



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

2/12/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Coos County Plan Amendment
DLCD File Number 005-09A

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, February 25, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jill Rolfe, Coos County
Jon Jinings, DLCD Community Services Specialist
Dave Perry, DLCD Regional Representative

<paa> YA

NR0F 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person electronic mailed

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DEPT OF

FEB 0^{5 AM} 2010

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Coos County**

Local file number: **AM-09-06**

Date of Adoption: **1/26/2010**

Date Mailed: **1/28/2010 (amended 2/4/10)**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: November 11, 2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amend 2003 Bandon Dunes Resort Master Plan and associated supplementary exception statement to authorize beach grass removal and dunal plant habitat reclamation project supported by small-footprint golf course with not more than a total of 8 acres of groomed turf served by existing facilities in dunal open space south of Cut Creek near resort center.

Does the Adoption differ from proposal? No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment. Yes, Goals: 3, 4, 11, 14, 17, 18

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 005-09A (18108) [15972]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DLCD only records this information): DLCD, ODOT, State Parks, DSL, DEQ, ODFW, Coquille Indian Tribe, Confederated Tribes, USDFW, BLM, and Cut Creek Irrigation District

Local Contact: **Patty Evernden, Planning Director** Phone: (541) 396-3121 Extension: 210
Address: **250 N. Baxter St.** Fax Number: **541-756-8630**
City: **Coquille** Zip: **97423** E-mail Address: **planning@co.coos.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist.**

Updated March 17, 2009

1 BOARD OF COMMISSIONERS

2
3 COUNTY OF COOS

4
5 STATE OF OREGON

6
7 IN THE MATTER OF AMENDING THE)
8 COOS COUNTY COMPREHENSIVE PLAN)
9 [Application of Donald Stastny) ORDINANCE 10-01-003PL
10 Bandon Dunes Resort Master Plan)
11 amendments) County File: AM-09-06])

12
13 The Board of Commissioners for the County of Coos ordains
14 as follows:

15
16 SECTION 1. TITLE

17
18 This ordinance shall be known as "Coos County Ordinance 10-
19 01-003PL."

20
21 SECTION 2. AUTHORITY

22
23 ~~This ordinance is enacted pursuant to the provisions of ORS~~
24 ~~203.035 and ORS Chapter 215.~~

25
26 SECTION 3. PURPOSE

27
28 The purpose of this ordinance is to amend Volume I of the
29 acknowledged Coos County Comprehensive Plan. This
30 Ordinance therefore amends Coos County Ordinance 82-12-
31 022L, and amendments thereto, which adopt Volume I of the
32 Coos County Comprehensive Plan.

33
34 These amendments are necessary to:

35
36 a. Allow the addition of a single, small-footprint golf
37 course with no more than 22 holes and no more than a
38 cumulative total of seven (7) acres of turf for tees,
39 greens and approaches, on 21 acres in the Natural Resource
40 Conservation Area south of Cut Creek and west of the Trails
41 Golf Course at the Bandon Dunes Golf Resort.

42
43 b. Adopt a supplemental reasons exception to applicable
44 Statewide Planning Goals and incorporate the exceptions, the
45 reasons therefore, and measures demonstrating compliance
46 with the standards for such exceptions into the Coos County
47 Comprehensive Plan.

1
2 c. Make appropriate amendments to the Coos County
3 Comprehensive Plan text consistent with the findings and
4 exception statement adopted hereby.

5
6 SECTION 4. COMPREHENSIVE PLAN TEXT AMENDMENTS

7
8 Coos County Ordinance 82-12-022L, and amendments thereto
9 adopting Volume I of the Coos County Comprehensive Plan,
10 are amended as necessary to change the text of the Coos
11 County Comprehensive Plan as follows:

12
13 1. **Master Plan Amendments.** The Bandon Dunes Resort Master
14 Plan, as previously amended and incorporated into CCCP
15 Volume I, Part 3, Statewide Goal Exceptions, is further
16 amended as follows, with new matter underlined and deleted
17 matter struck through:

18
19 Amend **Table I, Constructed, Approved, and Authorized Bandon**
20 **Dunes Resort Development**, as shown in Exhibit 1 hereto to
21 reflect recent development and add the following:

22
23 ~~One special purpose, small-footprint golf course in Natural~~
24 Resource Area south of Cut Creek.

25
26
27 **Add New Section VIII, "Amendments to 1996 Master Plan as**
28 **Amended in 2003**

29
30 **Natural Resource Conservation Areas:** The 1996 Bandon Dunes
31 Resort Master Plan as amended in 2003 was further amended
32 in 2010/2010 to authorize a small-footprint, archipelago-
33 style golf course on 21 acres of the Scenic Dunes Natural
34 Resource Conservation Area south of Cut Creek and west of
35 the Trails Golf Course. The primary purpose of the course
36 is to create a vehicle for long-term silvery phacelia
37 habitat protection, expansion, research, education,
38 management, and funding. A secondary purpose is to deepen
39 and extend the experience of resort visitors by educating
40 them about coastal habitat management and restoration while
41 exposing them to golf as it was when it began in similar
42 settings centuries ago. The course will be subject to the
43 following special standards:

- 44
45 a. No continuous fairways
46 b. No more than a cumulative total of seven acres of turf
47 for tees, greens, and approaches.
48 c. No buildings, roads, or parking lots.
49 d. Not more than 12 holes

- 1 e. Not more than two acres within 50 feet of an external
2 resort site boundary
3 f. Outside riparian setbacks
4 g. Outside shorelands boundaries
5

6 This amendment to the Bandon Dunes Resort Master Plan is
7 adopted concurrently with and establishes comprehensive
8 plan consistency for the Bandon Dunes Resort Phase VIII
9 Final Development Plan.

- 10
11
12 **2. Second Supplemental Exception Statement:** Amend Coos County
13 Comprehensive Plan Volume I, Part 3, Statewide Goal
14 Exceptions, to add the Supplemental Exception and
15 Supporting Statement for 2010 Amendments to Bandon Dunes
16 Resort Master Plan and Bandon Dunes Resort Zoning
17 Ordinance, attached and incorporated herein as Exhibit 2
18 [Section V of Applicant's Statement], to the Bandon Dunes
19 Resort Master Plan and Exception Statement, as initially
20 adopted in 1996 by acknowledged Coos County Ordinance 96-
21 030-03PL and as amended in 2003 by acknowledged Coos County
22 Ordinance 03-04-003PL.
23

24 SECTION 5: FINDINGS

25
26 The review standards applicable to the above-described
27 Comprehensive Plan amendments and goal exceptions, together with
28 the findings of fact and conclusions demonstrating that those
29 standards have been satisfied, are set forth in Exhibit 3,
30 "Applicant's Statement, Proposed Findings, and Supplemental
31 Exception Statement for 2010 Text Amendments to Bandon Dunes
32 Resort Master Plan and Bandon Dunes Resort Zoning Ordinance,"
33 which is attached hereto and incorporated herein by this
34 reference.
35

36 SECTION 6: REPEAL OF INCONSISTENT ORDINANCES

37
38 Coos County Ordinance 82-12-022L and amendments thereto are
39 repealed to the extent they conflict with this Ordinance.
40 Said Ordinances shall remain in full force and effect in
41 all other respects.
42

43 SECTION 7: SEVERANCE CLAUSE

44
45 If any section, subsection, provision, clause, or paragraph
46 of this Ordinance shall be adjudged or declared by any
47 court of competent jurisdiction to be unconstitutional or
48 invalid, such judgment shall not affect the validity of the
49 remaining portions of this ordinance; and it is hereby
50 expressly declared that every other section, subsection,

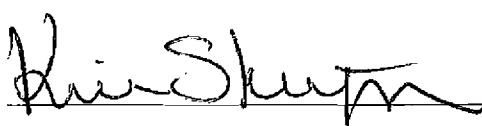
1 provision, clause or paragraph of this ordinance enacted,
2 irrespective of the enactment or validity of the portion
3 thereof declared to be unconstitutional or invalid, is
4 valid.

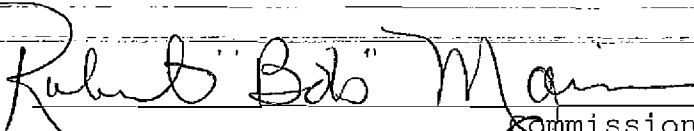
5
6 SECTION 11: EMERGENCY CLAUSE


7
8 The Board of Commissioners for the County of Coos deems
9 this Ordinance necessary for the immediate preservation and
10 protection of the public peace, safety, health and general
11 welfare of Coos County and declares an emergency exists,
12 and this Ordinance shall be in full force and effect upon
13 its passage.

14
15 ADOPTED this 26th day of January, 2010.

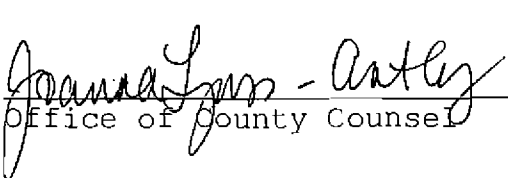
16
17 BOARD OF COMMISSIONERS, COOS COUNTY

18
19 
20 _____
21 Commissioner

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23 
24 _____
25 Commissioner

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28 _____
29 Commissioner

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33 APPROVED AS TO FORM:

34
35 
36 _____
37 Office of County Counsel

38
39
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41
42 ATTEST:
43
44 
45 _____
46 Recording Secretary

47
48

Exhibit 1 to Coos County Ordinance No.10-01-003PL
 Amending the Coos County Comprehensive Plan
 Bandon Dunes Resort Master Plan County File AM-09-06

Table 1
Constructed, Approved and Authorized
Bandon Dunes Resort Development (Amended 2010)

Development Authorized	Approved by 1996 and 2003 Exceptions	Constructed through 2010	Newly Authorized by 2010 Exception	Total
Overnight Lodging Units	300	300	0	300
Private Dwelling Units	600	0	0	600
Golf Courses	4.5	4.5	1.0*	5.5
Acres	2,140		0	2,140

Other Recreational and Commercial Facilities

Approved as Part of Original Exception

Golf Clubhouse/Pro Shop
 Restaurants (2)
 Meeting Facilities
 Recreation Center
 Conference Center
 Retail Shops
 Mini-Clubhouse/Pro Shop
 Dock @ Fahy Lake
 Nature Trail System

Additionally Approved as Part of 2003 Supplemental Exception

Golf Clubhouse/Pro Shop (3)
 Golf Academy & Practice Center
 Restaurants (3)
 Spa/Fitness Center
 Retail Shops
 Swimming Pool
 Art/Nature Study Center
 Cultural/Visitor Center
 Croquet Courts
 Dock @ Madrone Lake
 Additions to Nature Trail System

Additionally Approved by 2010 Supplemental Exception

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

**EXCEPTION STATEMENT
2010 SECOND SUPPLEMENTAL EXCEPTION
BANDON DUNES RESORT MASTER PLAN**

SUPPLEMENTAL EXCEPTION REQUIREMENT

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

The current proposal is much smaller in scope and effect: Unlike the 2003 amendments, this 2010 application involves less than 25 acres in the heart of the existing master plan area. Unlike the 2003 amendments, this application does not involve changes to the existing boundaries of the Master Plan area or to the boundaries of any internal plan designation, zone or subzone. Unlike the 2003 amendments, this application does not involve additional lodging, permanent housing, clubhouses, or roads.

The current proposal authorizes only a single change for a specific location in the range of nonstructural recreational uses that are currently allowed at that location. Thus, although the change is tiny by comparison with the 2003 amendments, a second supplemental exception is required. However, like the 2003 supplemental exception, this exception supplements rather than replaces the existing acknowledged exceptions. Similarly, the applicant's proposed supporting statement of findings addressing statewide goals, rules, and other criteria supplements rather than replaces the existing acknowledged findings.

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

The 2003 resort expansion application proposed a supplemental "reasons" exception to Statewide Planning Goals 3, 4, 11 and 14. The 2003 amendments required a supplemental exception to LCDC's Agricultural Lands Goal (Goal 3) and Forest Lands Goal (Goal 4) because the Supplemental Master Plan, BDR Plan Map designation and BDR zoning district allowed uses not permitted on agricultural and forest lands by those goals. A supplemental exception to LCDC's Public Facilities and Services Goal (Goal 11) and Urbanization Goal (Goal 14) was required because those goals prohibit urban levels of public facilities and services and urban levels of use, respectively, on rural lands outside a UGB. The supplemental exception was also necessary because the 2003 amendments

made a number of changes in uses and intensities allowed within the original 1996 Bandon Dunes Master Plan Area.

The acknowledged 1996 and 2003 Exception Statements and Findings (ES&F) provide much of the basis for the additional proposed use. That use will be a modest addition to the resort's menu of unique golf experiences, enhancing the resort's ability to retain guests, which is central to the success and sustainability of a destination resort. See DLCD Destination Resort Handbook (1989 and 1995). More importantly, it will establish a promising new mechanism for long-term funding, research, and management of open-sand habitat reclamation, enlargement, and enhancement.

REASONS JUSTIFYING SECOND SUPPLEMENTAL GOAL EXCEPTION

Goal exceptions are a flexibility tool authorized under statewide planning statutes, goals, and administrative rules for situations in which a departure from the strict application of a substantive goal is justified based on site specific conditions. Goal 2 defines the term as follows:

"Exception" means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

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

Exceptions are of three types:

- "Developed lands exceptions" are justified where the property is physically developed to the point where resource use is no longer practicable."
- "Committed lands exceptions" are justified where the nature of nearby physical development makes resource use impracticable."
- "Reasons exceptions" are justified where there is a need for development at the site in question and where the site compares favorably with other possible locations for the proposed land use."

The existing Bandon Dunes Resort Master Plan and associated Plan and implementing ZLDO amendments were approved and acknowledged in 1996 and 2003 pursuant to a "Reasons" exception to Statewide Planning Goals 3 (Agricultural Lands), 4 (Forest Lands), 11 (Public Facilities and Services) and 14 (Urbanization).

The proposed 2010-2010 amendment requires this second supplemental reasons exception to Statewide Planning Goals 3, 4, 11 and 14 because it would permit a single additional nonfarm, nonforest, nonurban use, served by existing resort infrastructure, within the footprint of the original 1996 exception and the 2003 supplemental exception. OAR 660-004-0018(4)(b).

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

- "(1) **[Reasons]** Reasons justify why the state policy embodied in the applicable goals should not apply;
- "(2) **[Nonexception Alternatives]** Areas which do not require a new exception cannot reasonably accommodate the use;
- "(3) **[Exception Alternatives/Comparative Impacts]** The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- "(4) **[Compatibility]** The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

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

¹ OAR Chapter 660, Division 14 was adopted to govern proposals for the incorporation of new cities on undeveloped rural land. However, OAR 660-014-0040 includes provisions that are generally applicable to reasons exceptions for "new urban development on rural land," even where the creation of a new city is not involved. See *Caine v. Tillamook County*, 25 Or LUBA 209, 221 (1993), and *Vincep v. Yamhill County*, 215 Or App 414, 171 P3d 368 (2007).

The documentation supporting an exception must be adopted as part of the County's Comprehensive Plan.

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

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

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

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

- "(a) There is a **demonstrated need** for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either
- "(b) A **resource** upon which the proposed use or activity is **dependent** can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; **or . . .**"
- "(c) The proposed use or activity has **special features or qualities** that necessitate its location on or near the proposed exception site."
(Emphases added.)

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

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

The rules recognize that it is not possible to foresee all of the combinations of factors that may constitute an adequate set of "reasons" to justify an exception. They do not purport to restrict the types of reasons which may support an exception.

OAR 660-004-0022(1) simply provides "examples" that "are not limited" to the

examples of types of reasons provided. It recognizes that market demand and assistance to counties in meeting their planning obligations under statewide goals and acknowledged plans may be among the reasons that, taken together, explain why a

particular exception is justified. By its use of the terms “examples” and “not limited to,” the rule clearly rules out any inference that its terms are intended to be exclusive.

1. Need for proposed additional use

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

The proposed 2010 supplemental exception is justified under the above standards as follows:

“(a) The proposed use is needed to implement an aggressive long-term dunal habitat management and enhancement strategy.”

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

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

Like the two previous exceptions, this supplemental exception will enhance implementation of the open space and habitat protection and enhancement objectives of

statewide land use goals, including Goal Five (Open Space and Natural Resources) and Goal 17 (Beaches and Dunes).

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

This is important for such a remotely-located destination resort and the community of which it is a part. As the 2003 Exception statement found,

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

“Since 1970, Oregon has seen traditional core industries such as logging and fishing disappear. It has seen basic manufacturing jobs shipped out of state and out of country. It has learned that chip plants, research parks, and bioscience are highly portable. (Close to home, the Bandon Cheese factory closed late in 2002.) During that same time, Oregon has seen the emergence of large-scale, comprehensive, and distinctive destination resorts. Not all have been successful, but those that have, like Black Butte and Sunriver, have proven to be long-term contributors to a healthy tourist economy.

“Coos County needs the kind of long-term recreational asset and economic mainstay of a healthy coastal economy that Sunriver and Black Butte have been for central Oregon. And while there is no way to guarantee long-term success, there are certainly ways to improve the odds. The most important, beyond continued sound management and stewardship of the existing facility, is the opportunity to increase the depth and breadth of the resort’s setting and offerings. Bandon Dunes needs to build on its unique strength with additional land for links golf courses along the ocean bluff. It needs to provide alternatives and additions to the golf experience for the off-season, the nongolfer, and families of the dedicated golfer. It needs to be able to assure long-term control of its spectacular setting. And, although it has chosen to front-load its investment with recreational assets, it has the need for permanent housing in the ratio to overnight lodging that has been legislatively recognized by the destination resort statute.

“LCDC's 1995 Destination Resort Handbook recognizes that size, diversity, and depth can be critical to the long-term success of a destination resort in a remote part of Oregon such as coastal Coos County:

"Oregon's distance from major population centers means we must compete with major national tourist destinations. Several factors make it difficult for Oregon to compete:

- Oregon's major resort areas (the coast and central Oregon) are not easily accessible by air travel.
- Oregon's reputation for a rainy climate, deserved or not, hinders competition with Sunbelt vacation spots.
- Oregon has excellent beaches and ski slopes, but the competition is tough. The warm beaches of Hawaii and Southern California are strong attractions, as is the dry powder snow of the Rocky Mountain resorts.
- By national and international standards, Oregon's resort areas are small. Major resort areas usually are much more diverse, and offer more and better developed facilities than smaller resorts. Smaller resorts can have difficulty attracting the number of visitors needed to make a resort successful.
LCDC Destination Resort Handbook, 1995, p. 4.

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

(b) and (c) Need to be at Specific Rural Location/Resource Dependency and Site Dependency

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

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

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

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

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

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

Updated Summary of Reasons from the 1996 and 2003 Exception Statements

The 1996 exception was found to be justified for a number of reasons, several of which are very similar to the examples given in the exception rule. Those reasons are still valid and were summarized in the 1996 exception statement. The 1996 summary statements were updated in the 2003 exception statement, and are further updated for this exception statement as follows:

- (1) **1996 Finding:** "Coos County's acknowledged comprehensive plan recognizes the need for a destination resort as part of the county's tourist industry, which is a primary element of the county's economy."

2003 Update: Coos County's Plan continues to recognize this need. The 1996 Master Plan addressed that need. Since then, the Bandon Dunes Resort has come into being and has become a primary element of the county's economy. Over the past four years, Bandon Dunes has created permanent long-term jobs for local residents as well as seasonal and construction jobs numbering in the hundreds. Indirect benefits include revenues to local businesses, entrepreneurial opportunities and tax payments to local governments. However, important needs remain. Economic benefits can be increased, made more stable for the long term, and spread more evenly throughout the year. A key problem for Coos County is the seasonality of its major industries. As the 2000-2005 South Coast Workforce Investment Plan points out:

“Seasonality is an issue for two major components of South Coast economy. The resource industries, lumber and fishing, are directly impacted by seasons and related weather. Tourism is also seasonal.”

An economic assessment conducted by Economic Research Associates (ERA) has identified a significant difference between peak and off-season overnight lodging occupancy rates at the resort, and has confirmed the need to increase off-season occupancy rates and average lengths of stay through expanding the existing golf-oriented facilities and adding new year-round activities to broaden the range of recreational pursuits available to future resort guests and residents.

For a detailed review of the ERA study's findings and implications, see the “Economic Consequences” analysis in Section VIII.E.5.d(4). The ERA study itself is found in Applicant's Vol. II, App. A.

2010 Update: The 2003 Exception has enabled the Resort to increase its offerings to four championship golf courses and to add lodging, restaurants, and other facilities, all of which has improved the year-round viability of the resort. Addition of the proposed small-scale, special-purpose golf course, together with related opportunities for environmental education, enhancement, and research, will give the resort additional resilience in responding to changing economic conditions, energy costs, and other factors making it ever more important to increase length of stay.

- (2) **1996 Finding:** “The Oregon legislature has recognized the need for destination resorts as an important component of the economies of Oregon counties.”

2003 Update: Legislation recognizing the need for destination resorts is still on the books. That need is addressed in Coos County by the Bandon Dunes Resort. No other destination resort has been proposed or approved in Coos County.

2010 Update: Bandon Dunes is still the only resort proposed or approved in Coos County.

- (3) **1996 Finding:** “The need is particularly acute in rural counties like Coos County which are heavily dependent upon interstate tourism and which need a strong and stable tourism sector to attract new business and to offset declines in traditional resource extraction industries.”

2003 Update: The need has become even more acute in Coos County as the fishing, forest, and food processing industries have continued their downward slide. Bandon Dunes Resort has surpassed all projections and expectations in meeting that need to date but will be unable to provide the year-round jobs and assurance of long-term staying power unless it builds upon its early success in the manner contemplated by the approved expansion.

2010 Update: Bandon Dunes has retained and enhanced its world-class reputation. Its expansion since 2003 has generated substantial additional construction, seasonal, and year-round employment, making it one of the Central Coast's major employment centers. The additional use will generate a modest amount of additional construction, operational and seasonal work.

- (4) **1996 Finding:** “Destination resorts are a key element of the area’s strategic planning for economic development.”

2003 Update: Coos County’s only destination resort is fulfilling its role as a key to the area’s strategic planning and development. The high visibility of Bandon Dunes Resort and its golf courses have brought a bountiful harvest of positive state, regional, national, and international awareness of and interest in Coos County and what it has to offer. A few examples:

A report in the Fall, 2002, issue of the Oregon Department of Aviation’s newsletter, *Flightlines*, reports that Bandon Dunes is a key element in growing traffic through the North Bend Airport, which is in turn key to the area’s economic well-being. As the newsletter reports,

“Golfers flying in from all over the country to play the two courses at nearby Bandon Dunes Resort may account for a major part of the airport’s traffic; more than half of the 70,000-plus rounds of golf at the resort this year will be played by golfers from outside the Pacific Northwest. “

The newsletter further observes that North Bend Airport is “critical to the economy of the area” and reports that

“Representatives from the South Coast Economic Development Council advocate that existing companies in the area depend greatly on the airport for business-related travel, and that the availability of an airport is a strong factor in determining where many new companies decide to locate.”

An ABC Evening News special feature highlighted both the contribution Bandon Dunes Resort is making to the area’s economy and the availability of a talented, motivated, and underutilized labor pool.

A January, 2003, search for references to “Bandon Dunes” on a major internet search engine (Google) turns up 2,630 hits. [Update: 57,500 hits Nov. 3, 2010]

News stories such as the following excerpt from the February 1, 2002 issue of *Friday Update*, the weekly newsletter of the City of Coos Bay, directly link the community’s economic development efforts to the resort’s success, visibility, and marketing.

“CITY MANAGER CONFERS WITH BANDON DUNES ABOUT TOURISM -- This week City Manager Bill Grile met with Bandon Dunes owner Mike Keiser and his chief project manager, Howard McKee, to discuss tourism and opportunities to partner for the betterment of the region. Clearly, nothing has done more to put Coos County on the map than Keiser's world class development, and just this week he learned that Bandon Dunes has earned another great achievement. For the first time in the magazine's history, Golf Digest has ranked the best golf resorts in the country and want to make any guesses about what that might mean to the South Coast? Still in its development stages, Bandon Dunes has been ranked ‘Number Five’ out of 75 top USA golf resorts! Pebble Beach ranked tops, but being fifth out of 75 when the project is not even finished is certainly no slap in the face!

“Mayor Joe Benetti and Grile plan to meet with Keiser in the near future to learn more about his feeling about marketing the region and leveraging opportunities to benefit from the attention Bandon Dunes is receiving. That attention is due in no small part to the considerable investment Bandon Dunes makes through its annual advertising and promotions budget.”

The 2000-2005 Local Unified Workforce Plan of the South Coast Workforce Investment Board lists Bandon Dunes first among the promising developments for this economically distressed region. The Plan’s “Local Market Analysis” reports:

“Coos and Curry Counties have suffered economically as the resource-based industries of lumber and fishing have declined. Only recently has

the prospect of economic growth solidified in the form of Bandon Dunes world-class golf courses, a new dock at Port Orford, improvements on the Brookings sewer system, and the location of a large (300+ employee) company in the Bay Area. Southwestern Oregon Community College is developing a technical training center which will support the expansion of Information Technology-based industry in the region. Efforts to increase bandwidth also support the hope that computer information and support will become central to the economic health of the region.”

2010 Update: Bandon Dunes has played a key role in retaining commercial air service to the region in the years since 2003. Its ability to continue to do so will be enhanced by allowing an additional use that broadens and deepens its offerings while enabling it to more effectively protect and enhance its unique natural setting.

- (5) **1996 Finding:** “Coos County has no destination resorts and no reasonable prospect of having one unless the Bandon Dunes destination resort is approved.”

2003 Update: Coos County now has the Bandon Dunes destination resort. Under existing state land use regulations, it has no reasonable prospect of having any others in the foreseeable future.

2010 Update: A 2010 amendment to the destination resort statute creates a very limited opportunity for a small-scale "eco-resort," but does not change the prospects for a destination resort similar in scale and effect to a regular statutory destination resort or for another "equal-to-or-better-than-statutory" reasons exception resort.

- (6) **1996 Finding:** “Siting a statutory destination resort in Coos County through the statutory process is not feasible because of siting restrictions and other factors that exclude all potential sites with reasonable prospects for development as a destination resort.”

2003 Update: This continues to be the case for the reasons set forth in Section IX.B.3.a of these findings and in the acknowledged 1996 Bandon Dunes Land Use Findings and Goal Exception Statement (1996 Exception Statement).

2010 Update: No change.

- (7) **1996 Finding:** “A successful destination resort in Coos County must be within the Coos County coastal tourism corridor.”

2003 Update: This continues to be the case, for the reasons set forth in the 1996 Exception Statement.

2010 Update: No change.

- (8) **1996 Finding:** “A successful destination resort in Coos County must have unusual aesthetic and recreational amenity resort characteristics which provide it with a broad base of potential users with the motivation and the means to travel to Coastal Coos County to enjoy a recreational asset not readily available elsewhere.”

2003 Update: This continues to be the case, for the reasons set forth in the 1996 exceptions statement.

2010 Update: No change.

- (9) **1996 Finding:** “The only such distinguishing qualities for a destination resort in Coastal Coos County to be identified and substantiated by any participant in the hearings leading up to this decision are those of a seaside Scottish links course strongly resembling classic Scottish courses such as those at Turnberry, along the Firth of Clyde, where golfers play 'among patches of thorny gorse' and 'the 6,408-yard, par-69 Ailsa Course . . . starts off inland before sweeping to the sea at the windswept fourth hole.' McCallen, *Golf Resorts of the World: the Best Places to Stay and Play* (Harry Abrams: 1993) pp. 245-46.”

2003 Update: Still true for reasons set forth in the 1996 exceptions statement.

2010 Update: No change.

- (10) **1996 Finding:** “The Bandon Dunes site has the soils, setting, and size that are needed to provide a sufficiently authentic Scottish Links course and related facilities to make the resort an attractive destination for tourists seeking such an experience.”

2003 Update: This finding still holds and has been confirmed by experience. The site has proven to be an essential element of the Bandon Dunes Resort’s success, and the proposed expansion will both expand and protect this essential locational asset, offering a range of settings, challenges and activities as part of an overall experience.

2010 Update: The proposed additional use will further protect the site from degradation by invasive species by putting in place a self-funded mechanism to establish and sustain an intensive, long-term program of dunal habitat reclamation, enhancement, expansion, research, and education.

- (11) **1996 Finding:** “There is a need for a use which makes the preservation and enhancement of the site’s natural assets economically feasible and necessary. Important natural features of the site are threatened with further deterioration under continued strict application of the Goals to which this exception is being taken. Open sands, dunal forms, plant and animal habitat, and other natural assets of the Bandon Dunes Site are steadily deteriorating because of its location, soils, climate, and human intervention, particularly the introduction of beach grass and gorse, but also including off-road dune-buggy and vehicle use, commercial timber management, and illegal hunting. Establishment of the proposed destination resort, which is dependent for its appeal upon maintenance, preservation, and enhancement of the natural assets of the site, will substantially reduce and in some areas even reverse the ongoing deterioration.”

2003 Update: As a result of the 1996 exception, many large gorse-infested areas have been converted to managed landscapes. Much of the gorse removal area has been replaced with fairways and greens, of course, but a significant amount is now open sand, grassy roughs, shrubs, wooded buffers, and riparian strips. A large Port Orford Cedar stand has been isolated from recreational and commercial use to prevent contamination. Poaching and recreational off-road vehicle use have ceased.

2010 Update: The additional courses approved by the 2003 Supplemental Exception have extended the reclamation of gorse-infested areas and have isolated several existing open-sand areas from further invasion by gorse and beach grass. They have also created substantial additional buffers against the spread of wildfire, as evidenced by the 2007 burn at the north end of the property, which was contained with much less difficulty than would otherwise have been the case. The new special-purpose course will move beyond replacement, isolation, and containment to active, ongoing reclamation, enhancement, and enlargement of dunal plant habitat.

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

As the acknowledged 2003 Supplemental Exception Statement and Findings determined, at pages 167-170:

"Aside from Bandon Dunes, Coos County has no destination resorts. The narrowness of its principal tourist asset, the coast, coupled with the wide

distribution of high value croplands among available private lands within the coastal strip, Coos County has no realistic potential for acquiring the statutory resort contemplated by Goal 8 (Recreational Needs Goal) and the Destination Resort statute. An exception is therefore necessary to permit the county to meet the need identified by the goal and the statute. Additionally, Goal 9 (Economic Development) requires a diversity of economic activity and opportunity. The Recreational Needs Goal and Destination Resort Statute determine as a matter of state policy that destination resorts are a vital part of a county's economic diversity. Coos County was not able to achieve that diversity without taking a goal exception. The initial exception has allowed the County's sole destination resort the opportunity to prove itself and to become the County's most successful economic development initiative. This goal exception is also necessary to allow the county to assure the continued health and viability of Bandon Dunes Resort, and thereby to achieve the diversity requirement of the Economic Development Goal.

"The expanded resort will continue to be a destination resort which in concept, size and scope meets the statutory qualifications for a destination resort set out in ORS 197.445 (see Section VII.A). But for the presence of high value crop areas within three miles of the site, the expanded resort would meet all of the requirements of the Destination Resort Statute and could be approved without an exception to any statewide planning goal. The proposed expansion, tailored to be consistent with all required elements of a statutory destination resort, and sited in what is unquestionably Coos County's best location for such a resort, clearly meets the need for such facilities recognized in the Destination Resort Statute and the Recreational Needs Goal.

"This need has been legislatively defined as follows:

"The Legislative Assembly finds that:

- "(1) It is the policy of this state to promote Oregon as a vacation destination and to encourage tourism as a valuable segment of our state's economy;
- "(2) There is a growing need to provide year-round destination resort accommodations to attract visitors and encourage them to stay longer. The establishment of destination resorts will provide jobs for Oregonians and contribute to the state's economic development;
- "(3) It is a difficult and costly process to site and establish destination resorts in rural areas of this state; and
- "(4) The siting of destination resort facilities is an issue of statewide

concern." ORS 197.440.

"These findings hold true for Coos County. The 1996 exception statement adopts the comments of Dr. Dean Runyan on this issue. A former professor of planning at the University of Oregon with extensive experience conducting economic impact analyses, market analyses and planning studies for travel, tourism, and recreation, Dr. Runyan is co-author of the recently-completed Tourism Strategic and Implementation Plan prepared for the Coos County Economic Development Commission. In his June 19, 1996 letter, Dr. Runyan explained:

"Bringing the [Bandon Dunes Resort] on line will help increase overall quality of the county as a travel destination and accordingly add stability and predictability to the industry. The new employment provided by the resort will be a welcome change from the declines in the timber industry and fishing on which the County previously relied.'

"He also pointed out that destination resorts support other kinds of economic diversification:

"The travel industry should be seen as very compatible with other major industries in Oregon, as evidenced by the success of locations such as Central Oregon (combining travel, manufacturing and agriculture), the Columbia River Gorge (travel, agriculture), Newport (travel, fishing) and Baker County (travel, agriculture). The Portland Metro area also successfully mixes the travel industry with manufacturing and a variety of other industries.'

"In Central Oregon, for example, the quality of the area, as evidenced by its visitor industry, is used successfully as a means of attracting new manufacturing and other business development. In today's business recruitment and development market, the

community amenities associated with good quality recreation facilities, such as will be provided by the proposed resort, are valuable assets.'

"The 1996 Draft Tourism Strategic and Implementation Plan for Coos County underlines the complementary nature of tourism and the need to upgrade the county's tourism industry by the addition of destination facilities:

"Conditions for tourism development in Coos County as a complementary element of the local economy are determined by the

County's setting, its potential to become a visitor destination, its ability to attract broader markets, the seasonality of travel to the Southern Oregon coast, the area's competitive qualities, and the presence of new opportunities for the future.'

"The study notes that "Coos County does not at present have a strong image as a visitor destination," and identifies two "important reasons why Coos County should aspire to change its image from a 'nearby coastal playground' to that of a vacation destination." Those reasons are:

- “(7) A vacation destination can be much more successfully marketed than an area that is merely ‘a place near the ocean,’ and
- “(8) A vacation destination inspires and represents more promising opportunities for capital investments in visitor-serving facilities and associated infrastructure.”

"The draft strategic plan also cites a 1995 Bay Area Economic Council study finding that attracting a typical destination resort in the area will be difficult in the near future; and it points out that Coos County's relative isolation means that it must "pursue a different strategy for attracting visitors than some of its neighbors to the south and north." The Bandon Dunes resort addresses both the need for a destination resort and the need for a distinctive identity, strongly reinforcing the area's ecological and historic affinity with coastal Scotland and Ireland, recognized early on by Lord Bennett of Bandon, who gave the town both its name and its gorse. Commenting specifically on the Bandon Dunes proposal, the study observes:

"The [Bandon Dunes] development . . . would greatly enhance Coos County's image as a visitor destination, and because it is doubtful that even the most concerted promotional efforts could have lured resort developers to Coos County, unless they chose to be there.'

"Coos County's Board of Commissioners (and Planning Commission) recognized in 1996, that, without an exception, Coos County cannot practically receive the benefits recognized by the Economic Development Goal and by the Destination Resort Statute and Recreational Needs Goal as appropriate for rural and tourist-dependent areas throughout the state. As a result of their foresight, Coos County now has two of the nation's premiere golf courses and one of its premiere destination resorts. The Board of Commissioners is now taking action to assure that Coos County can build on its success and establish itself as a regional, national, and international tourism destination for the long term."

2010 Update: The proposed amendment is consistent with both the 1996 and 2003 statements. It keeps Bandon Dunes Resort firmly on the course established in the prior exceptions and strengthens its ability to continue to achieve the purposes of those exceptions.

3. Market Demand

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

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

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

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

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

4. Need for Urban Levels of Population and Facilities

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

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

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

In fact, the allocation of land to open space is far more than half:

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

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

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

The acknowledged 2003 Supplemental Exception Statement and Findings determine that:

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

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

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

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

6. Enabling Coos County to Meet Its Planning Obligations

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

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

proposed exception enables the County to secure for the long-term a key element necessary to achieve its goals of diversification and stabilization of the local economy.

"The Coos County Plan's Industrial and Commercial Lands Goal is to "diversify and improve its regional economy." The Goal carries out the mandate of LCDC Goal 9, Economy of the State, which is

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

"The goal requires comprehensive plans and policies to

"* * * contribute to a stable and healthy economy in all regions of the state.'

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

"The County Comprehensive Plan's Recreational Goal mandates that

"Coos County shall strive to meet the recreational needs of its citizens and visitors.'

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

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

"Bandon Dunes Resort is a world-class facility with a worldwide clientele. It is also available to Oregonians and the general public, with special off-season rates for Oregonians. The following excerpt from an alumni magazine profile of Mike Keiser, the principal force behind Bandon Dunes Resort, illustrates how "purist" doesn't have to mean "elitist":

"Keiser is proud that both Bandon and Pacific Dunes are public courses, open to anyone who wants to play. He keeps the fees relatively low (\$150 during peak months, and \$55 in the off-season; compared with Pebble Beach's \$350 fees and the \$270 cost of playing at Pine Valley.'

"Keiser's philosophy of golf includes a commitment to playability. He considers himself 'the ultimate user' and insists that the greatest courses are built not for Tiger, Jack, or Arnold, but for golfers like himself. * * * 'For the average golfer or worse—and I represent that group, and that group is most people—what makes a hole great is two things, in order: its beauty, and its playability, which really means the hole is fun to play.'" *Amherst Magazine, Winter, 2002.*

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

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

B. Alternative Locations

1. Applicable Standards

OAR 660-004-0020(2)(b) and (c) and OAR 660-014-0040(3)(a) and (b) elaborate on the analysis of alternative locations for a proposed use that is required to support a goal

exception. The analysis is divided between areas which do not require a goal exception and areas which do require one.

a. Areas Which Do Not Require a Goal Exception

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

“Areas which do not require a new exception cannot reasonably accommodate the use”:

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

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

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

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

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

“(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether the similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more

reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.”

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

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

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

b. Areas Which Do Require a Goal Exception

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

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

impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts.”

In addition, OAR 660-014-0040(3)(b) provides that with regard to exceptions to allow urban uses on rural lands the analysis of alternative sites which do require an exception must include consideration of:

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

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

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

2. Identification of Eligible Sites

A meaningful comparison requires the identification of reasonable alternative sites, if there are any.

The acknowledged 1996 and 2003 Exception and Supplemental Exception Statements and Findings address this issue for the resort as a whole. This supplemental analysis is limited to the identification of eligible sites for the single use authorized by the proposed amendments, which is a special-purpose golf course designed, sited, and operated to provide sustained and funded silvery phacelia habitat reclamation, enhancement, and enlargement, while improving the county's only destination resort's ability to maximize guests' length of stay.

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

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

a. Areas that Do Not Require a Goal Exception

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

b. Areas that Do Require a Goal Exception

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

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

a. Environmental Consequences

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

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

b. Economic Consequences

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

c. Social Consequences

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

d. Energy Consequences

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

e. Quantity of Land Involved

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

The resort owner and course architect have aggressively limited the quantity of land involved to the minimum necessary to provide the golfing experience required to make the course a success while still achieving the environmental goals of the project. Among other things, they have eliminated fairways, shortened holes, and reduced the original layout from 18 to 12 holes to minimize both the overall site acreage and the turfed playing areas.

As detailed elsewhere in these findings and in the Phase 8 final development application, the proposed course will occupy a 21-acre site, a small fraction of the average 200 acres for each of the four 18-hole championship golf courses at Bandon Dunes. Moreover, the entire course will have less than 8 acres of turf for tees, greens, and approaches, for an average of less than 3/4 acre of turf per hole. This compares with an average of more than six acres of turf per hole on the resort's four championship courses. These bits of turf, adding up to slightly more than the equivalent of a single conventional hole, will be dispersed over the 21-acre site as an archipelago of tiny islands of turf in a much larger area of interconnected existing and potential dunal plant habitat. This primary area is itself adjacent to and integral with the larger area of existing and potential habitat, which will benefit from the reclamation, enhancement, and expansion programs supported by the proposed golf course.

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

f. Carrying Capacity

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

The acknowledged 1996 and 2003 Exception Statements and Findings address this issue with regard to the resort as a whole. See, e.g., 2003 ES&F at pages 210ff. This application only involves comparative impacts within the site. The proposed use at the proposed site will require no new roads, structures, or other facilities. The turfed areas to be irrigated, mainly during the grow-in period, total about 8 acres for the entire course, compared with an average of about six acres for each of the 72 holes on the resort's four 18-hole championship courses. A course located anywhere else on the site would require substantially more irrigation and would require additional facilities and services instead of being able to rely on existing infrastructure close to the Village Center.

g. Overall Consequences

The acknowledged 1996 and 2003 Exception Statements and Findings address this issue with respect to the resort as a whole. See, e.g., 2003 ES&F at 211ff. As the discussion

above and the analysis in the Phase 8 Final Development Plan demonstrate, the ESEE consequences of allowing the proposed special-purpose course are very positive, on balance, and are certainly not significantly more adverse than those of siting the proposed use elsewhere.

C. Compatibility

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

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

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

- “(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and
- “(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.”

These issues are addressed as to the Resort as a whole by the acknowledged 1996 and 2003 Exception Statements and Findings. See 1996 ES&F at pages 122a-126, 2003 ES&F at pages 211ff. The rules do not require a showing that each use within an area covered by a reasons exception is compatible with each of the other uses within the area. The proposed use will be sited well within the existing site, will be nonstructural, and will be targeted at and utilized almost entirely by guests already onsite for other reasons. It will create no new offsite impacts and therefore does not change the analysis provided by the existing exceptions.

D. Public Services and Facilities

OAR 660-014-0040(3)(d) requires a showing that an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner. This showing is made as to the resort as a whole by the acknowledged 1996 and 2003 Exception Statements and Findings. The single proposed additional use would not require additional public facilities or services.

E. Plan Coordination and Consistency

OAR 660-014-0040 (3)(e) requires a showing that the proposed new urban development on rural land is (1) “coordinated with comprehensive plans of affected jurisdictions;” and (2) “consistent with plans that control the area proposed for [urbanization].”

The first requirement is satisfied by the findings on the Goal 2 coordination requirement located in Section VIII.B.1.c. The second requirement is satisfied by the findings in Section X below, which demonstrate that the proposed expanded resort development is consistent with the relevant provisions of the Coos County Comprehensive Plan.



Coos County Planning Department

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Patty Evernden, Planning Director

CERTIFIED MAIL 7008130000186486433

February 4, 2010

Larry French
Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol St. NE, Ste. 150
Salem, Oregon 97301-2540

RE: Form 2, DLCD Notice of Adoption (file # AM-09-06), Legislative Amendment (Amended)

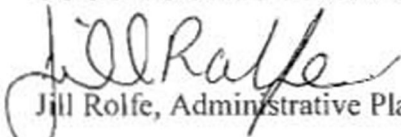
Dear Mr. French:

Enclosed please find the Form 2 Notice of Adoption with two (2) copies of the adopted materials. The original material that were sent to you on January 28, 2010, excluded one of the adopted ordinances (Ordinance No. 10-01-003PL). Please include the copies with the original document.

If you have any questions, or we can be of further service, please do not hesitate to phone the Department at (541) 396-3121, extension 210.

Sincerely,

COOS COUNTY PLANNING DEPARTMENT


Jill Rolfe, Administrative Planner

cc: David Perry
file

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