

Application for Permanent Water Right Transfer



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
www.oregon.gov/OWRD

Part 1 of 5 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.
 For questions, please call (503) 986-0900, and ask for Transfer Section.

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Check all items included with this application. (N/A = Not Applicable)

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- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Transfer Application Map Checklist.
- Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at:
http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator.
- Part 4 – Completed Applicant Information and Signature.
- Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: 73636**
 Please include a separate Part 5 for each water right. (See instructions on page 6)
NOTE: A separate transfer application is required for each water right unless the criteria in OAR 690-380-3220 are met.

Attachments:

- Completed Transfer Application Map.
- Completed Evidence of Use Affidavit and supporting documentation.
- N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- N/A Oregon Water Resources Department’s Land Use Information Form with approval and signature from each local land use authority in which water is to be diverted, conveyed, and/or used. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if **all** of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500’ from the surface water source and more than 1000’ upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

<input type="checkbox"/> Application fee not enclosed/insufficient	<input type="checkbox"/> Map not included or incomplete
<input type="checkbox"/> Land Use Form not enclosed or incomplete	<input type="checkbox"/> Evidence of Use Form not enclosed or incomplete
<input type="checkbox"/> Additional signature(s) required	<input type="checkbox"/> Part _____ is incomplete

Other/Explanation _____

Staff: _____ 503- _____ Date: ____/____/____

Part 2 of 5 – Transfer Application Map

Your transfer application will be returned if any of the map requirements listed below are not met.

Please be sure that the transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

- N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For a list of CWREs, see http://apps.wrd.state.or.us/apps/wr/cwre_license_view/. CWRE stamp and signature are not required for substitutions.
- N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- Permanent quality printed with dark ink on good quality paper.
- The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- A north arrow, a legend, and scale.
- The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- Township, Range, Section, ¼ ¼, DLC, Government Lot, and other recognized public land survey lines.
- Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- Existing place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- N/A Proposed place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions.
- Existing point(s) of diversion or well(s) with distance and bearing or coordinates from a recognized survey corner. This information can be found in your water right certificate or permit.
- N/A If you are proposing a change in point(s) of diversion or well(s), show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32'15.5") or degrees-decimal with five or more digits after the decimal (example – 42.53764°).

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Part 4 of 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME Bandon Biota LLC / Bandon Dunes Golf Resort			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS 57744 Round Lake Drive				FAX NO.
CITY Bandon	STATE OR	ZIP 97411	E-MAIL	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT/BUSINESS NAME Bob Long, CWRE (CwM-H2O, LLC)			PHONE NO. (503) 954-1326	ADDITIONAL CONTACT NO.
ADDRESS 311 B Ave, Suite P				FAX NO.
CITY Lake Oswego	STATE OR	ZIP 97034	E-MAIL bob.long@cwmh2o.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

AGENT/BUSINESS NAME Schroeder Law Offices, PC			PHONE NO. (503) 281 - 4100	ADDITIONAL CONTACT NO.
ADDRESS 1915 NE Cesar Chavez Blvd				FAX NO.
CITY Portland	STATE OR	ZIP 97212	E-MAIL counsel@water-law.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

Explain in your own words what you propose to accomplish with this transfer application, and why:

This transfer proposes to change the place of use (POU) of the 53.0 acres of irrigation under Certificate 73636 to proposed irrigated areas of a proposed golf course, located in nearby quarter-quarters to the current POU. This transfer also includes the addition of a new point of diversion (POD) on Twomile Creek. The certificate currently does not include a specific POD location, but instead lists the quarter-quarters in which a portable pump(s) can be used to divert water from Twomile Creek. This transfer retains the option to divert water within these quarter-quarters.

Check One Box

- By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); **OR**
- I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; **OR**
- I affirm the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

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By my signature below, I confirm that I understand:

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: The Coos Bay World.
- Amendments to the application may only be made in response to the Department’s Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).
- Refunds may only be granted upon request and, as set forth in ORS 536.050(4)(a), if the Director determines that a refund of all or part of a fee is appropriate in the interests of fairness to the public or necessary to correct an error of the Department.
-

I (we) affirm that the information contained in this application is true and accurate.



[Handwritten Signature]
Applicant signature

KEVIN NICE
Print Name (and Title if applicable)

3/29/2024
Date

Applicant signature

Print Name (and Title if applicable)

Date

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? Yes No

Check the following boxes that apply:

- The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold? Yes No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see:

https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf

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RECEIVING LANDOWNER NAME		PHONE NO.	ADDITIONAL CONTACT NO. OWRD
ADDRESS			FAX NO.
CITY	STATE	ZIP	E-MAIL
Describe any special ownership circumstances:			
The confirming Certificate shall be issued in the name of: <input type="checkbox"/> Applicant <input type="checkbox"/> Receiving Landowner			

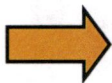
14439 -

Check here if any of the water rights proposed for transfer are or will be located within or served by an irrigation or other water district. (Tip: Complete and attach Supplemental Form D.)

IRRIGATION DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

Check here if water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP



To meet State Land Use Consistency Requirements, you must list all county, city, municipal corporation, or tribal governments within whose jurisdiction water will be diverted, conveyed or used.

ENTITY NAME Coos County (Planning Department)	ADDRESS 60 E. Second Street	
CITY Coquille	STATE OR	ZIP 97423

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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Part 5 of 5 – Water Right Information

CERTIFICATE # 73636

Description of Water Delivery System

System capacity: 0.66 cubic feet per second (cfs) **OR**
 _____ gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use: *The existing irrigation system utilizes portable pumps that are placed along Twomile Creek in the quarter-quarters listed in the certificate. The pumps push water to irrigation wheel lines or large sprinklers to apply water across the place of use. Water has been leased instream for the last several years, though the portable pump systems are maintained and are ready and able to use water in short notice.*

Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)

(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp	Rng	Sec	¼	¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
POD-1 (portable)	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		29	S	15	W	13	SE SW	Portable Pumping*
	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		29	S	15	W	13	SW SE	
	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		29	S	15	W	24	NE NE	
	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		29	S	15	W	24	NW NE	
POD-2	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		29	S	15	W	13	SW SW	760 ft N and 760 ft E from the SW corner of Sec 13

*The certificate describes the POD as a portable pumping system placed along Twomile Creek within the quarter-quarters listed in Table 1. The POD-1 here represents each quarter-quarter listed in the certificate. The POD location(s) is not shown on the transfer map due to their location on Twomile Creek throughout these quarter-quarters.

Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):

- Place of Use (POU)
- Character of Use (USE)
- Point of Diversion (POD)
- Additional Point of Diversion (APOD)
- Surface Water POD to Ground Water POA (SW/GW)
- Supplemental Use to Primary Use (S to P)
- Point of Appropriation/Well (POA)
- Additional Point of Appropriation (APOA)
- Substitution (SUB)
- Government Action POD (GOV)

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Will all of the proposed changes affect the entire water right?

- Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

Please use and attach additional pages of Table 2 as needed.
See page 6 for instructions.

Do you have questions about how to fill-out the tables?
Contact the Department at 503-986-0900 and ask for Transfer Staff.

Table 2. Description of Changes to Water Right Certificate # 73636

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.										Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.												
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date			
										POU APOD	29	S	15	W	25	NW	NW	0900		0.2	Irrigation	POD 1 POD 2	Oct 22, 1946
											29	S	15	W	24	NE	NW	0100		3.8			
											29	S	15	W	24	NW	SW	0201		14.1			
											29	S	15	W	24	SW	NW	0201		13.9			
											29	S	15	W	24	NW	NW	0100		15.2			
											29	S	15	W	24	SW	SW	0201		5.8			
TOTAL ACRES:							TOTAL ACRES:						53.0										

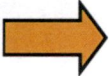
Additional remarks: *The proposed transfer moves the entire place of use and adds one additional POD at a defined location along Twomile Creek. The transfer retains the POD allowed along Twomile Creek within the SE SW and SW SE of Sec 13 and the NE NE and NW NE of Sec 24.*

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For Place of Use or Character of Use Changes

Are there other water right certificates, water use permits or ground water registrations associated with the "from" or the "to" lands? Yes No

If YES, list the certificate, water use permit, or ground water registration numbers:

 Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

For Substitution (groundwater supplemental irrigation will be substituted for surface water primary irr.) **N/A**

Ground water supplemental Permit or Certificate # _____;
Surface water primary Certificate # _____.

For a change from Supplemental Irrigation Use to Primary Irrigation Use **N/A**

Identify the primary certificate to be cancelled. Certificate # _____

For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation: **N/A**

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

Tip: You may search for well logs on the Department's web page at:
http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

AND/OR

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

Table 3. Construction of Point(s) of Appropriation **N/A**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No. L-____	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well-specific rate (cfs or gpm). If less than full rate of water right

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Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and **all** of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

Land Use Information Form



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.oregon.gov/OWRD

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Applicant(s): Bandon Biota, LLC / Bandon Dunes Golf Resort

Mailing Address: 57744 Round Lake Drive

City: Bandon

State: OR

Zip Code: 97411

Daytime Phone: 541-347-5843

Ken Nice, Director of Agronomy
 (knice@bandondunesgolf.com)

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A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:	Proposed Land Use:
29 S	15 W	25	NW NW	0900	EFU	<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	EFU
			NE NW	0100		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
			NW SW	0201		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
		24	SW NW	0201		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
			NW NW	0100		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
			SW SW	0201		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
			NE NE	0100		<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used	
		NW NE	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used				
		13	SE SW	1903		<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used	
			SW SE			<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used	
			SW SW			0600	

List all counties and cities where water is **proposed** to be diverted, conveyed, and/or used or developed:

Coos County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
 Water Right Transfer
 Permit Amendment or Ground Water Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

Source of water: Reservoir/Pond
 Ground Water
 Surface Water (name) Twomile Creek

Estimated quantity of water needed: 0.66 cubic feet per second
 gallons per minute
 acre-feet

Intended use of water: Irrigation
 Commercial
 Industrial
 Domestic for _____ household(s)
 Municipal
 Quasi-Municipal
 Instream
 Other _____

Briefly describe:

This form is for a transfer which proposes to move place of use of an irrigation right (Cert. 73636) to a new place of use and to add an additional point of diversion on Twomile Creek.

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Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):

Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
Hearings Body Conditional use (HBCU)	4.6.200 (67) 4.6.200 (2), (5), (20)	<input checked="" type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
*For all lots	Received	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	APR 15 2024	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	OWRD	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

Name: Cassidy Carr Title: Planner I
 Signature: Cassidy Carr Phone: 541-396-7770 Date: 4/11/2024
 Government Entity: Cops County Planning Department

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.



Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

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COOS COUNTY
PLANNING COMMISSION

1		
2		
3		
4	IN THE MATTER OF A CONDITIONAL USE) File No.: HBCU-22-001
5	APPLICATION TO ALLOW AN 18-HOLE) Planning Commission Final Decision
6	GOLF COURSE IN THE NON HIGH-VALUE)
7	PROTION OF THE EXCLUSIVE FARM USE)
8	ZONE)
9		

10

11 WHEREAS, on July 21, 2022, Bandon Biota LLC applied for a Hearings Body Conditional Use

12 (HBCU) approval for a new 18-hole Golf Course with Accessory Uses in the Non High-Value portion of

13 the Exclusive Farm Use Zone on the subject property. The subject property is located in the following

14 maps: Township 29S Range 15W Section 13 Tax Lot 1903; Township 29S Range 15W Section 24 Tax

15 Lot 100, 201, and 400; Township 29S Range 15W Section 25 Tax Lots 900, 1000, and 1200; and

16 Township 29S Range 15W Section 25D Tax Lots 100, 401, 402, and 700. The subject properties are a

17 tract that were rezoned to Exclusive Farm Use in 2021 (*see* County File AM-21-002/RZ-21-002 for

18 details).

19

20 WHEREAS, on October 14, 2022 the application was determined to be complete. A hearing

21 notice on the matter was mailed out to all property owners within 500 feet of the subject properties,

22 special districts and agencies on November 10, 2016.

23 WHEREAS, on November 23, 2022 staff provided a staff report to the Planning Commission

24 recommending that approval based on the criteria.

25 WHEREAS, on December 1, 2022 the Planning Commission held a public hearing to consider

26 this matter taking public testimony. The Planning Commission voted to hold the record open as follows:

27

28

1 December 9, 2022 at 12:00 p.m. all new testimony and evidence is due. Testimony received
2 after the deadline will not be accepted into the record. Emailed testimony shall be received no later than
3 the deadline or it will not be accepted.

4 December 16, 2022 at 12:00 p.m. all rebuttal testimony is due. There will be no new evidence
5 only rebuttal received during this time frame. Testimony received after the deadline will not be accepted
6 into the record. Emailed testimony shall be received no later than the deadline or it will not be accepted.
7

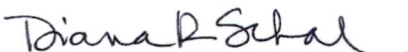
8 December 23, 2022 at 12:00 pm the applicant's final argument is due. If the applicant fails to
9 provide the final argument by 12:00 p.m. it will not be accepted.

10 WHEREAS, on December 16, 2022 staff questions if Oregon Coast Alliance had submitted "New
11 Evidence" in the matter during the rebuttal period. Response from County Counsel that this was not
12 considered "New Evidence" if response was to the Applicant's submittal. Staff confirmed that it could be
13 shown as response and provided the testimony as part of the record.

14 WHEREAS, on December 23, 2022, all testimony was transmitted to the Planning Commission
15 including the final argument.

16 The Planning Commission reconvened on January 5th at 7:00 p.m. for deliberation. Staff did
17 not provide a supplemental staff report but did provide the procedures and walked through each of the
18 relevant criteria.
19

20 NOW, THEREFORE, the Planning Commission made Findings found attached as Exhibit "A"
21 and incorporated into this order herein. This application received a partial approval with conditions on the
22 5th Day of January, 2023 with instruction that the Chair was authorized to sign the order and with the
23 findings attached.
24

25 
26 _____

27 Planning Commission Chair
28

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ATTACHMENT A

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

BACKGROUND PRESENTED AT THE HEARING

FILE NUMBERS:

HBCU-22-001

PROPERTY OWNER:

BANDON BIOTA, LLC
2450 LAKEVIEW AV
CHICAGO, IL 60614-2878

CONSULTANT:

Chris Hood, Stuntzner Engineering

STAFF CONTACT(S):

Jill Rolfe, Community Development Director
Chris MacWhorter, Principal Planner
541-3963-7770
planning@co.coos.or.us

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SUMMARY PROPOSAL:

According to the application the property owner is seeking approval for a new 18-hole golf course with an accessory uses in the Exclusive Farm Use zoning district portion of the subject properties. The applicant also requested a clubhouse/restaurant with parking, an agronomy center/maintenance facility, a turn-stand (combination restroom/vendor facility), a minimum of two standalone restrooms, a caddy shack, and a practice range.

The application states the primary access for the public will be from Boak Lane. Boak Lane extends west from Highway 101 to the northern portion of the subject tract. Boak Lane is approximately ¼ mile south of Bradley Lake. The Boak Lane route will provide access for the clubhouse/restaurant, practice range, caddy shack, and main parking lot.

The application states the agronomy/maintenance center will be accessed primarily by the way Hoffer Lane. Hoffer Lane is a private access road that proceeds west off of Highway 101. Hoffer Lane is approximately ¼ mile north of the Rural Center of Laurel Grove.

There is no indication that any other development is proposed at this time.

LOCATION OF PROPOSAL: The subject property is located four miles southwest of the City of Bandon. The subject property is accessed off of Boak Lane and Hoffer Lane. Both Boak Lane and Hoffer Lane directly access off of Highway 101.

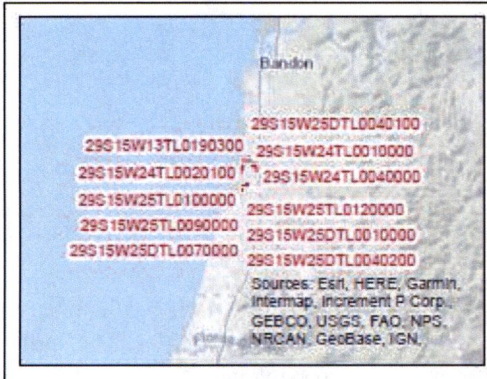
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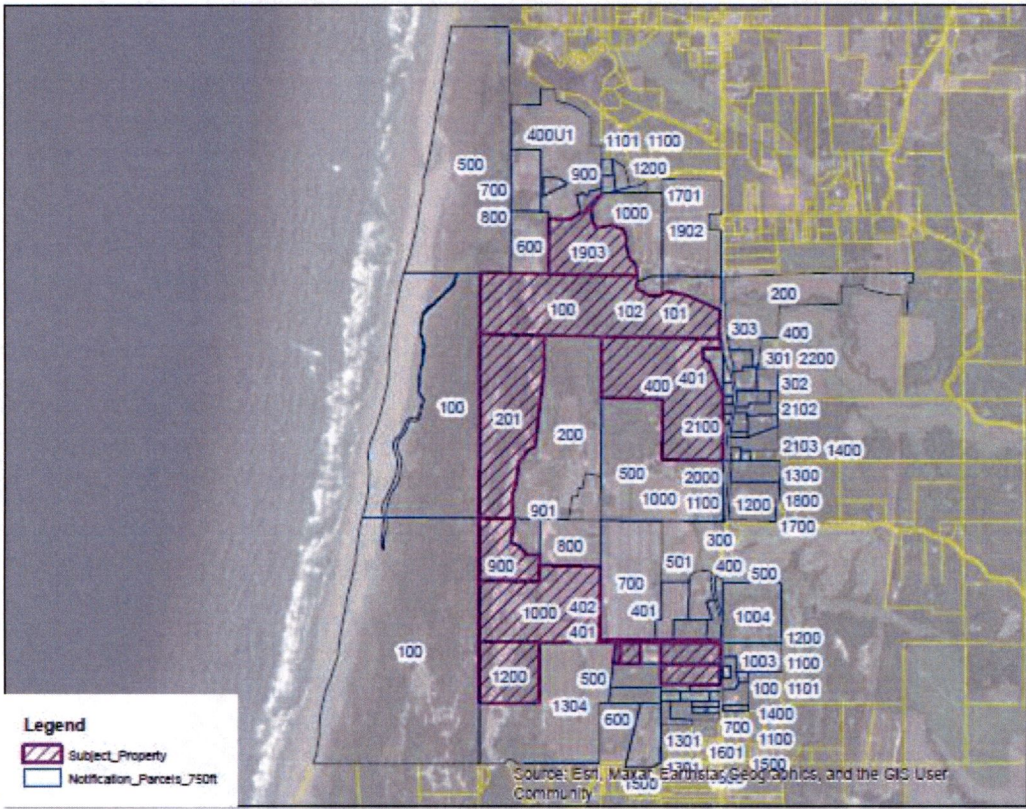
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423
Physical Address: 225 N. Adams, Coquille Oregon
Phone: (541) 396-7770
Fax: (541) 396-1022/TDD (800) 735-2900

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File: HBCU-22-001
Owner: Bandon Biota LLC
Date: November 10, 2022
Location: Township 29S Range 15W
Section 13/24/25./25D
TL 1903/100,201,400/
900,1000,1200/100,401,402,700
Proposal: Hearing Body Conditional Use



Map is not to scale.



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- i. **Notice Requirement:** This application is a Hearings Body Conditional Use (HBCU) governed by CCZLDO Section 5.0.900. Notice was mailed to property owners in compliance with CCZLDO Section 5.0.900.1 Notice of Public Hearings.

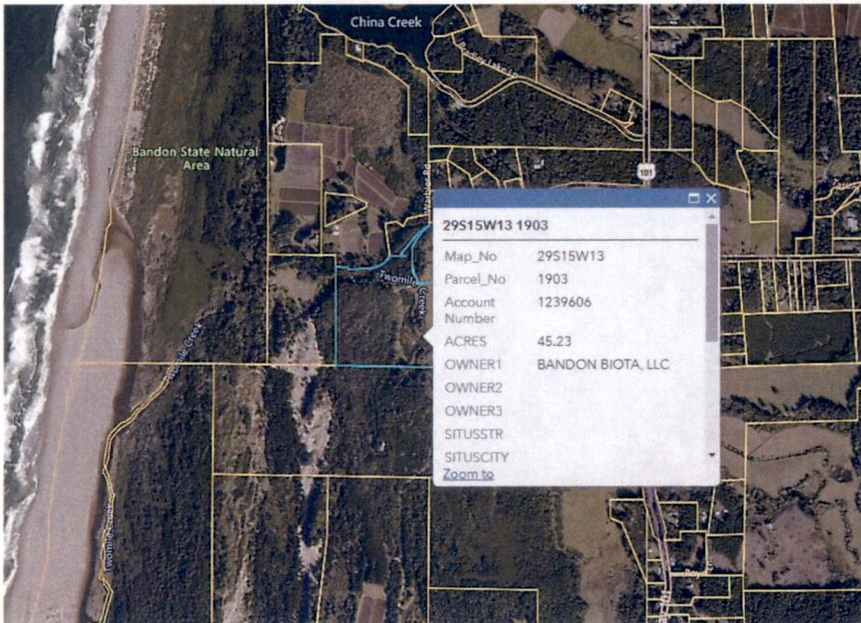
ii. **REVIEW PERIOD:** This application was originally submitted on July 21, 2022. The application was deemed incomplete pending additional information. The applicant provide additional information on September 15, 2022 and October 12, 2022. The application was found to be complete on October 14, 2022 for the purpose of review. This proposal is subject to the 150-day timeline to make a final decision pursuant to ORS 215.422.

I. STAFF REPORT – WITH RECOMMENDATIONS AND PROPOSED FINDINGS

A. SUBJECT PROPERTY DETAILS AND BACKGROUND:

- **TAX ACCOUNT:** 1239606

On July 28, 2021, an Amendment/Rezone (AM-21-002/RZ-21-002) was issued to rezone the portion of the Forest zoning district to Exclusive Farm Use. This property does not contain any development according the assessment records.



MAP NUMBER:	TOWNSHIP 29S, RANGE 15W, SECTION 13 TAX LOT 1903
TAX ACCOUNT:	1239606
ACREAGE:	45.23 ACRES
PROPERTY ADDRESS:	NO SITUS ADDRESS
PROPERTY ZONES:	EXCLUSIVE FARM USE (EFU) FOREST (F) MINOR ESTUARY & SHORELANDS (MES)
SPECIAL DEVELOPMENT CONSIDERATIONS:	BEACHES/DUNES - LIMITED (BDL) BIRD SITE MEETS GOAL 5C REQRMT (B5C) COASTAL SHORELAND BOUNDARY (CSB) FLOODPLAIN (FP) FOREST MIXED USE (MU) NAT. HAZARDS WIND EROSION (HZW) NATIONAL WETLAND INVENTORY SITE (NWI) NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)

NATURAL HAZARD - TSUNAMI (NHTHO)

- TAX ACCOUNT: 1240300

On June 5, 1986, a verification letter (VL-86-167) for an accessory structure (garage – non-commercial). On August 8, 1987, a verification letter (VL-87-385), repair or alter existing dwelling. On December 10, 1996, a verification letter (VL-96-570) for repair/replacing existing septic. On December 23, 2002, a property line adjustment (unnumbered). On September 29, 2006, a property line adjustment (PLA-06-074). On July 28, 2021, an Amendment/Rezone (AM-21-002/RZ-21-002) was issued to rezone the portion of the Forest zoning district to Exclusive Farm Use. On September 12, 2022, a clearance to repair existing septic for the Single Family Dwelling. Improvements from the assessment records confirm there is a dwelling on this property.



MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 24 TAX LOT 100
TAX ACCOUNT: 1240300
ACREAGE: 138.24 ACRES
PROPERTY ADDRESS: 87230 BOAK LN BANDON, OR 97411
PROPERTY ZONES: FOREST (F)
SPECIAL DEVELOPMENT BEACH EROSION & DEPOSITION (HZB)
CONSIDERATIONS: BEACHES/DUNES - LIMITED (BDL)
FLOODPLAIN (FP)
FOREST MIXED USE (MU)
NAT. HAZARDS WIND EROSION (HZW)
NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
NATURAL HAZARD - TSUNAMI (NHTHO)
NATURAL HAZARD - WILDFIRE (NHWF)

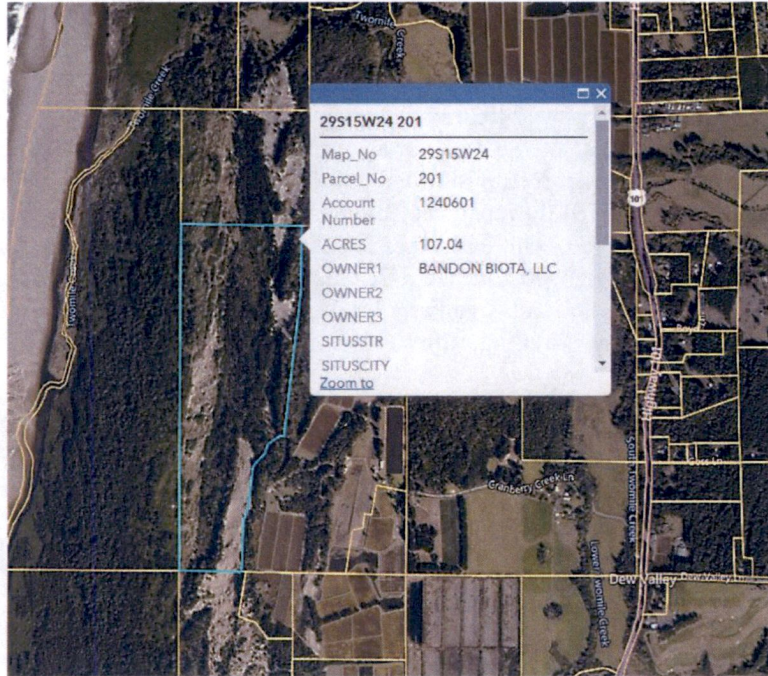
- TAX ACCOUNT: 1240601

On July 28, 2021, an amendment/rezone (AM-21-002/RZ-21-002) was issued to rezone the portion of the Forest zoning district to Exclusive Farm Use. This property does not contain any development according to the assessment records

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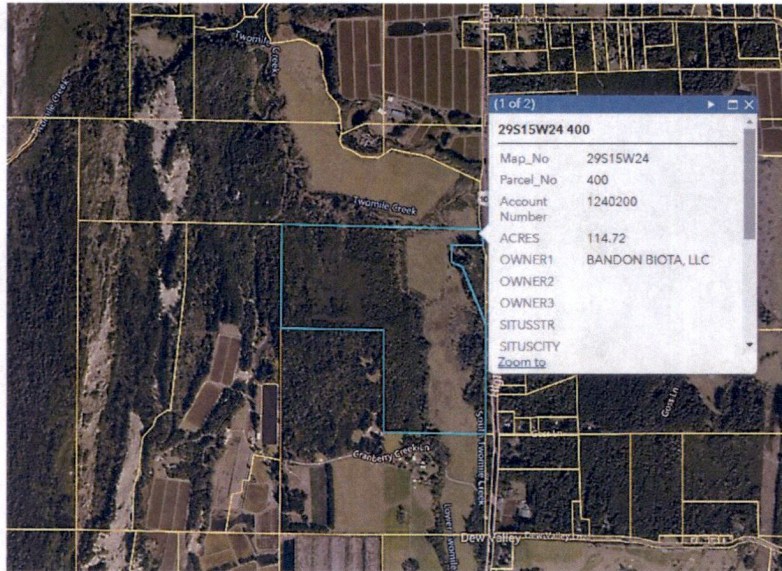


MAP NUMBER:	TOWNSHIP 29S, RANGE 15W, SECTION 24 TAX LOT 201
TAX ACCOUNT:	1240601
ACREAGE:	107.04 ACRES
PROPERTY ADDRESS:	NO SITUS ADDRESS
PROPERTY ZONES:	EXCLUSIVE FARM USE (EFU) FOREST (F)
SPECIAL DEVELOPMENT CONSIDERATIONS:	BEACHES/DUNES - LIMITED (BDL) FOREST MIXED USE (MU) NAT. HAZARDS WIND EROSION (HZW) NATIONAL WETLAND INVENTORY SITE (NWI) NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL) NATURAL HAZARD - TSUNAMI (NHTHO) NATURAL HAZARD - WILDFIRE (NHWF) WETLANDS (WET)

- TAX ACCOUNT: 1240200

On October 23, 2003, an administrative conditional use (ACU-03-035) for \$40,000 farm income test dwelling on less than high value farmland. On November 6, 2003, a zoning compliance letter (ZCL-03-546) to site single family dwelling. On September 29, 2006, a property line adjustment (PLA-06-070), which removed any development from this property. According to the assessment records there is no development on this property.

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MAP NUMBER:	TOWNSHIP 29S, RANGE 15W, SECTION 24 TAX LOT 400
TAX ACCOUNT:	1240200
ACREAGE:	114.72 ACRES
PROPERTY ADDRESS:	NO SITUS ADDRESS
PROPERTY ZONES:	EXCLUSIVE FARM USE (EFU) FOREST (F)
SPECIAL DEVELOPMENT CONSIDERATIONS:	BEACHES/DUNES - LIMITED (BDL) FLOODPLAIN (FP) FOREST MIXED USE (MU) NATIONAL WETLAND INVENTORY SITE (NWI) NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL) NATURAL HAZARD - TSUNAMI (NHTHO) NATURAL HAZARD - WILDFIRE (NHWF) WET MEADOW WETLAND (WM)

- TAX ACCOUNT: 1241700

On August 18, 1986, an administrative conditional use (ACU-86-055) for a second dwelling in conjunction with agricultural use. On May 8, 1989, an administrative conditional use (ACU-89-022) for a cranberry farm expansion. On May 14, 2003 property determined lawfully created. The development was not on this property. Confirmed with assessment records there is still no development on this property.

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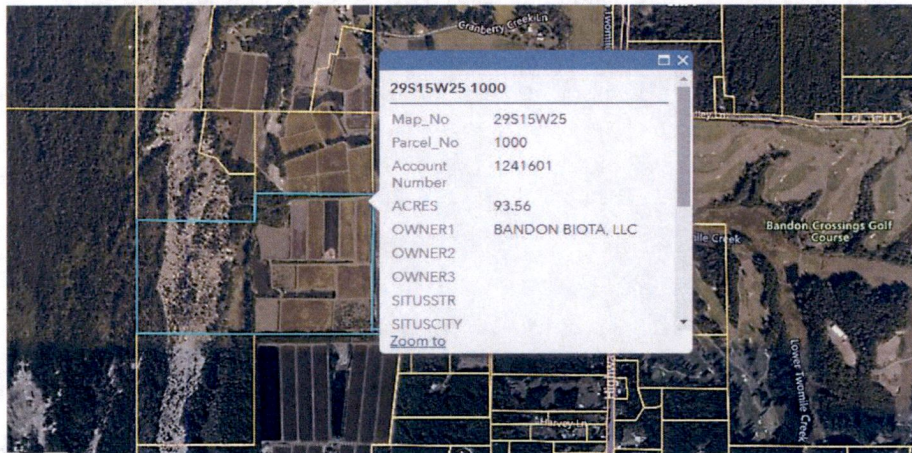
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MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25 TAX LOT 900
 TAX ACCOUNT: 1241700
 ACREAGE: 30.89 ACRES
 PROPERTY ADDRESS: NO SITUS ADDRESS
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)
 SPECIAL DEVELOPMENT CONSIDERATIONS: BEACHES/DUNES - LIMITED (BDL)
 NAT. HAZARDS WIND EROSION (HZW)
 NATIONAL WETLAND INVENTORY SITE (NWI)
 NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
 NATURAL HAZARD - TSUNAMI (NHTHO)
 NATURAL HAZARD - WILDFIRE (NHWF)

- TAX ACCOUNT: 1241601

On July 2, 1980, a verification letter for single family dwelling. It appears this was not constructed as there are no improvements on this property. Improvements were confirmed using the assessor records.



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MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25 TAX LOT 1000
 TAX ACCOUNT: 1241601
 ACREAGE: 93.56 ACRES
 PROPERTY ADDRESS: NO SITUS ADDRESS
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)
 SPECIAL DEVELOPMENT CONSIDERATIONS: BEACHES/DUNES - LIMITED (BDL)
 NAT. HAZARDS WIND EROSION (HZW)
 NATIONAL WETLAND INVENTORY SITE (NWI)
 NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
 NATURAL HAZARD - TSUNAMI (NHTHO)
 WETLANDS (WET)

- TAX ACCOUNT: 1242101

On February 12, 1982, a permit to site a mobile home in the forest portion of property.
 On October 13, 2005, an administrative conditional use (ACU-05-52) for a commercial stable in the Forest zone. On November 21, 2019, a zoning compliance letter (ZCL-19-369) for clearance to replace the existing single dwelling. There is a Single Family Dwelling on this property. This was confirmed through assessment records.

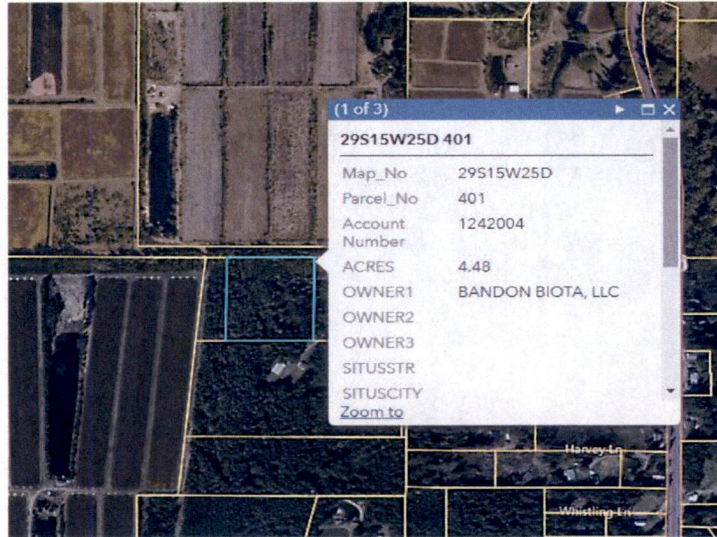


MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 100
 TAX ACCOUNT: 1242101
 ACREAGE: 15 ACRES
 PROPERTY ADDRESS: 47698 HIGHWAY 101 BANDON, OR 97411
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)
 SPECIAL DEVELOPMENT CONSIDERATIONS: NONE

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- TAX ACCOUNT: 1242004

In 1979 a septic evaluation was approved and on June 30, 1883, a hearing body conditional use (HBCU-83-06) was approved to site a Non-Farm Dwelling. The dwelling was not constructed.



MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 401
 TAX ACCOUNT: 1242004
 ACREAGE: 4.48 ACRES
 PROPERTY ADDRESS: NO SITUS ADDRESS
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)
 SPECIAL DEVELOPMENT NONE
 CONSIDERATIONS:

- TAX ACCOUNT: 1242005

No prior land use activity on the subject property.



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MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 402
 TAX ACCOUNT: 1242005
 ACREAGE: 1.30 ACRES
 PROPERTY ADDRESS: NO SITUS ADDRESS
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)
 SPECIAL DEVELOPMENT: NONE
 CONSIDERATIONS:

- TAX ACCOUNT: 1242103

On August 17, 1977 a verification letter (unnumbered) for a septic site evaluation. On July 24, 1979, a site dwelling in IFG-10 (forest) portion of the property. On August 6, 1991, a verification letter (VL-91-381) to site a dwelling. On November 21, 2019, a zoning clearance letter (ZCL-19-370) for replacing one of the existing dwellings with a manufactured dwelling. This property does contain a Single-Family Dwelling.



MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 700
 TAX ACCOUNT: 1242103
 ACREAGE: 12.74 ACRES
 PROPERTY ADDRESS: 47652 HIGHWAY 101 BANDON, OR 97411
 47654 HIGHWAY 101 BANDON, OR 97411
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)
 SPECIAL DEVELOPMENT: NONE
 CONSIDERATIONS:

ZONING: - This property is split-zoned consisting of Exclusive Farm Use (EFU), Forest with a Mixed-Use Overlay (F/MU), and Minor Estuary and Shorelands (MES). Below in the Site Descriptions and Surrounding Uses is a map showing the zoning the subject tract. The subject tract is identified in red outline.

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

SECTION 4.2.400 OPEN SPACE AND NATURAL RESOURCE ZONING DISTRICTS

Open Space and Natural Resource Districts are intended for especially sensitive areas where wildlife habitat or special scenic values have been identified or where natural hazards totally preclude any development.

Minor Estuary and Shorelands (MES)

The purpose of the "MES" district is to regulate uses within the inventoried minor estuaries and adjacent shorelands within unincorporated Coos County. The estuaries within the district are treated as "natural management units" per LCDC Goal 16. There are no hearings body applications or development standards with the exception of road standards found in Chapter VII.

SECTION 4.2.500 RESOURCE ZONES

Forest (F)

The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.

The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the "F" zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.

Forest Mixed Use (FMU)

The purpose of the Forest Mixed Farm-Forest Areas ("MU" areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.

Exclusive Farm Use (EFU)

These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.

The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the "Agricultural Lands Inventory" was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:

1. *Committed rural residential areas and urban growth areas.*

2. *Proposed rural residential areas as per the Exception to Goals #3 and #4.*
3. *Proposed industrial/commercial sites.*
4. *Existing recreation areas (e.g., golf courses) [Recreation designation]*
5. *Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).*
6. *Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].*

The secondary criterion for establishing the "Agricultural Lands Inventory" was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.

B. SURROUNDING LAND USES:

Based on aerial imagery, the subject tract is currently covered with timber with sparse areas of light understory forest vegetation, bottom land fields used for either livestock or hay production, non-active cranberry bogs, residential development, and open sand dunes.

Staff expands on adjacent farm and forestry uses below, but Staff has identified nine separate cranberry farms in the nearby area. There are also two nearby ranches with either livestock or hay production occurring onsite. Staff identified three nearby parcels with timber uses that were also addressed below.

There are Rural Residential-2 zoned parcels located near the proposed public entrance of the golf course. There is Rural Residential-5 zoned parcels located east of section 24 – tax lot 400 on the east side of Highway 101. There is a combination of Rural Center and Rural Residential-5 zoned parcels located south of the subject tract off Hoffer Lane. Hoffer Lane is the proposed employee entrance for the golf course. The rural center of Laurel Grove is located in this area.

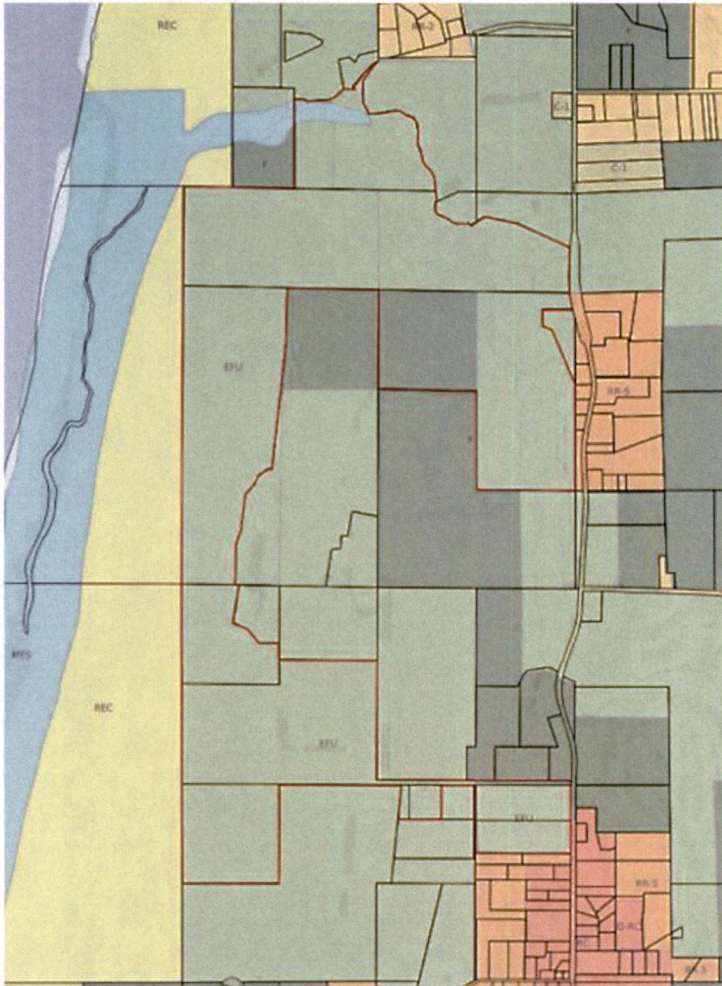
There is Recreation zoned parcels located west of the subject tract. These parcels consist of the Bandon State Natural Area and are managed by Oregon Department of Parks and Recreation.

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- Commercial
- Controlled Development 10
- Controlled Development 5
- City Zoning
- City Estuary Plan - Aquatic
- City Estuary Plan - Shoreland
- Coos Bay Estuary Plan - Aquatic
- Coos Bay Estuary Plan - Shoreland
- Coquille River Estuary Plan - Aquatic
- Coquille River Estuary Plan - Shoreland
- Exclusive Farm Use
- Forest
- Industrial
- Minor Estuary and Shorelands
- Rural Center
- Recreation
- Rural Residential 2
- Rural Residential 5
- South Slough
- Urban Residential 1
- Urban Residential 2
- Urban Residential M

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C. APPLICABLE IDENTIFIED REVIEW CRITERIA:

I. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Commission Approval of a Golf Course not on high-value farmland as defined in ORS 195.300 in the Exclusive Farm Use zone pursuant to Section 4.6.200.67. According to the application, the applicant is also requesting a clubhouse/restaurant with parking, an agronomy center/maintenance facility, a turn-stand (combination restrooms/vendor facility), a minimum of two standalone restrooms, a caddy shack, and a practice range.

Staff identified the applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) 4.6.200 Table 2 identifies the uses and activities in the Exclusive Farm Use zone. The tables describe the use, type of review, applicable review standards. Table 2 of CCZLDO Section 4.6.200.67 defines the relevant criteria for Golf Courses not on high-value farmland as defined in ORS 195.300 subject to an HBCU, Section 4.6.200 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses (2)(5)(20). Development shall also comply with Section 4.6.210 Development and Use Standards for the Exclusive Farm Use Zone. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. This proposal is subject to review under Natural Hazards Section 4.11.

Staff verbally reviewed the language from Section 5.0.350 Conditions of Approval, Section 5.0.400 Consolidated Applications, Section 5.2.100 Conditional Used and Section 5.2.500 Criteria for Approval of Application. Staff reiterated to the Planning Commission the following: A proposal that complies with all of the criteria will be approved. A proposal that can comply with the criteria with mitigation measures or limitations will be approved with conditions. A proposal that cannot comply with the criteria outright or cannot comply with mitigation measures will be denied. The record was closed by the Planning Commission but could be reopened if they wanted more information.

II. GOLF COURSE CRITERIA AND FOREST SITING STANDARDS

SECTION 4.6.200 EXCLUSIVE FARM USE – USE TABLES

Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone. The tables describe the use, type of review, applicable review standards and Section 4.6.210 Development and Siting Standards. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.

Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone

As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in

this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3). Agricultural Land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

67.	Golf courses not on high-value farmland as defined in ORS 195.300. (new golf course prohibited on High Value)	HBCU (2), (5), (20)
-----	---	------------------------

PLANNING COMMISSION RESPONSE: The first discussion by the Planning Commission was to determine if the new golf course was going to be located on high-value farmland. The Planning Commission considered testimony from Sean T. Malone, Attorney at Law (see Exhibit 9) that stated:

"In response to this criterion, the applicant concedes that: "Aerial photographs confirm that on December 6, 2007 [195.300(10)(a)], the segment of the applicant's ownership upon which the golf course is proposed, does contain lands growing specified perennials." Applicant's Exhibit A, Page 3. Indeed, the 93.56-acre parcel identified as map no. 29S15W251000 is plainly in farm use according to aerial photos in the staff report. The applicant, therefore, concedes that the subject property contains high-value farmland. Because the subject properties are in common ownership, the entirety of the subject property is considered high-value farmland. Golf courses are not permitted on high-value farmland, except for limited circumstances that do not apply here."

The next written testimony considered was the applicants (see Exhibit 17) which states the following:

"OAR 60-033-020 (8)(a) defines High Value Farmland is as: "High-Value Farmland" means land in a tract composed predominantly of soils that are:

660-033-020 (1 4) defines a tract as: "Tract" means one or more contiguous lots or parcels under the same ownership.

The Bandon Biota tract consists of hundreds of acres, and the portion of the "tract" that contains High Value Farmland is less 40 acres. It is clear that the "tract" by definition, is not "predominantly" composed of High Value Farmland."

In response to the testimony and the evidence in the record the Planning Commission stated that the tract was not "predominantly" considered High-Value Farm Land. There was an area to the north as defined in the record that would be considered High-Value and the applicant would be prohibited from siting the golf course in this area to ensure compliance. Therefore, a condition was placed the Golf Course would be located outside of the High-Value Farm Land. Therefore, this criterion has been met.

(2) (a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to

ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

PLANNING COMMISSION RESPONSE: Planning Staff initially deemed this application incomplete due to the fact that there were no specific building plans submitted in the application. The application included a building plan, but the applicant indicated those were the plans for a different clubhouse/restaurant from another golf course design, specifically the Bandon Trails Golf Courses. The applicant indicated they were not planning on constructing that building plan. However, during the open testimony time the applicant responded to this issue by stating:

The applicant is changing their position regarding the development of the proposed clubhouse and pro-shop. The design submitted in the initial application; "Bandon Trails Clubhouse" is no longer conceptual. The applicant is committing to developing that exact design.

A new letter has been attached (Exhibit "A") from Scott Edwards Architecture that states, "Bandon Dunes is planning to utilize the same design as the Bandon Trails Clubhouse, which is comparable to the proposed development in both scale of course and desired amenities, and has proven a successful model to replicate." Based upon the fact that there is no longer a conceptual plan that proposes 60 seats, the occupancy matrix in the architect letter is reduced to the 48 seats shown on the Bandon Trails Plan. This adjustment alone reduces the overall design capacity for all facilities from 90 to 78.

Above, ORCA states that "LUBA counseled, that to satisfy the design capacity requirement, the applicant must include a specific, detailed plan." However, ORCA is exaggerating at best. Planning staff also cited the LUBA cases in their staff report.

The Planning Commission did not find it was appropriate to change the proposal. The applicant proposed in the application an occupancy of 90 total for the following enclosed structures:

- Clubhouse Restaurant: 80
- Turn-Stand: 1
- Agronomy: 9

For a total of 90 people located in the enclosed structures. After reviewing the information in the record, the Planning Commission did not find there was adequate information to approve the structures listed under the clubhouse but felt that the necessary structures were the Turn-Stand and Agronomy which would provide a total capacity of 10. This is well below the required maximum. Therefore, these are the only structural development that can take place. The applicant may come back to the Planning Commission when they have the building designs along with parking and geohazards report completed.

Therefore, the total design capacity is far less than the maximum of 100 and meets the criteria.

- (5) *APPROVAL CRITERIA Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:*
- (a) *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
 - (b) *Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

PLANNING COMMISSION RESPONSE: The County Planning Staff typically established the buffer of surrounding properties based on the notification range (notice to adjacent properties within 500 feet). Within the 500 foot buffer each property is listed out and the uses that are occurring are discussed. The use information is based on planning approvals, assessment records, zoning and aerial images. Other information may be obtained from testimony and comments if provided. Once that is complete the properties that are utilized for Farm and Forest Uses (we do not make a determination if it is commercial or not just what it is used for) then the consideration of what are accepted farm and forest practices are and how the proposed use may be impacted. The impact have to be significant which is for the county to decide base on evidence.

According to Oregon Department of Agriculture:

Protected practices include farming or forest practices that are characterized by one or more of the following:

- *Are or may be used on a farm or forestland of similar nature*
- *Are generally accepted, reasonable, and prudent methods for the operation to obtain profit in money (commercial)*
- *Comply with applicable law*
- *Are performed in a reasonable manner*

The lawful and proper use of pesticides is considered a protected farming or forest practice.

The applicant did explain that the development and maintenance of a golf course was similar in nature to the farm management in the sense it consists of seeding, irrigating, fertilizing, and mowing specialty grasses at various lengths.

The Planning Commission did not reject the staff analysis from the staff report or the applicant's justification but did find the biggest factor in this criteria was the water. When calculated water impacts on agricultural or forest use the boundary for impacts may be sustainably larger than suggested by staff.

However, the Planning Commission did accept the hydrology reports provided by the applicant in this case. The Planning Commission found the largest impact would be water. However, they found in favor of the applicant in this matter given the monitoring wells, junior water right and regulations from the Oregon Water Resources. With this information and a condition of approval that the applicant comply with Oregon Water Resources the proposal would not have a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (20) *GOLF COURSE - "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS*

- 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
- (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
 - (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
 - (c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;
 - (d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:
 - (A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
 - (B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
 - (C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

PLANNING COMMISSION RESPONSE: The Planning Commission found that this an 18-hole golf course that will not exceed the 150 acres but this does not include the "surrounding open space". This is based on the record and as a condition of approval will be limited to the 150 acres that does not include surrounding open space.

The accessory uses that were accepted by the Planning Commission are limited to the items identified under the Turn-Stand and Agronomy which will ensure limited size and orientation on the site to serve the needs of persons and their guests who patronize the golf course.

Therefore, this has been addressed.

Section 4.6.210 Development and Use Standards for the Exclusive Farm Use Zone.

Development Standards All dwellings and structures approved shall be sited in accordance with this section.

1. *Minimum Lot Size: The minimum parcel size shall be at least 80 acres. Land divisions involving a house that existed prior to June 1, 1995 see § 4.6.210(5)(a). For land divisions where all resulting*

parcels are at least 80 acres, a conditional use is not required. However, the applicable standards in Chapter VI must be met. [OR96-06-007PL 9/4/96]

New lots or parcels for dwellings not in conjunction with farm use may be allowed when the requirements of § 4.6.210(3), § 4.6.210(4)(a or b) and § 4.6.210(5) are met. In addition, the creation of new parcels for nonfarm uses may be allowed only when such new parcel is the minimum size needed to accommodate the use in a manner consistent with other provisions of the Ordinance.

The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.

PLANNING COMMISSION RESPONSE: No land division is being proposed at this time; therefore, this is not relevant criteria for this proposal.

2. *Setbacks*

a. *Road: All buildings or structures with the exception of fences shall be setback a minimum of thirty five (35) feet from any road right-of-way centerline or five (5) feet from any right-of-way line, whichever is greater.*

b. *Firebreak: 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 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.*

PLANNING COMMISSION RESPONSE: The approved structures will meet the required setbacks.

3. *Structure Height: Farm-related structures are exempt from height limits unless subject to Airport Overlay zone or Urban Growth Boundary requirements.*

PLANNING COMMISSION RESPONSE: None of the subject properties are within the Airport Overlay or Urban Growth Boundary. Therefore, this criterion is not applicable with this proposal.

4. *Lot Coverage: No requirements.*

PLANNING COMMISSION RESPONSE: This is not relevant to the current proposal as there are no required lot coverage requirements in the zone.

5. *Fences, Hedges and Walls: No requirement except for vision clearance provisions of § 7.1.525 apply.*

PLANNING COMMISSION RESPONSE: The applicant stated that "the golf course development will comply with any vision clearance requirements of 7.1.525". This shall be addressed in the traffic plan.

6. *Off-street parking and Loading: See Chapter VII.*

PLANNING COMMISSION RESPONSE: This shall be addressed as part of any approval. This shall be addressed under the traffic plan requirements.

7. *Minimum Road Frontage/Lot Width unless waived by the Planning Director in consultation with the County Surveyor due to creating an unsafe or irregular configuration:*

- a. *Within UGB's – 50 feet*
- b. *Outside UGB's – 20 feet*

PLANNING COMMISSION RESPONSE: No land divisions are proposed in this application. Therefore, these criteria are not applicable with this proposal.

8. *Access: Access to new dwellings shall meet road design standards in Chapter VII.*

PLANNING COMMISSION RESPONSE: No new dwellings are proposed in this application. Therefore, this criterion has been addressed.

9. *Minimizing Impacts: in order to minimize the impacts of dwellings in agricultural lands, all applicants requesting a nonfarm dwelling shall acknowledge and file in the deed records of Coos County, a Farm Practices Management Easement. The Farm Practices Easement shall be recorded in the deed records of the county prior to any final county approval for a single family dwelling. [OR96-06-007PL 9/4/96]*

PLANNING COMMISSION RESPONSE: No new dwellings are proposed in this application. Therefore, this criterion has been addressed.

10. *Riparian Vegetation Protection within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife Habitat Inventory maps shall be maintained except that:*

- 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 if it is a listed permitted within the zoning district;*
- c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
- d. *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;*
- e. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
- 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 to site or maintain irrigation pumps; or*
- g. *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 represents not more than 100% of the size of the existing structure's "footprint".*
- h. *Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
- i. *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.*

PLANNING COMMISSION RESPONSE: All applicable riparian setbacks will be met and maintained.

III. 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.

PLANNING COMMISSION RESPONSE: The staff addressed all Special Development Considerations but the only relevant criteria to the approved development is the Beaches and Dunes with Limited Development Suitability. This has been addressed below. Any new development proposed may have to comply with additional Special Development Considerations depending on location and type.

4.11.129 Beaches and Dunes (Policy 5.10)

The Beaches and Dunes map has inventoried the following:

- *Beaches and Dunes*
 - o *Suitable for most uses; few or no constraints (Does not require a review)*
 - o *Limited Suitability; special measures required for most development*
 - o *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.

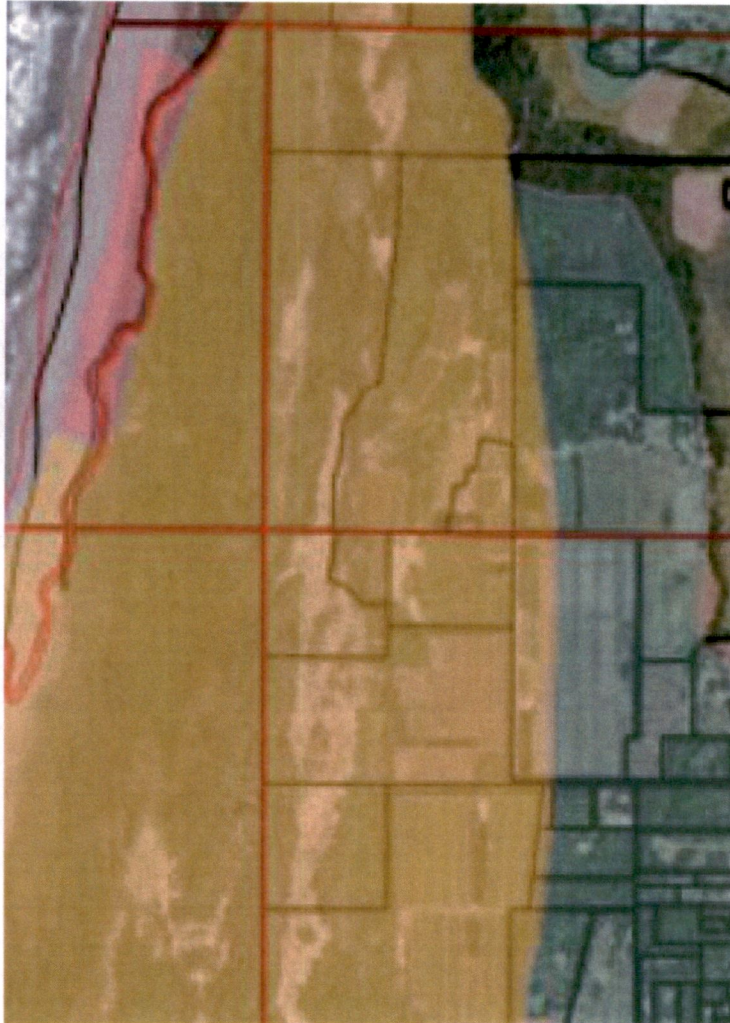
i. Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" only upon the establishment of findings that consider at least:

- 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.

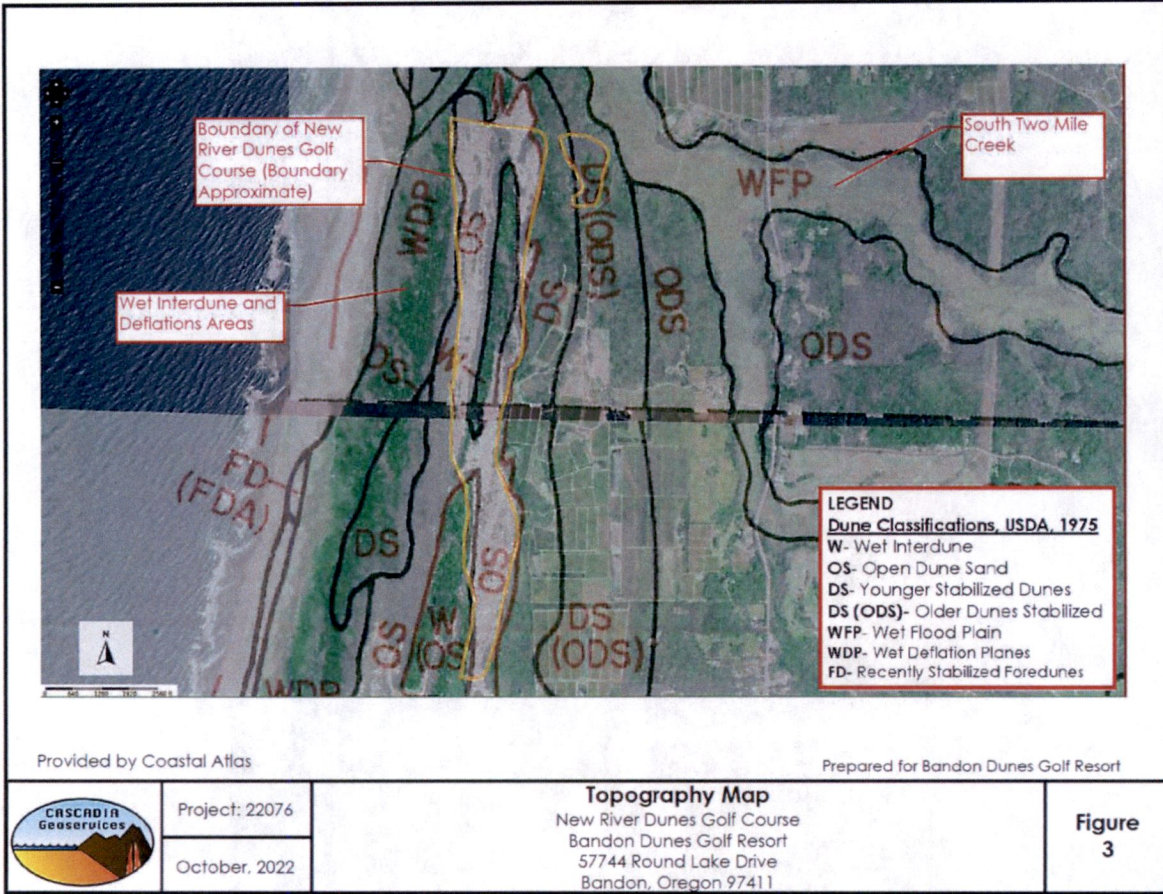
PLANNING COMMISSION RESPONSE: While not all of the subject tract is within the Beaches and Dunes Special Development Consideration, the entire proposed golf course and requested structural development is located within the Beaches and Dunes with Limited Development Suitability Special Development Consideration. The relevant criteria has been included above and the map shows the area gold.



According to the applicant's submitted technical memorandum, the proposed golf course is located in Open Dune Sand (OS), Wet Interdune (W), and Older Dunes Stabilized (DS-ODS).

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The County’s Beaches and Dunes overlay zone derives from the Oregon Planning Goal #18. Goal #18 specifically directed local governments to “begin the beach and dune inventory with a review of Beaches and Dunes of the Oregon Coast, USDA Soil Conservation Service and OCCDC, March 1975, and determine what additional information is necessary”.

Below is the reference table that relates to the USDA mapping classifications compared to the Goal 18 dune classifications.

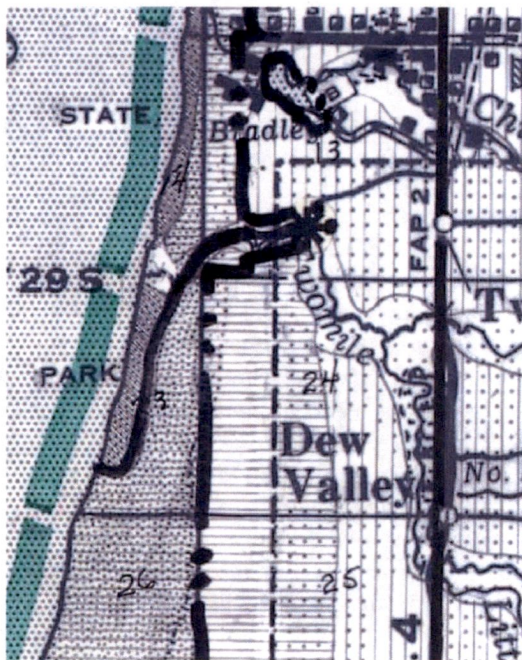
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TABLE 2 A
SAND DUNE MAPPING UNITS AND DUNE FORMS

ASSOCIATED DUNE CATEGORIES	MAPPING UNIT		ABBREVIATED DESCRIPTION
	NAME	SYMBOL	
Active Dunes	Open Dune Sand	OS	Wind drifted sand in the form of dunes and ridges, that are essentially bare of vegetation.
	Active Dune Hummocks	H	Partly vegetated circular and elevated mounds of sand.
	Active Foredunes	FDA	A growing barrier ridge of sand paralleling the beach which lies immediately above the high tide line.
Recently Stabilized Dunes	Foredunes	FD	An active foredune that has become conditionally stable with regard to wind erosion.
	Open Dune Sand Conditionally Stable	OSC	A sand dune presently in wind stable condition but vegetated by fragile plantings.
	Dune Complex	DC	Various patterns of small dunes with partially stabilized intervening areas.
	Younger Stabilized Dunes	DS	A youthful wind stable dune landform.
Older Stabilized Dunes	Older Stabilized Dunes	ODS	A wind stable dune landform that has soils with weakly cemented nodules and lenses to strongly cemented nodules or strongly cemented Bir horizons.
	Older Foredunes	OFD	A wind stable former foredune landform that lies approximately parallel but back away from the beach.

January 1975

Below is the County's adopted Mylar maps for Beaches and Dunes.



- BEACHES & DUNES
-  SUITABLE FOR MOST USES; FEW OR NO CONSTRAINTS ON DEVELOPMENT
 -  LIMITED SUITABILITY; SPECIAL MEASURES REQUIRED FOR MOST DEVELOPMENT
 -  NOT SUITABLE FOR RESIDENTIAL, COMMERCIAL OR INDUSTRIAL STRUCTURES

Even with the differences between the USDA 1975 map and the County's Beaches and Dunes map. The proposed golf course is located within the Beaches and Dunes zones that require reviews.

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.*

The applicant did submit a technical memorandum from Eric Oberbeck, CEG #1332, with Cascadia Geoservices. The technical memo states "Based on our site evaluation and on our experience working in this region, it is our opinion that developing the site into a golf course will not have an adverse impact on either the site or adjacent areas. Further, it is our opinion that because the golf course will provide and maintain permanent vegetation, the younger open dunes will be stabilize from further wind erosion. This permanent stabilization will occur after final shaping eliminating the need for temporary stabilization measures. As with other development projects in windy areas, erosion and sediment control measures should be adopted during clearing and shaping of the site in accordance with DEQ's Best Management Practices. Further, we see no hazards to either life, public and private property, or to the natural environment by the proposed development. Finally, it is our professional opinion that the proposed development will not cause excessive destruction of desirable vegetation, where preserved (including inadvertent destruction by moisture loss or root damage), cause exposure of stable and conditionally stable areas to erosion or modify current air wave patterns leading to beach erosion".

The Planning Commission found the applicant addressed the Beaches and Dunes with Limited Development Suitability for the golf course and limited development that is proposed. At the time the applicant submits a request for additional uses and/or structures are provided another review to determine the effect of that development will be required.

IV. CHAPTER VII TRANSPORTATION, ACCESS, AND PARKING

SECTION 7.1.250 MATERIALS REQUIRED FOR AN APPLICATION: A traffic plan (item 1) will be required for all rezones, recreational vehicle parks, campgrounds, mobile home parks, land divisions, industrial developments, commercial developments and high intensity development plans. The Roadmaster in consultation with the Planning Director will have discretion to waive items 2 through 4 based on the findings that the increase in development is diminimus to the existing development.

1. *Traffic Plan - A parking/traffic plan shall be submitted to address all of the following:*

STAFF RESPONSE: While the subject tract consists of multiple parcels, the applicant states “*The boundaries of the golf course subject to traffic and parking plans have been submitted in the form of the revised New River Dunes Conceptual Master Plan (Applicant’s Exhibit “C”) and Preliminary Clubhouse Site Plan (Applicant’s Exhibit “D).*”

The Planning Commission discussed the traffic impacts and the proposed access roads. There was some concern about using Boak Lane during flood events. The Planning Commission conditioned that the applicant shall obtain a permit from the County Road Department, Oregon Department of Transportation (for any access onto Hwy 101 which may require moving the utility poles and creating a turn lane) and show proof of legal use of all roads.

The Roadmaster shall determine compliance with the county requirements of this section and will need to provide the final approval prior to receiving a Zoning Compliance Letter.

V. DECISION AND STAFF RESPONSE

SECTION 5.7.100 REVIEWING AUTHORITY (4) Decision:

- a. *Decision: After the record has been closed and all evidence submitted into the record has been reviewed the Review Authority shall:*
 - i. *Approve or deny all or part of the application; or*
 - ii. *Approve all or part with modifications or conditions of approval.*
- b. *Basis for Decision: An approval or denial of a development action shall be based upon substantial evidence in the record that addresses the pertinent standards and criteria set forth in the applicable provisions of state law, the Comprehensive Plan, Coos County Zoning and Land Development Ordinance and other applicable laws as determined by the Review Authority.*
- c. *Findings and Conclusions: The Review Authority shall provide brief and concise findings of fact, conclusions of law and an order for all development approvals, conditional approvals or denials. The findings and order shall set forth the criteria and standards considered relevant to the decision, state the facts relied upon and briefly indicate how those facts support the decision. In the case of denial, it shall be sufficient to address only those standards upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.*
- d. *Conditions of Approval: The Review Authority may impose conditions on any conditional use approval in compliance with Section 5.0.350.*
- e. *Appeal Deadlines: Appeal deadlines are set out in Section 5.0.900.*

SECTION 5.0.350 CONDITIONS OF APPROVAL:

1. *Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use*

or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.

2. An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.
3. At an applicant's request, the County may modify or amend one or more conditions of approval for an application previously approved and final. Decisions to modify or amend final conditions of approval will be made by the review authority with the initial jurisdiction over the original application using the same type of review procedure in the original review.

PLANNING COMMISSION DECISION: The Planning Commission approved the 18-hole golf course in the Non-High-Value portion of the Exclusive Farm Use Zone. The course will not exceed 150 acres and that does not include the "surrounding open space". The golf course may only contain the following structures: Turn-Stand, Agronomy for maintenance and independent Restrooms. The approval is based on the following conditions:

1. Driveways, parking and access permit sign off by the County Roadmaster for all access roads;
2. Access and road permit signed off by Oregon Department of Transportation for all accesses from HWY 101;
3. Documents to show legal right to use all access roads;
4. No use of Boak Lane during flood events that cover the road;
5. Development is restricted to the essential buildings to include Turn-Stand, Agronomy for maintenance, and Restrooms.
6. Applicant shall comply with conditions set out in Exhibit 6 (Oregon Department of Fish and Wildlife).
7. Applicant shall obtain permits for Oregon Water Resources including installing and monitoring wells.
8. Any development beyond this approval will require a new application and Beaches and Dunes Review.
9. Development Transferability - Unless otherwise provided in the approval, a land use approval that was obtained through a conditional use process shall be transferable provided the transferor files a statement with the Planning Director signed by the transferee. This document shall be recorded in the chain of title of the property, indicating that the transferee has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title to alert a purchaser that development was approved subject to conditions and possible restrictions.
10. Minimizing Impacts: In order to minimize the impact of dwellings in forest lands, all applicants requesting a single-family dwelling shall acknowledge and file in the deed record of Coos County, a Farm/Forest Management Covenant. The Forest Management Covenant shall be filed prior to issuance of a Zoning Compliance Letter.
11. Obtain Zoning Compliance Letter from the County once conditions are satisfied.

Application for Water Right Transfer

Evidence of Use Affidavit



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.wrd.state.or.us

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

State of Oregon)
) ss
 County of Coos)

I, MICHAEL KEISER, in my capacity as OWNER,
 mailing address 57744 ROUND LAKE ROAD, BANDON, OR 97411

telephone number (312) 794 – 8450, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation Professional expertise

2. I attest that:

Water was used during the previous five years on the **entire** place of use for Certificate # _____; **OR**

My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

OR

- Confirming Certificate # _____ has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: IL-107 (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # _____ (For Historic POD/POA Transfers)

(continues on reverse side)

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3. The water right was used for: (e.g., crops, pasture, etc.): Pasture
4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

Michael Kline
Signature of Affiant

1/16/2024
Date

Signed and sworn to (or affirmed) before me this 16th day of January 2024.



Marianne Laughlin
Notary Public for Oregon
My Commission Expires: 7/14/25

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none"> • Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> • District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	<p>Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.</p> <p>Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terra-server.com</p>
<input checked="" type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

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**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of the Instream Lease Application) DETERMINATION and FINAL ORDER ON
IL-107, Coos County) PROPOSED INSTREAM LEASE

Authority

ORS 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. OAR Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessor

Bandon Biota, LLC
2450 N. Lakeview Avenue
Chicago, IL 60614

Findings of Fact

1. On March 15, 2021, Bandon Biota, LLC filed an application to renew instream lease IL-107, an application to lease the entirety of Certificate 73636 for instream use.
2. The right to be leased is as follows:

Certificate: 73636 in the name of Barbara Fugate (perfected under Permit S-17313)
Use: Irrigation of 53.0 acres
Priority Date: OCTOBER 22, 1946
Rate: 0.66 Cubic Foot Per Second
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to one-eightieth of once cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: Twomile Creek, tributary to Pacific Ocean

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distance
29 S	15 W	WM	13	SE SW	PORTABLE PUMPING
29 S	15 W	WM	13	SW SE	PORTABLE PUMPING
29 S	15 W	WM	24	NE NE	PORTABLE PUMPING
29 S	15 W	WM	24	NW NE	PORTABLE PUMPING

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Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	13	SW SE	10.2
29 S	15 W	WM	24	NE NE	22.0
29 S	15 W	WM	24	NW NE	20.8
Total					53.0

3. Certificate 73636 does not specify the irrigation season; nor is an irrigation season specified by Basin Program or Decree. For the purposes of instream leasing, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream.
4. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
5. The instream use is as follows:
TWO MILE CREEK tributary to PACIFIC OCEAN

Instream Reach: From authorized POD at River Mile 1.5 (as described in Finding of Fact No. 2) to the mouth of Two Mile Creek

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
73636	OCTOBER 22, 1946	0.66	July 7 through October 15

6. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
7. The protection of flows at the authorized point of diversion is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion;
 - b. The location of confluences with other streams downstream of the point of diversion.
 - c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of the instream water right.
8. The total monthly quantities of water to be protected under the existing and proposed instream rights at the point will provide for a beneficial purpose.
9. The total monthly quantities of water to be protected instream under existing and proposed instream rights at the point do not exceed the estimated average natural flow.

10. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
11. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.
12. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of any future transactions.
13. The Lessor has requested that the lease terminate on October 31, 2026, however the term of a lease can only be up to five years, therefore the lease may commence on the date this final order is signed and terminate on October 31, 2025.
14. The Lessor has requested the option of terminating the lease early with written notice to the Department.

Conclusions of Law

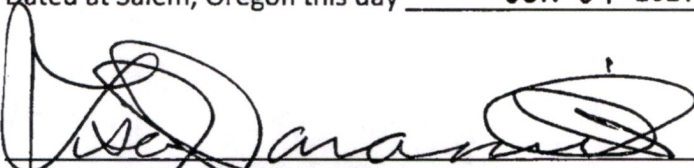
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. That the Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.

3. The term of the lease will commence upon approval of the instream lease and terminate on October 15, 2025. For multiyear leases, the lessor *shall* have the option of terminating the lease any time each year with written notice to the Department. However, if the termination request is received less than 30-days prior to the instream use period (July 7 through October 15) or after the water rights' original period of allowed use has begun, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this day JUN 07 2021



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Bylec, Director, Oregon Water Resources Department

Mailing date: JUN 08 2021

*This document was prepared by
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