home park or subdivision; or*
 - d. *In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; meet the standards of paragraphs 5.6(1) through (8) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the FIRM meet the requirements of Section 5.2-3.*
- 10. *Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either:*
 - a. *Be on the site for fewer than 180 consecutive days, if permitted by the zoning district; and*

- b. *Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or*
- c. *Meet the requirements of Section 4.11.241(1) Permitting requirements and paragraphs (1) through (9) of this section.*

SECTION 4.11.257 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent practicable, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain).

Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available, taking into account cost and practicability. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Findings: Several proposals in this Application are subject to CBEMP Policy #27, which subjects proposals in the CBEMP zones to the Floodplain Overlay. Of those proposals, only the pile dike rock apron in the 5-WD zone and the shoreline stabilization in the 5-WD zone is within a 100- year floodplain (outside the “X” flood zone), and accordingly, only these proposals require a floodplain development permit. These are not structural and any criteria that references structures are not applicable to the request. The applicant states that the pile dike rock apron and shoreline stabilization are not considered “other development” within the meaning of this subsection. The applicant has addressed the criteria.

TSUNAMI HAZARD OVERLAY ZONE:

- **4.11.260 Tsunami Hazard Overlay Zone (Background)**

The Tsunami Hazard Overlay zone is designed to serve as the principal implementation mechanism for land use measures addressing tsunami risk. As the name indicates, it is designed to be applied in the form of an overlay zone, i.e. in combination with underlying base zones. The boundaries of the overlay would correspond to the area of the jurisdiction subject to inundation from a local source tsunami indicated in § 4.11.265 below.

Oregon Statewide Planning Goal 7 envisions a process whereby new hazard inventory information generated by federal and state agencies is first reviewed by the Department of Land Conservation and Development (DLCD). DLCD then notifies the County of the new information, and the County has three years to respond to the information by evaluating the risk, obtaining citizen input, and adopting or amending implementation measures to address the risk. The County has not received notice from DLCD but has taken the proactive role in working with DLCD to address tsunami hazards.

This section of the ordinance places restrictions and limitations on certain categories of uses. These limitations apply primarily to uses which present a high potential for life safety risk, or to uses which provide an essential function during and after a disaster event. ORS 455, which is implemented through the state building code, currently prohibits certain facilities and structures in the tsunami inundation zone as defined by the Oregon Department of Geology and Mineral Industries as indicated in Section 4.11.245 below. The overlay incorporates the requirements that can be limited through the land use program. Nothing in this ordinance is meant to conflict with the State Building Code but will focus on integration of development and improvement of evacuation infrastructure into the land use and development review process.

Coos County does not house the building codes program and; therefore, Coos County lacks certain enforcement authority over the Oregon Structural Specialty Code as explained in OAR 632-005-0070 exemption responsibility. This section of the ordinance is not meant to obstruct the authority of the structural code.

These provisions establish requirements to incorporate appropriate evacuation measures and improvements in most new development, consistent with an overall evacuation plan for the community. It is important to note that effectiveness of this component to the overlay is largely dependent up on the development and adoption of an Evacuation Route Plan. Coos County Planning has worked with Coos County Emergency Management in planning for emergency preparedness and developing hazard mitigation plans.

The maps that will be used to implement this section of the Coos County Zoning and Land Development ordinance are the 2012 Tsunami Inundation Maps produced by Oregon Department of Geology and Mineral Industries. The maps will be printed and filed as part of the Coos County Comprehensive Plan.

The series of maps consists of a Small (S), Medium (M), Large (L), Extra Large (XL) and Extra-Extra Large (XXL), with the XXL indicating the worst case scenario. When a size is identified in the section it includes all smaller sizes. For an example if a facility is regulated in an L tsunami inundation event then it includes all M and S tsunami inundation mapped areas.

- **4.11.265 Tsunami Hazard Overlay (THO) Zone (Definitions)**

Definitions those are applicable to the tsunami hazard overlay zone.

As used in tsunami hazard overly zone:

1. *“Essential Facilities” means:*
 - a. *Hospitals and other medical facilities having surgery and emergency treatment areas;*
 - b. *Fire and police stations;*

- c. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
 - d. Emergency vehicle shelters and garages;
 - e. Structures and equipment in emergency preparedness centers;
 - f. Standby power generating equipment for essential facilities; and
 - g. Structures and equipment in emergency preparedness centers.
2. "Hazardous facility" means structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released.
 3. "Special occupancy structures" means:
 - a. Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons;
 - b. Buildings with a capacity of greater than 250 individuals for every public, private or parochial school through secondary level or child care centers;
 - c. Buildings for colleges or adult education schools with a capacity of greater than 500 persons;
 - d. Medical facilities with 50 or more resident, incapacitated persons not included subsection (a);
 - e. Jails and detention facilities; and
 - f. All structures and occupancies with a capacity of greater than 5,000 persons. (Note: The above definitions are taken from ORS455.446)
 4. "Substantial improvement" means any repair, reconstruction, or improvement of a structure which exceeds 50 percent of the real market value of the structure.
 5. "Tsunami vertical evacuation structure" means a building or constructed earthen mound that is accessible to evacuees, has sufficient height to place evacuees above the level of tsunami inundation, and is designed and constructed with the strength and resiliency needed to withstand the effects of tsunami waves.
 6. "Tsunami Inundation Maps (TIMs)" means the map, or maps in the DOGAMI Tsunami Inundation Map (TIM) Series, published by the Oregon Department of Geology and Mineral Industries, which cover(s) the area within Coos County.

- 4.11.270 Tsunami Hazard Overlay Zone (Purpose, Applicability and Uses)

1. Purpose

The purpose of the Tsunami Hazard Overlay Zone is to increase the resilience of the community to a local source (Cascadia Subduction Zone) tsunami by establishing standards, requirements, incentives, and other measures to be applied in the review and authorization of land use and development activities in are as subject to tsunami hazards. The standards established by this section are intended to limit, direct and encourage the development of land uses within are as subject to tsunami hazards in a manner that will:

- a. Reduce loss of life;
- b. Reduce damage to private and public property;
- c. Reduce social, emotional, and economic disruptions; and
- d. Increase the ability of the community to respond and recover.

Significant public and private investment has been made in development in areas which are now known to be subject to tsunami hazards. It is not the intent or purpose of this section to require the relocation of or otherwise regulate existing development within the Tsunami Hazard Overlay Zone. However, it is the intent of this section to control, direct and encourage new development and redevelopment such that, overtime, the community's exposure to tsunamis will be reduced.

2. Applicability of Tsunami Hazard Overlay Zone

The Tsunami Inundation Zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary and Coquille Estuary Management Plans when the Estuary Policies directly reference this section. Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) are subject to the requirements of this section:

- a. Except as provided in subsection (b), all lands identified as subject to inundation from the XXL magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) are subject to the requirements of this section.*
- b. Lands within the area subject to inundation from the XXL magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) that have a grade elevation, established by fill or other means, higher than the projected elevation of the XXL magnitude local source tsunami event are exempt from the requirements of this section. Grade elevations shall be established by an elevation survey performed by a Professional Land Surveyor licensed in Oregon.*

3. Uses

In the Tsunami Hazards Overlay Zone, except for the prohibited uses set forth in subsection 5 all uses permitted pursuant to the provisions of the underlying zone map be permitted, subject to the additional requirements and limitations of this section.

4. Prohibited Uses

Unless authorized in accordance with subsection 6, the following uses are prohibited in the specified portions of the Tsunami Hazard Overlay Zone:

- a. In areas identified as subject to inundation from the L magnitude local source tsunami events set forth on the TIM, the following uses are prohibited:*
 - i. Hospitals and other medical facilities having surgery and emergency treatments areas;*
 - ii. Fire and police stations;*
 - iii. Hospital and other medical facilities having surgery and emergency treatment areas;*
 - iv. Fire and police stations;*
 - v. Structures and equipment in government communication centers and other facilities required for emergency response;*
 - vi. Building with a capacity greater than 250 individuals for every public, private or parochial school through secondary level or childcare centers;*
 - vii. Buildings for colleges or adult education schools with a capacity of greater than 500 persons; and*
 - viii. Jails and detention facilities*
- b. In areas identified as subject to inundation from the M magnitude local source tsunami event as set forth on the Tsunami Inundation Map (TIM), the following uses are prohibited:*
 - i. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;*
 - ii. Emergency vehicle shelters and garages;*
 - iii. Structures and equipment in emergency preparedness centers;*
 - iv. Standby power generating equipment for essential facilities;*
 - v. Covered structures whose primary occupancy is public assembly with a capacity of greater than 300 persons;*
 - vi. Medical facilities with 50 or more resident, in capacitated patients;*
 - vii. Manufactured home parks, of a density exceeding 10 units per acre; and*

- viii. *Hotels or motels with more than 50 units.*
- c. *Notwithstanding the provisions of Article 5.6 of the Coos County Zoning and Land Development Ordinance, the requirements of this subsection shall not have the effect of rendering any lawfully established use or structure nonconforming. The Tsunami Hazard Overlay is, in general, not intended to apply to or regulate existing uses or development.*

5. Use Exceptions

A use listed in subsection (4) of this section may be permitted upon authorization of a Use Exception in accordance with the following requirements:

- a. *Public schools may be permitted upon findings that there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.*
- b. *Fire or police stations may be permitted upon findings that there is a need for a strategic location.*
- c. *Other uses prohibited by subsection (4) of this section may be permitted upon the following findings:*
 - i. *There are no reasonable, lower-risk alternative sites available for the proposed use;*
 - ii. *Adequate evacuation measures will be provided such that life safety risk to building occupants is minimized;*
 - iii. *The buildings will be designed and constructed in accordance with the Oregon Structural Code to minimize the risk of structural failure during the design earthquake and tsunami event; and*
 - iv. *Developers of new essential facilities, hazardous facilities and major structures described in subsection (1)(a)(E), (b) and (c) of ORS 455.447 and new special occupancy structures described in subsection (1)(e)(A), (D) and (F) of ORS 455.447 that are located in an identified tsunami inundation zone shall consult with the State Department of Geology and Mineral Industries for assistance in determining the impact of possible tsunamis on the proposed development and for assistance in preparing methods to mitigate risk at the site of a potential tsunami. Consultation shall take place prior to submittal of design plans to the building official for final approval. The process for construction of certain facilities and structures in tsunami inundation zones including establishment of zones, rules and exceptions are set out in ORS 455.446. The provision of ORS 455.446 does not apply to water-dependent and water-related facilities, including but not limited to docks, wharves, piers and marinas. Decisions made under ORS 455.446 are not land use decisions.*

Applications, reviews, decisions and appeals for Use Exceptions authorized by this subsection with the exclusion of subsections iii and iv shall be in accordance with the requirements for an administrative conditional use procedure as set forth in Article 5.2 – Conditional Uses.

6. Tsunami Evacuation Structures

- a. *All tsunami evacuation structures shall be of sufficient height to place evacuees above the level of inundation for the XXL local source tsunami event.*
- b. *Tsunami evacuation structures are not subject to the building height limitations of this chapter.*

7. Flexible Development Option

- a. *The purpose of the Flexible Development Option is to provide incentives for, and to encourage and promote, site planning and development within the Tsunami Hazard Overlay Zone that results in lower risk exposure to tsunami hazard than would otherwise be achieved through the conventional application of the requirements of this chapter. The Flexible Development Option is intended to:*
 - i. *Allow for and encourage development designs that incorporate enhanced evacuation measures, appropriate building siting and design, and other features that reduce the risks to life and property from tsunami hazard; and*
 - ii. *Permit greater flexibility in the siting of buildings and other physical improvements and in the creation of new lots and parcels in order to allow the full realization of permitted development while reducing risks to life and property from tsunami hazard.*
- b. *The Flexible Development Option may be applied to the development of any lot, parcel, or tract of*

- land that is wholly or partially within the Tsunami Hazard Overlay Zone.
- c. The Flexible Development Option may include any uses permitted outright or conditionally in any zone, except for those uses prohibited pursuant to subsection 5 of this section.
 - d. Overall residential density shall be as set forth in the underlying one or zones. Density shall be computed based on total gross land area of the subject property, excluding street right-of-way.
 - e. Yards, setbacks, lot area, lot width and depth, lot coverage, building height and similar dimensional requirements may be reduced, adjusted or otherwise modified as necessary to achieve the design objectives of the development and fulfill the purposes of this section.
 - f. Applications, review, decisions, and appeals for the Flexible Development Option shall be in accordance with the requirements for an administrative conditional use procedure as set forth in Article 5 of the Coos County Zoning and Land Development Ordinance.
 - g. Approval of an application for a Flexible Development Option shall be based on findings that the following criteria are satisfied:
 - i. The applicable requirements of sub-paragraphs and of this subsection are met; and
 - ii. The development will provide tsunami hazard mitigation and/ or other risk reduction measures at a level greater than would otherwise be provided under conventional land development procedures. Such measures may include, but are not limited to:
 1. Providing evacuation measures, improvements, evacuation way finding techniques and signage;
 2. Providing tsunami evacuation structure(s) which are accessible and provide capacity for evacuees from off-site;
 3. Incorporating building designs or techniques which exceed minimum structural specialty code requirements in a manner that increases the capacity of structures to withstand the forces of a local source tsunami; and
 4. Concentrating or clustering development in lower risk portions or areas of the subject property, and limiting or avoiding development in higher risk areas.

Finding: This section only applies to the Balance of County Zoning and has not been adopted in the CBEMP yet. All the IND Zone Proposals are, according to the County’s Natural Hazard’s Map, subject to inundation from an XXL magnitude local source tsunami event. According to the application none of the IND Zone Proposals have a grade elevation higher than the projected elevation of the XXL magnitude local source tsunami event. Therefore, the IND Zone Proposals are subject to the requirements of the Tsunami Hazard Overlay Zone. Among the IND Zone Proposals, only the SORSC and helipad are subject to the above, because they are “facilities required for emergency response” and are within an area subject to inundation from a L magnitude local source tsunami event. Therefore, the SORSC and helipad are permissible only if they satisfy the criteria of subsection 5. These safety facilities are required to be located in the immediate proximity to the proposed terminal operation for effective emergency response. The next emergency response facility is located in the cities of Coos Bay and North Bend which is a significant distance to the site. Given this location priority, there are no reasonable, lower-risk alternative sites available for the SORSC and helipad serving the specific terminal other than the proposed onsite locations. JCEP will provide adequate evacuation measures at the SORSC that it proposes such that life safety risk to the occupants of the building is minimized. The helipad is not a building.

Final occupancy of the SORSC will occur only upon issuance of construction permits in accordance with the Oregon Structural Code. The helipad is not a structure, but mandatory compliance with the Structural Code will be achieved as applicable. The SORSC and helipad are “essential facilities” in accordance with ORS 455.447(1)(a)(G), which defines the same to include “facilities required for emergency response.”

The SORSC and helipad are such facilities because the SORSC is an emergency preparedness center and the helipad is an accessory to it that serves its purpose. Moreover, the SORSC and

helipad are located in an identified tsunami inundation zone. Therefore, this criterion applies to the SORSC and helipad. Accordingly, JCEP has consulted with the Department of Geology and Mineral Industries for assistance in preparing methods to mitigate risk at the site of a potential tsunami. JCEP acknowledges this requirement and will comply. Evidence of such consultation will be provided upon request and can be made a condition of approval. The applicant has addressed this criteria.

OVERLAY AS – ZONE FOR SOUTHWEST OREGON REGIONAL AIRPORT (AKA: NORTH BEND MUNICIPAL AIRPORT)

- **SECTION 4.11.400 Southwest Oregon Regional Airport:**

The Southwest Oregon Regional Airport is located within the City of North Bend; however, portions of the Approach, Transitional, Conical and the Horizontal Surfaces span into the Coos County's jurisdiction. The City of North Bend has adopted airport standards and Coos County is adopting the portions of those standards that apply to the Approach, Transitional, Horizontal and Conical Surfaces. The provisions listed below apply only to the Southwest Oregon Regional Airport Transitional, Horizontal and Conical Surfaces do not apply to AO zoning districts or airports as identified Sections 4.11.300 through 4.11.460.

- **SECTION 4.11.405 purpose:**

The purpose of this overlay zone is to encourage and support the continued operation and vitality of the Southwest Oregon Regional Airport by establishing compatibility and safety standards to promote air navigational safety at such airport and to reduce potential safety hazards for persons living, working or recreating near the airport.

- **SECTION 4.11.410 Permitted Uses:**

Except as restricted by Sections 4.11.400 through 4.11.460., in a District in which the /AS zone is combined, those uses permitted by the underlying district are permitted outright in the /AS FLOATING ZONE.

- **SECTION 4.11.415 Conditional Uses:**

Except as restricted by Sections 4.11.400 through 4.11.460, in a District with which the /AS is combined, those uses subject to the provisions of ARTICLE 5.2 (Conditional Uses) may be permitted in the /AS FLOATING ZONE.

- **SECTION 4.11.420 Definitions:**

These definitions only apply to Sections 4.11.400 through 4.11.450, the following words and phrases shall mean:

1. "Airport" means the Southwest Oregon Regional Airport (also referred to as North Bend Municipal) Airport.
2. "Airport direct impact area" means the area located within 5,000 feet of an airport runway, excluding lands within the runway protection zone and approach surface.
3. "Airport elevation" The most current and approved North Bend Municipal Airport master plan, airport layout plan, defines the highest point of the airport's usable landing area. The 2002 Airport Layout Plan has established the airport elevation as 17.1 feet above mean sea level (reference datum is NAVD 88).
4. "Airport imaginary surfaces" means imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.

5. *“Airport noise impact boundary” means areas located within 1,500 feet of an airport runway or within the most current, established noise contour boundaries exceeding 55 Ldn.*
6. *“Airport secondary impact area” means the area located between 5,000 and 10,000 feet from the airport’s runways.*
7. *“Airport sponsor” means the owner, manager, or other person or entity designated to represent the interests of the airport.*
8. *“Approach surface” means a surface longitudinally centered on the extended runway center line and extending outward and upward from each end of the primary surface.*
 - a. *The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:*
 - i. *Two thousand feet for a utility runway having a nonprecision instrument approach;*
 - ii. *Three thousand five hundred feet for a nonprecision instrument runway, other than utility, having visibility minimums greater than three-quarters statute mile;*
 - iii. *Four thousand feet for a nonprecision instrument runway, other than utility, having visibility minimums at or below three-quarters statute mile;*
 - iv. *Sixteen thousand feet for precision instrument runways.*
 - b. *The approach surface extends for a horizontal distance of:*
 - i. *Five thousand feet at a slope of 20 feet outward for each foot upward (20:1) for all utility runways;*
 - ii. *Ten thousand feet at a slope of 34 feet outward for each foot upward (34:1) for all nonprecision instrument runways, other than utility; and*
 - iii. *Ten thousand feet at a slope of 50 feet outward for each foot upward (50:1), with an additional 40,000 feet at a slope of 40 feet outward for each foot upward (40:1), for precision instrument runways.*
 - c. *The outer width of an approach surface will be the width prescribed in this subsection for the most precise approach existing or planned for that runway end.*
9. *“Conical surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.*
10. *“Department of Aviation” means the Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.*
11. *“FAA” means the Federal Aviation Administration.*
12. *“FAA’s technical representative” means, as used in this chapter, the federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDA-APHIS-Wildlife Services.*

13. *“Height” means the highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level (reference datum is NAVD 88).*
14. *“Horizontal surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:*
 - a. *Five thousand feet for all runways designated as utility;*
 - b. *Ten thousand feet for all other runways;*
 - c. *The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.*
15. *“Nonprecision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach has been approved, or planned, and for which no precision approach facilities are planned or indicated on an FAA- approved airport layout plan or FAA planning document.*
16. *“Obstruction” means any structure or tree, plant or other object of natural growth that penetrates an airport imaginary surface.*
17. *“Other than utility runway” means a runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.*
18. *“Precision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities that provide both horizontal and vertical guidance, such as an instrument landing system (ILS) or precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA- approved airport layout plan or other FAA planning document.*
19. *“Primary surface” means a surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line. The width of the primary surface is:*
 - a. *Five hundred feet for utility runways having nonprecision instrument approaches;*
 - b. *Five hundred feet for other than utility runways having nonprecision instrument approaches with visibility minimums greater than three-quarters statute mile; and*
 - c. *One thousand feet for nonprecision instrument runways with visibility minimums at or below three-quarters statute mile, and for precision instrument runways.*
20. *“Public assembly facility” means a permanent or temporary structure or*

facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

21. *“Runway” means a defined area on the airport prepared for landing and takeoff of aircraft.*
22. *“Runway protection zone (RPZ)” means an area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway center line. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of:*
 - a. *One thousand feet for utility runways;*
 - b. *One thousand seven hundred feet for other than utility runways having nonprecision instrument approaches;*
 - c. *Two thousand five hundred feet for precision instrument runways.*
23. *“Significant” as it relates to bird strike hazards, means a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.*
24. *“Structure” means any constructed or erected object, which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.*
25. *“Transitional surface” means those surfaces that extend upward and outward at 90-degree angles to the runway center line and the runway center line extended at a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces, for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90-degree angle to the extended runway center line.*
26. *“Utility runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.*
27. *“Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an FAA-approved airport*

layout plan or any other FAA planning document.

28. “Water impoundment” includes wastewater-treatment-related ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of the ordinance codified in this chapter.

Table: Runway Type

Runway	Type of Runway
R/W 4	Precision Instrument
R/W 22	Nonprecision Instrument
R/W 13	Visual, Other Than Utility
R/W 31	Visual, Other Than Utility
R/W 16	Utility
R/W 34	Utility

- **SECTION 4.11.425 Imaginary surface and noise impact boundary delineation:**

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface is delineated for the airport by the most current, and approved North Bend Municipal Airport master plan and airport layout plan, the airport master plan along with the associated maps and documents are made part of the official zoning map of the city of North Bend and Southwest Oregon Regional Airport Surface (NB/AS) Inventory Map for Coos County. All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this overlay zone.

- **SECTION 4.11.430 Notice of land use, permit applications and overlay zone boundary or surface changes within overlay zone area:**

Except as otherwise provided herein, written notice of applications for land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use applications found in Article 5.0.

1. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use application is located within 10,000 feet of the sides or ends of a runway.
2. Notice of land use and limited land use applications shall be provided within the following timelines found in Article 5.0. Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Department of Aviation within the same timelines that such notice is provided to parties to land use or limited land use proceeding. An application is appealable and will follow the requirements of Article 5.8.
3. Notices are not required to be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:
 - a. Would only allow structures of less than 35 feet in height;
 - b. Involves property located entirely outside the approach surface;
 - c. Does not involve industrial, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar

transmission facilities or electrical transmission lines; and
d. *Does not involve wetland mitigation, enhancement, restoration or creation.*

4. *Changes that affect the overlay zone boundaries or surfaces defined by this rule, which are proposed by the airport, shall be subject to Coos County review, modification and approval as part of the planning process outlined in this rule. Written notice of proposed changes that affect the overlay zone boundaries or surfaces, shall be provided to the Coos County by the airport in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.*

- **SECTION 4.11.435 Height limitations on allowed uses in underlying zones:**

All uses permitted by the underlying zone shall comply with the height limitations in this section.

1. *A person may not construct an object or structure that constitutes a physical hazard to air navigation, as determined by the Oregon Department of Aviation in coordination with the governing body with land use jurisdiction over the property.*
2. *Subsection (1) of this section does not apply:*
 - a. *To construction of an object or structure that is utilized by a commercial mobile radio service provider; or*
 - b. *If a person received approval or submitted an application for approval from the Federal Aviation Administration or the Energy Facility Siting Council established under ORS 469.450 to construct an object or structure that constitutes a physical hazard to air navigation. A variance application will not be required if such application was made.*

- **SECTION 4.11.440 Procedures:**

An applicant seeking a land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

1. *A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The airport authority shall provide the applicant with appropriate base maps upon which to locate the property.*
2. *Elevation profiles and a plot plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level (reference datum NAVD 88).*

- **SECTION 4.11.445 LAND USE COMPATIBILITY REQUIREMENTS:**

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this section as provided herein:

1. *Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn.*
2. *Outdoor Lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces*

except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

3. *Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.*
4. *Industrial Emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.*
5. *Landfills. No new sanitary landfills shall be permitted within 10,000 feet of any airport runway. Expansions of existing landfill facilities within these distances shall be permitted only upon demonstration that the landfills are designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion shall be provided to the airport sponsor, the Department of Aviation and the FAA, and any approval shall be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.*
6. *Communications Facilities and Electrical Interference. Proposals for the location of new or expanded radio, radiotelephone, television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval.*

- *SECTION 4.11.450 Water impoundments within approach surfaces and airport direct and secondary impact boundaries:*

1. *Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of this section.*
2. *No new or expanded water impoundments of one-quarter acre in size or larger are permitted:*
 - a. *Within an approach surface and within 5,000 feet from the end of a runway; or*
 - b. *On land owned by the airport sponsor that is necessary for airport operations.*

- *SECTION 4.11.455 Wetland mitigation, creation, enhancement and restoration within approach surfaces and airport direct and secondary impact boundaries:*

1. *Wetland mitigation, creation, enhancement or restoration projects located within areas regulated by the Coos County Zoning and Land Development Ordinance shall be allowed upon demonstration of compliance with the requirements of this section.*
2. *Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of the ordinance codified in this chapter and are recognized as lawfully existing uses.*
3. *To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces and areas is encouraged.*
4. *Applications to expand wetland mitigation projects in existence as of the effective date of the ordinance codified in this chapter, and new wetland mitigation projects, that are proposed within areas regulated by the Coos County Zoning and Land Development Ordinance shall be considered utilizing the review process applied to applications for conditional use permits and*

shall be permitted upon demonstration that:

- a. It is not practicable to provide off-site mitigation; or*
 - b. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.*
 - 5. Wetland mitigation permitted under subsection (4) of this section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.*
 - 6. Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces or within areas regulated by Coos County Zoning and Land Development Ordinance, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:*
 - a. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and*
 - b. The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase in hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.*
 - 7. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this section shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish and Wildlife (ODFW), the Oregon Division of State Lands (DSL), the U.S. Fish and Wildlife Service (USFWS), and the U.S. Army Corps of Engineers (Corps) as part of the permit application.*
 - 8. decision approving an application under this section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.*
- *SECTION 4.11.460 Nonconforming uses that apply to the southwest Oregon regional airport overlay:*
 - 1. These regulations shall not be construed to require the removal, lowering or alteration of any structure existing at the time the ordinance codified in this chapter is adopted and not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this section.*
 - 2. Notwithstanding subsection (1) of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.*
 - 3. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.*

Findings: The applicant has provided Exhibits 2-4 and 12 and 14 to show the locations of the proposed uses that may be subject to the vertical and horizontal boundaries of various imaginary surfaces including the Runway Protection zone. As the applicant explains the only structures comprising the gas processing facility penetrate the horizontal surface depicted on Exhibits 13 and 14. These structures, which house the thermal oxidizer, the amino regenerator and the amino

contractor, exceed 167' in height but also are the subject of 7460 submittal to the FAA for notice of construction of a physical hazard to air navigation. *See* Applicant's Exhibit 15. Consequently, these structures are exempt from the application of Section 4.11.435(1) pursuant to Section 4.11.435(2). None of the proposal is located within the noise impact boundary. The applicant does not propose any outdoor lighting that will project onto an existing runway, taxiway or existing airport approach surfaces. Materials will be selected for the project that does not pose any glare hazard.

This Application does not include request for authorization of a new or expanded industrial, mining or similar use that as part of its regular operations will cause emissions of smoke, dust or steam that could obscure visibility in airport approach surfaces. The applicant is not proposing a landfill, communication facility or electrical interference within the regulated overlay.

This Application does not request authorization for the establishment or expansion of a water impoundment or wetland mitigation activities.

The applicant has provided information to address the criteria for the Airport Surface Overlay.

5. COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE –
BALANCE OF COUNTY - CHAPTER 7

Previously, JCEP proposed Trans Pacific Parkway as the primary access to the LNG Terminal site. JCEP now proposes to relocate the primary site access to Jordan Cove Road, with secondary access from Trans Pacific Parkway. This is a new access point that will require a driveway confirmation. JCEP has submitted with this Application an application for such a driveway confirmation. The primary site access will comply with the standards of CCZLDO Chapter 7, specifically CCZLDO 7.1.425 regarding access.

Criteria

Access Management - Provision of primary access to the LNG Terminal in the 6-WD zone (driveway confirmation) – Chapter VII.

The applicant has submitted the correct application for a driveway confirmation. Pursuant to Section 7.1.225 the Coos County Roadmaster shall be responsible for determining compliance with the provisions of this chapter [Chapter VII]. The application has been provided to the Roadmaster and Access Forman for comments on the compliance of the proposal. Once the comments come in they will be submitted into the record for compliance with this portion of the request.

Summary

The applicant needs to address the Article 5.11 for the Hazard of Liquefaction and provide evidence of compliance with Policy# 5a in the form of an impact analysis addressing the inventoried resources identified by the plan maps. If the hearings officer recommends approval of the application the stabilizations measures and protections to wildlife discussed to comply with Policy #30 report by SHN should become conditions of approval.

Jill Robbe
Planning Director