

Exhibit 15

JULY 25, 2024

OCEAN RIVER, LLC GOLF COURSE APPLICATION (HBCU -24-001)

APPLICANT'S REBUTTAL TO EVIDENCE FOR THE WEEK ENDING JULY 18, 2024

The following is rebuttal to evidence submitted during the first open record period ending July 18, 2024. The applicant (Ocean River LLC) did not submit new evidence during the first seven-day open record period, and it is therefore the applicant's right to rebut all prior evidence and submit a final argument.

A summary of evidence submitted in opposition to the application and the applicant's rebuttal is as follows:

Oregon Coast Alliance (ORCA) (Letter dated July 18, 2024)

Opening Argument

- *ORCA opens by citing a legislative policy intended to protect agricultural land, particularly in large blocks, and that limitations on urban expansion and alternative uses of agricultural and forest land are necessary and a matter of statewide concern.*

APPLICANT'S REBUTTAL: The applicant wholly agrees with ORCA's premise that the legislature has established policies intended to protect farm and forest lands for the purpose of maintaining a viable agricultural and forest products economy. However, ORCA also agrees that the same legislature has determined that a golf course is suitable, and therefore allowed on agricultural land subject to meeting specified criteria.

ORCA appears to believe that the legislative policy cited, is intended to cast a cloud over non-farm uses on resource land, regardless of the fact that those uses are permitted under legislative statute. There are specified criteria that the applicant must comply with; however, the legislative policy cited by ORCA was taken into consideration when the legislature permitted golf courses on agricultural land. Therefore, it is not the Planning Commission's responsibility to consider or apply this policy to uses permitted under statute.

I. The applicant has not satisfied the criteria for the golf course and design capacity.

- *ORCA concludes that the applicant has not satisfied the criteria for design capacity because the two dwellings that exist on the tract were not considered. ORCA states that "clearly golfers will want to stay at these dwellings on the golf course."*

APPLICANT'S REBUTTAL: The applicant has stated in the application that both residential dwellings are currently managed as month-to-month rentals, and that they will continue to be managed as month-to-month rentals after the golf course is constructed. ORCA is speculating, with no verifiable evidence, that the applicant's intent is to utilize the dwellings in conjunction with the golf course. The applicant is very well aware that residential uses cannot, and therefore, will not be utilized in conjunction with the golf course.

ORCA implies that the applicant is attempting to expand on the 100-person design capacity under OAR 660-033-0130(2)(b), which states; “Any enclosed structure or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. Subsection (a) limits enclosed structures or groups of structures to a design capacity of 100 people. Subsection (b) allows multiple structures or groups of structures that meet the 100-person design capacity standard within a single tract, as long as the structures or groups of structures are separated by 1/2 mile.

Regardless, the applicant has provided evidence showing that all of the combined structures within the golf course tract, will not exceed the 100-person design capacity standard. Therefore, ORCA’s point is mute with regard to the ½-mile standard. The applicant has provided evidence in the form of a letter from Architect Scott Edwards (Exhibits “G” and “H”), in which he states that the structures proposed within the golf course will not exceed the 100-person design capacity standard (**See applicant’s findings on pages 15-17 of Exhibit “A”**).

II. The applicant has not satisfied the farm impacts test

ORCA claims that the applicant has not satisfied the farm impact test in compliance with Oregon court rulings that concludes a farm analysis must be conducted on a farm-by-farm basis in order to determine whether there will be a “significant” impact (injury) to adjacent agricultural uses. ORCA claims that the applicant has not proven that there will be no impact to adjacent farm uses (or farmers) by chemicals utilized in conjunction with maintenance of the golf course. ORCA further claims that the applicant is basing compatibility on the fact that the golf course implements best management practices that are similar and often the same as those management practices conducted on adjacent farmlands.

APPLICANT’S REBUTTAL: Pages 7 through 12 of the Applicant’s Exhibit “A” address impacts to adjacent farm uses on a farm-by-farm basis. The applicant addresses potential impacts associated with best management practices, as well as potential impacts from spray drift and runoff, drainage, irrigation, and water management.

ORCA’s claim that there is a potential for impacts to adjacent farm uses (or farmers) from chemical application on the golf course, is speculation without a hint of evidentiary context. ORCA seems to believe that the application of chemicals (insecticides, fungicides, etc.) is a wild west shoot-out with no regulation. This could not be further from the truth. The application of chemicals can only be implemented by a licensed individual trained and certified by the Oregon Department of Agriculture (ODA) in the use of such chemicals. The application of chemicals must comply with standards established on the label of each chemical, as those labels constitute state law for application. It is required that every chemical application be monitored and reported regularly to the Department of Agriculture through Integrated Pest Management (IPM) Reports.

It is important to note that, unlike standard agricultural practices (farming), no chemical applications occur through the golf course irrigations systems. In other words, application occurs through a controlled process of hand or mechanical sprayers. This process allows for controlled application to specific areas at specific times (no wind or rain) to prevent drift and/or

runoff. It is also important to note that there are chemical monitoring wells on site at the applicant's Bandon Dunes Resort, and that there is regular chemical monitoring of the wells and of the primary creek flowing through the resort. In 25 years of operation, no (zero) chemical residue has been detected in either the monitoring wells or the creek.

ORCA raises the issue of how water use by the golf course could potentially impact adjacent farm uses. It is as if ORCA failed to read the application and specifically the evidence submitted by Robert Long (see Applicant's Exhibit "F"). Mr. Long is a registered Geologist, Licensed Hydrologist, and Certified Water Rights Examiner that works regularly with the Oregon Department of Water Resources. Mr. Long clearly explains that the Oregon Department of Water Resources (ODWR) requires an exhaustive hydrological analysis from water rights applicants, demonstrating no injury to adjacent agricultural or residential uses, aquifers, or surface water sources. ORCA has provided no evidence other than conjecture that refutes Mr. Long's professional testimony.

When determining whether a subjective criterion has been satisfied, the threshold for compliance is measured by what a reasonable person would conclude based upon available evidence. In this application there is sufficient evidence to make a reasonable and informed decision that there will be no significant impact to adjacent farm uses due to management practices conducted at golf course.

III The proposal is inconsistent with the Administrative Rules for the definition of a golf course and the legislative policy for the preservation of farmland

ORCA makes the argument that the golf course contains 342 acres because the course is sited on a tract that contains approximately 342 acres and the applicant describes the open space, wetlands and FEMA area as an appropriate setting for a Scottish Links style golf course,

APPLICANT'S REBUTTAL: The Administrative Rule upon which ORCA relies is not intended to create the size or acreage of the ownership upon which a golf course is established. OAR 660-033-0130 (20) and (20)(a) (below) is only intended to establish parameters for the purpose of distinguishing what is or is not a "regulation golf course." In fact, those parameters are not etched in stone with regard to the size of a golf course, as is clear by the language "generally characterized" in subsection (a) below.

OAR 660-033-0130 (20) "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;

If a regulation golf course is located within an ownership containing five-hundred acres, the size of the golf course is not determined by the size of the ownership, but rather by the size of the “highly maintained natural turf laid out for the game of golf” as cited in the above statute. Although the proposed golf course is contained within an ownership that is larger than the course itself, open space containing natural features is clearly a permitted use on the non-golf EFU zoned segment of the ownership (See pages 18-20 of the Applicant’s Exhibit “A”).

IV. The golf course is located on high value farmland

ORCA alleges that the golf course is located on high-value farmland based on the applicant’s response in the initial submittal that implied that the golf course tract contained land growing high value perennials. ORCA also alleges that the golf course tract “may” be in a place of use for a permit, certificate, or decree for the use of water for irrigation and therefore the golf course contains high-value farmland, and a golf course is not permitted.

APPLICANT’S REBUTTAL: When the application was initially submitted, there was a typo under Exhibit “A” (Top of Page 4) that implied that the golf course tract contained high-value perennials. Prior to the initial Planning Commission hearing, that typo was corrected to reflect that the golf course does “not” contain land growing perennials. The amendment was sent to the Planning Department, and staff placed the amendment online and in the record prior to the hearing. Because the golf course tract does not contain high-value perennials, the tract is not high-value farmland.

The applicant has done their research and has stated that there are no water permits appurtenant to any portion of the proposed golf course. On the other hand, ORCA believes there “may” be permits and that it is “unlikely” that water permits have not been issued for such a large tract. The terms “may” and “unlikely” are speculative at best. Any water permits appurtenant to the property would be of public record and are available for ORCA to research. Short of evidence showing that the area proposed for golf course contains a place of use for a permit, certificate or decree for the use of water for irrigation, no segment of the land proposed for golf can be “assumed” to be high value farmland.

V. Geologic assessment Review

ORCA asserts that there must be a second application processed with full procedural rights addressing geological assessment for structures (clubhouse, restrooms, etc.) that will be established at a later date. ORCA also claims that the applicant cannot adequately address farm impacts without knowing the location of the proposed buildings with emphasis on the clubhouse/restaurant that will have impacts due to the number of visitors, etc...

APPLICANT’S REBUTTAL: With regard to a second hearing with full procedural rights, the applicant agrees with ORCA as stated on Page 31 of the Applicant’s “Exhibit “A.” Such an application will be submitted when the “exact” location is determined for each structure.

With regard to impacts from structural uses (clubhouse/restaurant, etc.) to adjacent farm uses, ORCA's contention is that impacts will occur due to the number of people frequenting the facilities, the garbage produced, traffic, trespass, and the attraction of Corvids (birds). As ORCA very well knows, the statute specifically states that the proposed use will not:

“Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.”

Significant impacts are impacts that would prevent a farm owner from either conducting standard farm practices or would “significantly” increase the cost of farm practices. ORCA is not clear as to how impacts would occur from the issues raised, however, there is no reason to believe golfers patronizing a clubhouse are going to prevent farm practices from occurring on adjacent lands, or that their dining habits will increase the cost of farm practices. It is also inconceivable to believe that a world class golf course is incapable of managing their garbage in a manner that does not attract Corvids. It does not appear that traffic has a significant impact to cranberry farming, as cranberry farms are scattered along state highways and local roads throughout the region. As for trespassing due to errant balls, land adjacent to the course will be out of bounds and trespassing to retrieve balls is not permitted.

VI. The applicant has not demonstrated that the subject property is lawfully established

ORCA states that the applicant believes that property line adjustments create a lawfully established unit of land and that is an incorrect assumption.

APPLICANT'S REBUTTAL: The applicant does not believe that a property line adjustment automatically created a lawful unit of land. However, if it is determined that the property line adjustment occurred between two lawfully created units of land, the adjusted parcels resulting from that adjustment are also deemed to be lawfully created units of land. All of the parcels contained within the subject golf course tract are deemed to be lawfully created based upon lawfully created parcel determination applications, and property line adjustment applications that were approved by the Coos County Planning Department. Those approvals were processed with the appropriate public notice, were not appealed, and are now a matter of public record (**see Page 42 of Applicant's Exhibit "A" and the lawfully created tract map at Exhibit "K"**).

VII. Procedural Objection

ORCA is concerned that new evidence could be submitted during the first 7-day open record period and that they would not be allowed to submit new evidence in rebuttal during the second week.

APPLICANT'S REBUTTAL: ORCA is correct that they are allowed to submit new evidence during the second week of open record. However, during the second week, new evidence must be in rebuttal to evidence submitted during the first week.