

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3
4 DEPARTMENT OF LAND CONSERVATION)
5 AND DEVELOPMENT,)

6)
7 Petitioner,)

8)
9 vs.)

10) LUBA No. 92-147
11 COLUMBIA COUNTY,)

12) FINAL OPINION
13 Respondent,) AND ORDER

14)
15 and)

16)
17 DWAYNE McEVOY and JEFF YARBOR,)

18)
19 Intervenors-Respondent.)

20
21
22 Appeal from Columbia County.

23
24 Jane Ard, Salem, filed the petition for review and
25 argued on behalf of petitioner. With her on the brief was
26 Charles S. Crookham, Attorney General; Jack Landau, Deputy
27 Attorney General; and Virginia L. Linder, Solicitor General.

28
29 No appearance by respondent.

30
31 Dwayne McEvoy and Jeff Yarbor, represented themselves.

32
33 KELLINGTON, Referee; SHERTON, Chief Referee; HOLSTUN,
34 Referee, participated in the decision.

35
36 REVERSED 12/09/92

37
38 You are entitled to judicial review of this Order.
39 Judicial review is governed by the provisions of ORS
40 197.850.

1 Opinion by Kellington.

2 **NATURE OF THE DECISION**

3 Petitioner appeals an order of the board of county
4 commissioners approving a conditional use permit for a golf
5 driving range.

6 **MOTION TO INTERVENE**

7 Dwayne McEvoy and Jeff Yarbor filed a motion to
8 intervene on the side of respondent in this appeal
9 proceeding. Petitioner does not object to the motion, and
10 it is allowed.¹

11 **FACTS**

12 The subject property is 49.83 acres in size, and is
13 zoned Primary Agriculture (PA), an exclusive farm use zone.
14 The proposal is to establish a golf driving range and a
15 recreational vehicle park on 6-9 acres of the subject
16 property. This appeal involves only intervenors' request
17 for a conditional use permit to authorize the proposed golf
18 driving range.

19 **ASSIGNMENT OF ERROR**

20 "The county made a decision contrary to the
21 language in its acknowledged comprehensive plan
22 and land use regulations, misconstrued the
23 applicable law, did not make sufficient findings
24 of fact and made a decision unsupported by
25 substantial evidence in the whole record in
26 approving a conditional use permit for a golf
27 driving range under [Columbia County Zoning

¹Neither the county nor intervenors-respondent (intervenors) filed a brief in this appeal proceeding.

1 Ordinance] CCZO Sec. 303.6 and 1503.5."

2 The CCZO does not explicitly authorize driving ranges
3 in the PA zone as either a conditional or permitted use.
4 However, "golf courses" are authorized in the PA zone as a
5 conditional use under CCZO 303.6. The challenged decision
6 determines:

7 "* * * Golf driving ranges are included within the
8 category of golf courses." Record 13.

9 The CCZO does not define either the term golf course or golf
10 driving range.

11 The only issue in this appeal is whether the county
12 correctly determined in the challenged decision that a golf
13 driving range is approvable under the CCZO provision listing
14 golf courses as a conditional use in the PA zone.

15 Because there is no definition of the term golf course
16 in the CCZO, we refer to the plain and ordinary meaning of
17 that term as it is defined in the dictionary. Sarti v. City
18 of Lake Oswego, 106 Or App 594, 597, 809 P2d 701 (1991).
19 Webster's Third New International Dictionary 976 (1981)
20 defines "golf course" as follows:

21 "An area of land laid out for the game of golf
22 with a series of 9 or 18 holes each including tee,
23 fairway, and green and often one or more natural
24 or artificial hazards - called also golf links."

25 On the other hand, Webster's Third New International
26 Dictionary 692 (1981) defines "driving range" as follows:

27 "An area equipped with distance markers, clubs,
28 balls and tees for practicing golf drive and iron
29 shots."

1 We agree with petitioner that the plain and ordinary
2 meaning of "golf course" does not include a driving range.

3 The assignment of error is sustained.

4 The county's decision is reversed.