



Oregon

Theodore R. Kulongoski, 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

AMENDED NOTICE OF ADOPTED AMENDMENT

December 11, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 011-04



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: December 26, 2007

This amendment was submitted to DLCD for review 45 days 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 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.**

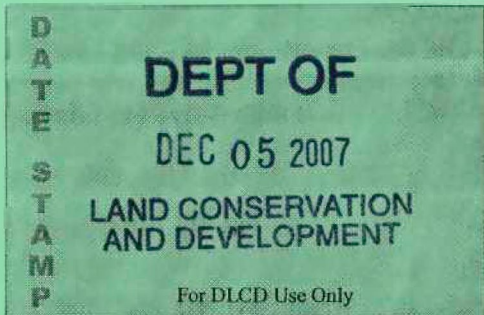
Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Terri Hansen Payne, Deschutes County

<paa> ya

PROP

2 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



Jurisdiction: Deschutes County Local file number: TA-04-4

Date of Adoption: November 26, 07 Date Mailed: November 30, 07

Date original Notice of Proposed Amendment was mailed to DLCD: unknown '04

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

An amendment to County Destination resort code in DEC Title 18 to comply with changes to State Destination resort statute.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

- 1) added language to protect Goal 5 resources & require an annual report - both required by statute
- 2) modified the phasing requirements to comply with a LUBA decision on Thornburgh resort
- 3) added stronger language to track overnight lodging units
- 4) did not change accommodation ratio due to confusion over statute and Goal 8

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: Goal 8 (primarily)

Was and Exception Adopted? YES NO

DLCD File No.: 011-04

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

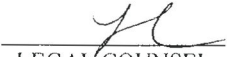
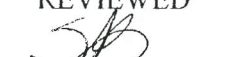
Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Terr, Hansen Payne Phone: (541) 385-1404 Extension: —
Address: 117 NW Lantayette City: Bend, OR 97701
Zip Code + 4: 97701- Email Address: terrip@co.deschutes.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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

REVIEWED  LEGAL COUNSEL
REVIEWED  CODE REVIEW COMMITTEE

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, of the Deschutes County Code Regarding Destination Resorts. *
* ORDINANCE NO. 2007-005

WHEREAS, Sunriver Resort, Eagle Crest Resort and Pronghorn Resort filed an application with the Deschutes County Planning Division that proposed text amendments to Title 18, the Deschutes County Zoning Ordinance, to the definitions of destination resorts and overnight lodging as well as amendments to the destination resort chapter; and

WHEREAS, the Board of County Commissioners ("Board") held a duly noticed public hearing on December 4, 2006, in coordination with the Deschutes County Planning Commission; and

WHEREAS, the Planning Commission made a recommendation to the Board to adopt only part of the proposal; and

WHEREAS, the Board amended the original proposal and held an additional duly noticed public hearing on August 27, 2007; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 18.04, Definitions of Destination Resorts and Overnight Lodging are amended to read as described in Exhibit "A" attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 2. AMENDMENT. DCC 18.113, Destination Resorts, is amended to read as described in Exhibit "B" attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

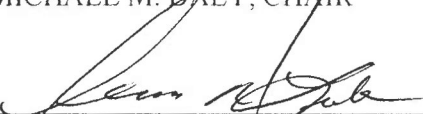
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Section 3. FINDINGS. The Board adopts the staff report dated 8-22-07 as Exhibit "C", incorporated herein by this reference, as its findings to support this Ordinance.

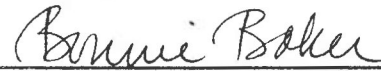
Dated this 26 of NOV., 2007

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


MICHAEL M. DALY, CHAIR


DENNIS R. LUKE, VICE CHAIR

ATTEST:


Recording Secretary

voted - no -
TAMMY BANEY, COMMISSIONER

Date of 1st Reading: 5 day of NOV., 2007.

Date of 2nd Reading: 26 day of NOV., 2007.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Michael M. Daly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dennis R. Luke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tammy Baney	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 28 day of February 2008

ATTEST:

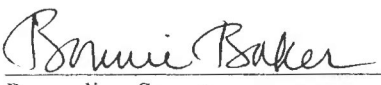

Recording Secretary

EXHIBIT "A"

NOTE: *** denotes code provisions not amended by this ordinance.

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

18.04.030. Definitions.

As used in DCC Title 18, the following words and phrases shall mean as set forth in DCC 18.04.030.

"Destination resort" means a self-contained development providing visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. To qualify as a "major destination resort" under Goal 8, a proposed development must meet the following standards:

- A. The resort is located on a site of 160 or more acres.
- B. At least 50 percent of the site is dedicated to permanent open space, excluding yards, street and parking areas.
- C. At least ~~\$2,000,000~~7,000,000 (in ~~1984~~1993 dollars) is spent in the first phase on improvements for on-site-developed recreational facilities and visitor-oriented accommodations, exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities.
- D. Developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations must be ~~physically provided~~constructed or, where permitted by DCC 18.113, be guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding.

~~DE~~ Visitor-oriented accommodations are provided, including meeting rooms, restaurants with seating for 100 persons, and 150 separate rentable units for overnight lodgings as described in DCC 18.113.060(A). Accommodations available for residential use will not exceed two such units for each unit of overnight lodging.

~~EE~~ Commercial uses limited to those types and levels necessary to meet the needs of visitors to the development. Industrial uses are not permitted.

"Overnight lodgings" with respect to destination resorts, means permanent, separately rentable accommodations that are not available for residential use. Overnight lodgings include hotel or motel rooms, cabins and time-share units. Individually-owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least ~~45~~38 weeks per calendar year through a central reservation and check-in service operated by the destination resort or through a real estate property manager, as defined in ORS 696.010. Tent sites, recreational vehicle parks, mobile homes, dormitory rooms and similar accommodations do not qualify as overnight lodging for the purpose of this definition.

(Ord. 2007-005 § 1, 2007 ; Ord. 2006-008 § 1, 2006; Ord. 2005-041 § 1, 2005; Ord. 2004-024 § 1, 2004; Ord. 2004-001 § 1, 2004; Ord. 2003-028 § 1, 2003; Ord. 2001-048 § 1, 2001; Ord. 2001-044 § 2, 2001; Ord. 2001-037 § 1, 2001; Ord. 2001-033 § 2, 2001; Ord. 97-078 § 5, 1997; Ord. 97-017 § 1, 1997; Ord. 97-003 § 1, 1997; Ord. 96-082 § 1, 1996; Ord. 96-003 § 2, 1996; Ord. 95-077 § 2, 1995; Ord. 95-075 § 1, 1975; Ord. 95-007 § 1, 1995; Ord. 95-001 § 1, 1995; Ord. 94-053 § 1, 1994; Ord. 94-041 §§ 2 and 3, 1994; Ord. 94-038 § 3, 1994; Ord. 94-008 §§ 1, 2, 3, 4, 5, 6, 7 and 8, 1994; Ord. 94-001 §§ 1, 2, and 3, 1994; Ord. 93-043 §§ 1, 1A and 1B, 1993; Ord. 93-038 § 1, 1993; Ord. 93-005 §§ 1 and 2, 1993; Ord. 93-002 §§ 1, 2 and 3, 1993; Ord. 92-066 § 1, 1992; Ord. 92-065 §§ 1 and 2, 1992; Ord. 92-034

EXHIBIT "A"

§ 1, 1992; Ord. 92-025 § 1, 1992; Ord. 92-004 §§
1 and 2, 1992; Ord. 91-038 §§ 3 and 4, 1991;
Ord. 91-020 § 1, 1991; Ord. 91-005 § 1, 1991;
Ord. 91-002 § 11, 1991; Ord. 90-014 § 2, 1990;
Ord. 89-009 § 2, 1989; Ord. 89-004 § 1, 1989;
Ord. 88-050 § 3, 1988; Ord. 88-030 § 3, 1988;
Ord. 88-009 § 1, 1988; Ord. 87-015 § 1, 1987;
Ord. 86-056 § 2, 1986; Ord. 86-054 § 1, 1986;
Ord. 86-032 § 1, 1986; Ord. 86-018 § 1, 1986;
Ord. 85-002 § 2, 1985; Ord. 84-023 § 1, 1984;
Ord. 83-037 § 2, 1983; Ord. 83-033 § 1, 1983;
Ord. 82-013 § 1, 1982)

EXHIBIT "B"

**Chapter 18.113. DESTINATION
RESORTS ZONE - DR**

- 18.113.010. Purpose.**
- 18.113.020. Applicability.**
- 18.113.025. Application to existing resorts.**
- 18.113.030. Uses in destination resorts.**
- 18.113.040. Application submission.**
- 18.113.050. Requirements for conditional use permit and conceptual master plan applications.**
- 18.113.060. Standards for destination resorts.**
- 18.113.070. Approval criteria.**
- 18.113.075. Imposition of conditions.**
- 18.113.080. Procedure for modification of a conceptual master plan.**
- 18.113.090. Requirements for final master plan.**
- 18.113.100. Procedure for approval of final master plan.**
- 18.113.110. Provision of streets, utilities, developed recreational facilities and visitor-oriented accommodations.**

18.113.010. Purpose.

- A. The purpose of the DR Zone is to establish a mechanism for siting destination resorts to ensure compliance with LCDC Goal 8 and the County Comprehensive Plan. The destination resort designation is intended to identify land areas which are available for the siting of destination resorts, but which will only be developed if consistent with the purpose and intent of DCC 18.113 and Goal 8.
- B. The DR Zone is an overlay zone. The DR Zone is intended to provide for properly designed and sited destination resort facilities which enhance and diversify the recreational opportunities and the economy of Deschutes County. The DR Zone will ensure resort development that compliments the natural and cultural attractiveness of the area without significant adverse effect on commercial farming and forestry, environmental and natural features, cultural and historic

resources and their settings and other significant resources.

- C. It is the intent of DCC 18.113 to establish procedures and standards for developing destination resorts while ensuring that all applicable County Comprehensive Plan policies are achieved.
- D. It is the intent of DCC 18.113 to ensure that all elements of a destination resort which are proposed are financially secured in a manner which will protect the public's interest should the development not be completed as proposed.
- E. It is not the intent of DCC 18.113 to site developments that are in effect rural subdivisions, whose primary purpose is to serve full-time residents of the area.

(Ord. 92-004 § 13, 1992)

18.113.020. Applicability.

- A. The provisions of DCC 18.113 shall apply to proposals for the development of destination resorts, as defined in DCC Title 18, in areas designated DR by the County zoning maps. The provisions of DCC 18.113 shall not apply to any development proposal in an area designated DR other than a destination resort.
- B. When these provisions are applicable, they shall supersede all other provisions of the underlying zone. Other provisions of the zoning ordinance, made applicable by specific map designations, such as the SMIA, AH, CH, FP or LM, or otherwise applicable under the terms of the zoning ordinance text shall remain in full force and effect, unless otherwise specified herein.
- C. The provisions of DCC 18.113 apply to destination resorts sited through the Goal 2 exception process.

(Ord. 92-004 § 13, 1992)

18.113.025. Application to existing resorts.

Expansion proposals of existing developments approved as destination resorts shall meet the following criteria:

EXHIBIT "B"

- A. Meet all criteria of DCC 18.113 without consideration of any existing development; or
- B. Meet all criteria of DCC 18.113 for the entire development (including the existing approved destination resort development and the proposed expansion area), except that as to the area covered by the existing destination resort, compliance with setbacks and lot sizes shall not be required.

If the applicant chooses to support its proposal with any part of the existing development, applicant shall demonstrate that the proposed expansion will be situated and managed in a manner that it will be integral to the remainder of the resort.

(Ord. 92-004 § 13, 1992)

18.113.030. Uses in destination resorts.

The following uses are allowed, provided they are part of, and are intended to serve persons at, the destination resort pursuant to DCC 18.113.030 and are approved in a final master plan:

- A. Visitor-oriented accommodations designed to provide for the needs of visitors to the resort:
 - 1. Overnight lodging, including lodges, hotels, motels, bed and breakfast facilities, time-share units and similar transient lodging facilities;
 - 2. Convention and conference facilities and meeting rooms;
 - 3. Retreat centers;
 - 4. Restaurants, lounges and similar eating and drinking establishments; and
 - 5. Other similar visitor-oriented accommodations consistent with the purposes of DCC 18.113 and Goal 8.
- B. Developed recreational facilities designed to provide for the needs of visitors and residents of the resort:
 - 1. Golf courses and clubhouses;
 - 2. Indoor and outdoor swimming pools;
 - 3. Indoor and outdoor tennis courts;
 - 4. Physical fitness facilities;
 - 5. Equestrian facilities;
 - 6. Wildlife observation shelters;
 - 7. Walkways, bike paths, jogging paths, equestrian trails;

- 8. Other similar recreational facilities consistent with the purposes of DCC 18.113 and Goal 8.

- C. Residential accommodations:
 - 1. Single-family dwellings;
 - 2. Duplexes, triplexes, fourplexes and multi-family dwellings;
 - 3. Condominiums;
 - 4. Townhouses;
 - 5. Living quarters for employees;
 - 6. Time-share projects.

- D. Commercial services and specialty shops designed to provide for the visitors to the resort:
 - 1. Specialty shops, including but not limited to delis, clothing stores, bookstores, gift shops and specialty food shops;
 - 2. Barber shops/beauty salons;
 - 3. Automobile service stations limited to fuel sales, incidental parts sales and minor repairs;
 - 4. Craft and art studios and galleries;
 - 5. Real estate offices;
 - 6. Convenience stores;
 - 7. Other similar commercial services which provide for the needs of resort visitors and are consistent with the purposes of DCC 18.113 and Goal 8.

- E. Uses permitted in open space areas generally include only those uses that, except as specified herein, do not alter the existing or natural landscape of the proposed open space areas. No improvements, development or other alteration of the natural or existing landscape shall be allowed in open space areas, except as necessary for development of golf course fairways and greens, hiking and bike trails, lakes and ponds and primitive picnic facilities including park benches and picnic tables. Where farming activities would be consistent with identified preexisting open space uses, irrigation equipment and associated pumping facilities shall be allowed.

- F. Facilities necessary for public safety and utility service within the destination resort.

EXHIBIT "B"

- G. Other similar uses permitted in the underlying zone consistent with the purposes of DCC 18.113.030.
- H. Accessory Uses in Destination Resorts:
 - 1. The following accessory uses shall be permitted provided they are ancillary to the destination resort and consistent with the purposes of DCC 18.113 and Goal 8.
 - a. Transportation-related facilities excluding airports;
 - b. Emergency medical facilities;
 - c. Storage structures and areas;
 - d. Kennels as a service for resort visitors only;
 - e. Recycling and garbage collection facilities;
 - f. Other similar accessory uses consistent with the purposes of DCC 18.113 and Goal 8.

(Ord. 92-004 § 13, 1992)

18.113.040. Application submission.

The authorization of a permit for a destination resort shall consist of three steps.

- A. Conceptual Master Plan and Conditional Use Permit for Destination Resort. A conceptual master plan (CMP) shall be submitted which addresses all requirements established in DCC 18.113.040. The CMP application shall be processed as if it were a conditional use permit under DCC Title 22, shall be subject to DCC 18.128.010, 18.128.020 and 18.128.030 and shall be reviewed for compliance with the standards and criteria set forth in DCC 18.113.
- B. Final Master Plan. The applicant shall prepare a final master plan (FMP) which incorporates all requirements of the County approval for the CMP. The Planning Director shall review the FMP to determine if it complies with the approved CMP and all conditions of approval of the conditional use permit. The Planning Director shall have the authority to approve, deny or return the FMP to the applicant for additional information. When interpretations of the Planning Director involve issues which are discretionary, the

FMP approval shall be treated as a land use permit in accordance with DCC Title 22.

- C. Site Plan Review. Each element or development phase of the destination resort must receive additional approval through the required site plan review (DCC 18.124) or subdivision process (DCC Title 17). In addition to findings satisfying the site plan or subdivision criteria, findings shall be made that the specific development proposal complies with the standards and criteria of DCC 18.113 and the FMP.

(Ord. 92-004 § 13, 1992)

18.113.050. Requirements for conditional use permit and conceptual master plan applications.

The CMP provides the framework for development of the destination resort and is intended to ensure that the destination resort meets the requirements of DCC 18.113. The CMP application shall include the following information:

- A. Illustrations and graphics to scale, identifying:
 - 1. The location and total number of acres to be developed as a planned destination resort;
 - 2. The subject area and all land uses adjacent to the subject area;
 - 3. The topographic character of the site;
 - 4. Types and general location of proposed development uses, including residential and commercial uses;
 - 5. Major geographic features;
 - 6. Proposed methods of access to the development, identifying the main vehicular circulation system within the resort and an indication of whether streets will be public or private;
 - 7. Major pedestrian, equestrian and bicycle trail systems;
 - 8. Important natural features of the site, including habitat of threatened or endangered species, streams, rivers, wetlands and riparian vegetation within 200 feet of streams, rivers and wetlands.

EXHIBIT "B"

9. All uses proposed within landscape management corridors identified by the comprehensive plan or zoning ordinance.
 10. The location and number of acres reserved as open space, buffer area, or common area. Areas designated as "open space," "buffer area," or "common area" should be clearly illustrated and labeled as such;
 11. All proposed recreational amenities;
 12. Proposed overall density.
- B. Further information as follows:
1. A description of the natural characteristics of the site and surrounding areas, including a description of resources and the effect of the destination resort on the resources; methods employed to mitigate adverse impacts on resources; analysis of how the overall values of the natural features of the site will be preserved, enhanced or utilized in the design concept for the destination resort; and a proposed resource protection plan to ensure that important natural features will be protected and maintained. Factors to be addressed include:
 - a. Compatibility of soil composition for proposed development(s) and potential erosion hazard;
 - b. Geology, including areas of potential instability;
 - c. Slope and general topography;
 - d. Areas subject to flooding;
 - e. Other hazards or development constraints;
 - f. Vegetation;
 - g. Water areas, including streams, lakes, ponds and wetlands;
 - h. Important natural features;
 - i. Landscape management corridors;
 - j. Wildlife.
 2. A traffic study which addresses (1) impacts on affected County, city and state road systems and (2) transportation improvements necessary to mitigate any such impacts. The study shall be submitted to the affected road authority (either the County Department of Public Works or the Oregon Department of Transportation, or both) at the same time as the conceptual master plan and shall be prepared by a licensed traffic engineer to the minimum standards of the road authorities.
 3. A description of how the proposed destination resort will satisfy the standards and criteria of DCC 18.113.060 and 18.113.070;
 4. Design guidelines and development standards defining visual and aesthetic parameters for:
 - a. Building character;
 - b. Landscape character;
 - c. Preservation of existing topography and vegetation;
 - d. Siting of buildings; and
 - e. Proposed standards for minimum lot area, width, frontage, lot coverage, setbacks and building heights.
 5. An open space management plan which includes:
 - a. An explanation of how the open space management plan meets the minimum standards of DCC 18.113 for each phase of the development;
 - b. An inventory of the important natural features identified in the open space areas and any other open space and natural values present in the open space;
 - c. A set of management prescriptions that will operate to maintain and conserve in perpetuity any identified important natural features and other natural or open space values present in the open space;
 - d. Deed restrictions that will assure that the open space areas are maintained as open space in perpetuity.
 6. An explanation of public use of facilities and amenities on the site.
 7. A description of the proposed method of providing all utility systems, including the location and sizing of the utility systems;
 8. A description of the proposed order and schedule for phasing, if any, of all development including an explanation of

EXHIBIT "B"

- when facilities will be provided and how they will be secured if not completed prior to closure of sale of individual lots or units;
9. An explanation of how the destination resort has been sited or designed to avoid or minimize adverse effects or conflicts on adjacent lands. The application shall identify the surrounding uses and potential conflicts between the destination resort and adjacent uses within 660 feet of the boundaries of the parcel or parcels upon which the resort is to be developed. The application shall explain how any proposed buffer area will avoid or minimize adverse effects or conflicts;
 10. A description of the proposed method for providing emergency medical facilities and services and public safety facilities and services including fire and police protection;
 11. A study prepared by a hydrologist, engineering geologist or similar professional certified in the State of Oregon describing:
 - a. An estimate of water demands for the destination resort at maximum buildout, including a breakdown of estimated demand by category of consumption, including but not limited to residential, commercial, golf courses and irrigated common areas;
 - b. Availability of water for estimated demands at the destination resort, including (1) identification of the proposed source; (2) identification of all available information on ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) identification of the area that may be measurably impacted by the water used by the destination resort (water impact area) and an analysis supporting the delineation of the impact area; and (4) a statistically valid sampling of domestic and other wells within the impact area;
 - c. A water conservation plan including an analysis of available measures which are commonly used to reduce water consumption. This shall include a justification of the chosen water conservation plan. The water conservation plan shall include a wastewater disposal plan utilizing beneficial use of reclaimed water to the maximum extent practicable. For the purposes of DCC 18.113.050, beneficial uses shall include, but are not limited to:
 - i. Irrigation of golf courses and greenways;
 - ii. Establishment of artificial wetlands for wildlife habitation.
12. An erosion control plan for all disturbed land, as required by ORS 468. This plan shall include storm and melt water erosion control to be implemented during all phases of construction and permanent facilities or practices for the continuing treatment of these waters. This plan shall also explain how the water shall be used for beneficial use or why it cannot be used as such;
 13. A description of proposed sewage disposal methods;
 14. Wildfire prevention, control and evacuation plans;
 15. A description of interim development including temporary structures related to sales and development;
 16. Plans for owners' associations and related transition of responsibilities and transfer of property;
 17. A description of the methods of ensuring that all facilities and common areas within each phase will be established and will be maintained in perpetuity;
 18. A survey of housing availability for employees based upon income level and commuting distance;
 19. An economic impact and feasibility analysis of the proposed development prepared by a qualified professional economist(s) or financial analyst(s) shall be provided which includes:

EXHIBIT "B"

- a. An analysis which addresses the economic viability of the proposed development;
 - b. Fiscal impacts of the project including changes in employment, increased tax revenue, demands for new or increased levels of public services, housing for employees and the effects of loss of resource lands during the life of the project.
20. A solid waste management plan;
21. ~~A description of the system to be used for the management of any individually owned units that will be used for overnight lodging and how it will be implemented, including proposed rental contract provisions to assure that any individually owned lodging facilities will be available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation and check-in service;~~
A description of the mechanism to be used to ensure that the destination resort provides an adequate supply of overnight lodging units to maintain compliance with the 150-unit minimum and 2 to 1 ratio set forth in DCC 18.113.060(D)(2). The mechanism shall meet the requirements of DCC 18.113.060(L);
22. If the proposed destination resort is in a SMIA combining zone, DCC 18.56 shall be addressed;
23. If the proposed destination resort is in an LM combining zone, DCC 18.84 shall be addressed;
24. A survey of historic and cultural resources inventoried on an acknowledged Goal 5 inventory;
25. Other information as may reasonably be required by the Planning Director to address the effect of the proposed development as related to the requirements of DCC Title 18.
- (Ord. 2007-005 § 2, 2007; Ord. 92-004 § 13, 1992)
- 18.113.060. Standards for destination resorts.**
The following standards shall govern consideration of destination resorts:
- A. The destination resort shall, in the first phase, provide for and include as part of the CMP the following minimum requirements:
 1. At least 150 separate rentable units for visitor-oriented overnight lodging as follows:
 - a. The first 50 overnight lodging units must be constructed prior to the closure of sales, rental or lease of any residential dwellings or lots.
 - b. The resort may elect to phase in the remaining 100 overnight lodging units as follows:
 - i. At least 50 of the remaining 100 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 5 years of the closure of sale of individual lots or units, and;
 - ii. The remaining 50 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 10 years of the closure of sale of individual lots or units.
 - iii. If the developer of a resort guarantees a portion of the overnight lodging units required under subsection 18.113.060(A)(1)(b) through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurance.
 - iv. The 2:1 accommodation ratio required by DCC 18.113.060(D)(2) must be maintained at all times.
 - c. If a resort does not chose to phase the overnight lodging units as described in 18.113.060(A)(1)(b), then the required 150 units of overnight lodging must be constructed prior to

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- the closure of sales, rental or lease of any residential dwellings or lots.
2. Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide seating for at least 100 persons.
 3. The aggregate cost of developing the overnight lodging facilities, developed recreational facilities, and the eating establishments and meeting rooms required in DCC 18.113.060(A)(1) and (2) shall be at least ~~\$2,000,000~~ 7,000,000 (in ~~1984~~1993 dollars).
 4. At least ~~\$2,000,000~~ 2,333,333 of the \$7,000,000 (in ~~1984~~1993 dollars) total minimum investment required by DCC 18.113.060(A)(3) shall be spent on developed recreational facilities.
 5. The facilities and accommodations required by DCC 18.113.060(A)(2) through (4) must be constructed or financially assured pursuant to DCC 18.113.110 prior to closure of sales, rental or lease of any residential dwellings or lots or as allowed by DCC 18.113.060(A)(1).
- B. All destination resorts shall have a minimum of 160 contiguous acres of land. Acreage split by public roads or rivers or streams shall count toward the acreage limit, provided that the CMP demonstrates that the isolated acreage will be operated or managed in a manner that will be integral to the remainder of the resort.
- C. All destination resorts shall have direct access onto a state or County arterial or collector roadway, as designated by the Comprehensive Plan.
- D. A destination resort shall, cumulatively and for each phase, meet the following minimum requirements:
1. The resort shall have a minimum of 50 percent of the total acreage of the development dedicated to permanent open space, excluding yards, streets and parking areas. Portions of individual residential lots and landscape area requirements for developed recreational facilities, visitor-oriented accommodations or multi-family or commercial uses established by DCC 18.124.070 shall not be considered open space;
2. Individually-owned residential units that do not meet the definition of overnight lodging in DCC 18.04.030 shall not exceed two such units for each unit of visitor-oriented overnight lodging. Individually-owned units shall be considered visitor-oriented lodging if they are available for overnight rental use by the general public for at least ~~45~~38 weeks per calendar year through one or more central reservation and check-in service(s) operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.
- E. Phasing. A destination resort authorized pursuant to DCC 18.113.060 may be developed in phases. If a proposed resort is to be developed in phases, each phase shall be as described in the CMP. Each individual phase shall meet the following requirements:
1. Each phase, together with previously completed phases, if any, shall be capable of operating in a manner consistent with the intent and purpose of DCC 18.113 and Goal 8.
 2. The first phase and each subsequent phase of the destination resort shall cumulatively meet the minimum requirements of DCC 18.113.060 and DCC 18.113.070.
 3. Each phase may include two or more distinct noncontiguous areas within the destination resort.
- F. Destination resorts shall not exceed a density of one and one-half dwelling units per acre including residential dwelling units and excluding visitor-oriented overnight lodging.
- G. Dimensional Standards:
1. The minimum lot area, width, lot coverage, frontage and yard requirements and building heights otherwise applying to structures in underlying zones and the provisions of DCC 18.116 relating to

EXHIBIT "B"

solar access shall not apply within a destination resort. These standards shall be determined by the Planning Director or Hearings Body at the time of the CMP. In determining these standards, the Planning Director or Hearings Body shall find that the minimum specified in the CMP are adequate to satisfy the intent of the comprehensive plan relating to solar access, fire protection, vehicle access, visual management within landscape management corridors and to protect resources identified by LCDC Goal 5 which are identified in the Comprehensive Plan. At a minimum, a 100-foot setback shall be maintained from all streams and rivers. Rimrock setbacks shall be as provided in DCC Title 18. No lot for a single-family residence shall exceed an overall project average of 22,000 square feet in size.

2. Exterior setbacks.

- a. Except as otherwise specified herein, all development (including structures, site-obscuring fences of over three feet in height and changes to the natural topography of the land) shall be setback from exterior property lines as follows:
 - i. Three hundred fifty feet for commercial development including all associated parking areas;
 - ii. Two hundred fifty feet for multi-family development and visitor-oriented accommodations (except for single-family residences) including all associated parking areas;
 - iii. One hundred fifty feet for above-grade development other than that listed in DCC 18.113.060(G)(2)(a)(i) and (ii);
 - iv. One hundred feet for roads;
 - v. Fifty feet for golf courses; and
 - vi. Fifty feet for jogging trails and bike paths where they abut private developed lots and no setback for where they abut public roads and public lands.

- b. Notwithstanding DCC 18.113.060(G)(2)(a)(iii), above-grade development other than that listed in DCC 18.113.060(G)(2)(a)(i) and (ii) shall be set back 250 feet in circumstances where state highways coincide with exterior property lines.
- c. The setbacks of DCC 18.113.060 shall not apply to entry roadways and signs.

H. Floodplain requirements. The floodplain zone (FP) requirements of DCC 18.96 shall apply to all developed portions of a destination resort in an FP Zone in addition to any applicable criteria of DCC 18.113. Except for floodplain areas which have been granted an exception to LCDC goals 3 and 4, floodplain zones shall not be considered part of a destination resort when determining compliance with the following standards;

1. One hundred sixty acre minimum site;
2. Density of development;
3. Open space requirements.

A conservation easement as described in DCC Title 18 shall be conveyed to the County for all areas within a floodplain which are part of a destination resort.

- I. The Landscape Management Combining Zone (LM) requirements of DCC 18.84 shall apply to destination resorts where applicable.
- J. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland shall be a separate conditional use subject to all pertinent requirements of DCC Title 18.
- K. Time-share units not included in the overnight lodging calculations shall be subject to approval under the conditional use criteria set forth in DCC 18.128. Time-share units identified as part of the destination resort's overnight lodging units shall not be subject to the time-share conditional use criteria of DCC 18.128.
- L. The overnight lodging criteria shall be met, including the 150-unit minimum and the 2 to 1 ratio set forth in DCC 18.113.060(D)(2).

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1. Failure of the approved destination resort to comply with the requirements in DCC 18.113.060(L)(2) through (6) will result in the County declining to accept or process any further land use actions associated with any part of the resort and the County shall not issue any permits associated with any lots or site plans on any part of the resort until proof is provided to the County of compliance with those conditions.
2. Each resort shall compile, and maintain, in perpetuity, a registry of all overnight lodging units.
 - a. The list shall identify each individually-owned unit that is counted as overnight lodging.
 - b. At all times, at least one entity shall be responsible for maintaining the registry and fulfilling the reporting requirements of DCC 18.113.060(L)(2) through (6).
 - c. Initially, the resort management shall be responsible for compiling and maintaining the registry.
 - d. As a resort develops, the developer shall transfer responsibility for maintaining the registry to the homeowner association(s). The terms and timing of this transfer shall be specified in the Conditions, Covenants & Restrictions (CC&Rs).
 - e. Resort management shall notify the County prior to assigning the registry to a homeowner association.
 - f. Each resort shall maintain records documenting its rental program related to overnight lodging units at a convenient location in Deschutes County, with those records accessible to the County upon 72 hour notice from the County.
 - g. As used in this section, "resort management" includes, but is not limited to, the applicant and the applicant's heirs, successors in interest, assignees other than a homeowners association.
3. An annual report shall be submitted to the Planning Division by the resort management or homeowners association(s) each February 1, documenting all of the following as of December 31 of the previous year:
 - a. The minimum of 150 permanent units of overnight lodging have been constructed or that the resort is not yet required to have constructed the 150 units;
 - b. The number of individually-owned residential platted lots and the number of overnight-lodging units;
 - c. The ratio between the individually-owned residential platted lots and the overnight lodging units;
 - d. The following information on each individually-owned residential unit counted as overnight lodging:
 - i. Who the owner or owners have been over the last year;
 - ii. How many nights out of the year the unit was available for rent;
 - iii. How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 18.113;
 - iv. Documentation showing that these units were available for rental as required.
 - e. This information shall be public record subject to ORS 192.502(17).
4. To facilitate rental to the general public of the overnight lodging units, each resort shall set up and maintain in perpetuity a telephone reservation system.
5. Any outside property managers renting required overnight lodging units shall be required to cooperate with the provisions of this code and to annually provide rental information on any required overnight lodging units they represent to the central office as described in DCC 18.113.060(L)(2) and (3).
6. Before approval of each final plat, all the following shall be provided:
 - a. Documentation demonstrating compliance with the 2 to 1 ratio as defined in DCC 18.113.060(D)(2);
 - b. Documentation on all individually-owned residential units counted as

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overnight lodging, including all of the following:

- i. Designation on the plat of any individually-owned units that are going to be counted as overnight lodging;
- ii. Deed restrictions requiring the individually-owned residential units designated as overnight lodging -units to be available for rental at least 38 weeks each year through a central reservation and check-in service operated by the resort or by a real estate property manager, as defined in ORS 696.010;
- iii. An irrevocable provision in the resort Conditions, Covenants and Restrictions ("CC&Rs) requiring the individually-owned residential units designated as overnight lodging units to be available for rental at least 38 weeks each year through a central reservation and check-in service operated by the resort or by a real estate property manager, as defined in ORS 696.010;
- iv. A provision in the resort CC&R's that all property owners within the resort recognize that failure to meet the conditions in DCC 18.113.060(L)(6)(b)(iii) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County;
- v. Inclusion of language in any rental contract between the owner of an individually-owned residential unit designated as an overnight lodging unit and any central reservation and check-in service or real estate property manager requiring that such unit be available for rental at least 38 weeks each year through a central reservation and check-in service operated by the resort or

by a real estate property manager, as defined in ORS 696.010, and that failure to meet the conditions in DCC 18.113.060(L)(6)(b)(v) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County.

(Ord. 2007-05 § 2, 2007; Ord. 92-004 § 13, 1992)

18.113.070. Approval criteria.

In order to approve a destination resort, the Planning Director or Hearings Body shall find from substantial evidence in the record that:

- A. The subject proposal is a destination resort as defined in DCC 18.040.030.
- B. All standards established by DCC 18.113.060 are or will be met.
- C. The economic analysis demonstrates that:
 1. The necessary financial resources are available for the applicant to undertake the development consistent with the minimum investment requirements established by DCC 18.113.
 2. Appropriate assurance has been submitted by lending institutions or other financial entities that the developer has or can reasonably obtain adequate financial support for the proposal once approved.
 3. The destination resort will provide a substantial financial contribution which positively benefits the local economy throughout the life of the entire project, considering changes in employment, demands for new or increased levels of public service, housing for employees and the effects of loss of resource land.
 4. The natural amenities of the site considered together with the identified developed recreation facilities to be provided with the resort, will constitute a primary attraction to visitors, based on the economic feasibility analysis.
- D. Any negative impact on fish and wildlife resources will be completely mitigated so that

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there is no net loss or net degradation of the resource.

- E. Important natural features, including but not limited to significant wetlands, riparian habitat, and landscape management corridors will be maintained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands will be maintained. Alterations to important natural features, including placement of structures, is allowed so long as the overall values of the feature are maintained.
- F. The development will not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- G. Destination resort developments that significantly affect a transportation facility shall assure that the development is consistent with the identified function, capacity and level of service of the facility. This shall be accomplished by either:
 - 1. Limiting the development to be consistent with the planned function, capacity and level of service of the transportation facility;
 - 2. Providing transportation facilities adequate to support the proposed development consistent with Oregon Administrative Rules chapter 660, Division 12; or
 - 3. Altering land use densities, design requirements or using other methods to reduce demand for automobile travel and to meet travel needs through other modes.

A destination resort significantly affects a transportation facility if it would result in levels of travel or access that are inconsistent with the functional classification of a facility or would reduce the level of service of the facility below the minimum acceptable level identified in the relevant transportation system plan.

- a. Where the option of providing transportation facilities is chosen, the

applicant shall be required to improve impacted roads to the full standards of the affected authority as a condition of approval. Timing of such improvements shall be based upon the timing of the impacts created by the development as determined by the traffic study or the recommendations of the affected road authority.

- b. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.
- H. The development will not create the potential for natural hazards identified in the County Comprehensive Plan. No structure will be located on slopes exceeding 25 percent. A wildfire management plan will be implemented to ensure that wildfire hazards are minimized to the greatest extent practical and allow for safe evacuation. With the exception of the slope restriction of DCC 18.113.070, which shall apply to destination resorts in forest zones, wildfire management of destination resorts in forest zones shall be subject to the requirements of DCC 18.40.070, where applicable, as to each individual structure and dwelling.
 - I. Adequate public safety protection will be available through existing fire districts or will be provided onsite according to the specification of the state fire marshal. If the resort is located outside of an existing fire district the developer will provide for staffed structural fire protection services. Adequate public facilities to provide for necessary safety services such as police and fire will be provided on the site to serve the proposed development.
 - J. Streams and drainage. Unless otherwise agreed to in writing by the adjoining property owner(s), existing natural drainages on the site will not be changed in any manner which interferes with drainage patterns on adjoining property. All surface water drainage changes created by the development will be contained on site in a manner which meets all standards

EXHIBIT "B"

- of the Oregon State Department of Environmental Quality (DEQ). The erosion control plan for the subject development will meet all standards of ORS 468.
- K. Adequate water will be available for all proposed uses at the destination resort, based upon the water study and a proposed water conservation plan. Water use will not reduce the availability of water in the water impact areas identified in the water study considering existing uses and potential development previously approved in the affected area. Water sources shall not include any perched water table. Water shall only be taken from the regional aquifer. Where a perched water table is pierced to access the regional aquifer, the well must be sealed off from the perched water table.
- L. The wastewater disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on applicant's making application to DEQ for a Water Pollution Control Facility (WPCF) permit consistent with such an approved wastewater disposal plan. Approval shall also be conditioned upon applicant's compliance with applicable Oregon Administrative Rules regarding beneficial use of waste water, as determined by DEQ. Applicant shall receive approval of a WPCF permit consistent with this provision prior to applying for approval for its Final Master Plan under DCC 18.113.
- M. The resort will mitigate any demands it creates on publicly-owned recreational facilities on public lands in the surrounding area.
- N. Site improvements will be located and designed to avoid or minimize adverse effects of the resort on the surrounding land uses. Measures to accomplish this may include establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and appropriate fences, berms, landscaped areas and similar types of buffers; and setback of structures and other developments from adjacent land uses.
- O. The resort will be served by an on-site sewage system approved by DEQ and a water system approved by the Oregon State Health Division except where connection to an existing public sewer or water system is allowed by the County Comprehensive Plan, such service will be provided to the resort.
- P. The destination resort will not alter the character of the surrounding area in a manner that substantially limits, impairs or prevents permitted or conditional uses of surrounding properties.
- Q. Commercial, cultural, entertainment or accessory uses provided as part of the destination resort will be contained within the development and will not be oriented to public highways adjacent to the property. Commercial, cultural and entertainment uses allowed within the destination resort will be incidental to the resort itself. As such, these ancillary uses will be permitted only at a scale suited to serve visitors to the resort.
- The commercial uses permitted in the destination resort will be limited in type, location, number, dimensions and scale (both individually and cumulatively) to that necessary to serve the needs of resort visitors. A commercial use is necessary to serve the needs of visitors if:
1. Its primary purpose is to provide goods or services that are typically provided to overnight or other short-term visitors to the resort, or the use is necessary for operation, maintenance or promotion of the destination resort; and
 2. The use is oriented to the resort and is located away from or screened from highways or other major through roadways.
- R. A plan exists to ensure a transfer of common areas, facilities such as sewer, water, streets and responsibility for police and fire protection to owners' associations or similar groups if contemplated. If such transfer is not contemplated, the owner or responsible party shall be clearly designated. Adequate open space, facility maintenance and police and fire protection shall be ensured in

EXHIBIT "B"

perpetuity in a manner acceptable to the County.

S. Temporary structures will not be allowed unless approved as part of the CMP. Temporary structures will not be allowed for more than 18 months and will be subject to all use and site plan standards of DCC Title 18.

T. The open space management plan is sufficient to protect in perpetuity identified open space values.

~~U. A mechanism to ensure that individually owned units counting toward the overnight lodging total remain available for rent for at least 45 weeks per calendar year through a central reservation and check-in service. Such a mechanism shall include all of the following:~~

- ~~1. Designation on the plat of which individually owned units are to be considered to be overnight lodging as used in DCC 18.113;~~
- ~~2. Deed restrictions limiting use of such identified premises to overnight lodging purposes under DCC 18.113 for at least 45 weeks each year;~~
- ~~3. Inclusion in the CC&R's of an irrevocable provision enforceable by the County limiting use of such identified units to overnight lodging purposes under DCC 18.113 for at least 45 weeks each year;~~
- ~~4. Inclusion of language in any rental contract between the owner of the unit and any central reservation and check-in service requiring that such units be made available as overnight lodging facilities under DCC 18.113 for at least 45 weeks each year; and~~
- ~~5. A requirement that each such unit be registered and a report be filed on each such unit yearly by the owner or central booking agent on January 1 with the Planning Division as to the following information:
 - ~~a. Who the owner or owners have been over the last year;~~~~

~~b. How many nights out of the year the unit was available for rent through the central reservation and check-in service; and~~

~~e. How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 18.113.~~

~~(Ord. 2007-5 § 2, 2007; Ord. 92-032 § 1, 1992; Ord. 92-004 § 13, 1992)~~

18.113.075. Imposition of conditions.

The standards made applicable by DCC 18.113 may be met by the imposition of conditions calculated to insure that the standard will be met. (Ord. 92-004 § 13, 1992)

18.113.080. Procedure for modification of a conceptual master plan.

Any substantial change, as determined by the Planning Director, proposed to an approved CMP shall be reviewed in the same manner as the original CMP. An insubstantial change may be approved by the Planning Director. Substantial change to an approved CMP, as used in DCC 18.113.080, means an alteration in the type, scale, location, phasing or other characteristic of the proposed development such that findings of fact on which the original approval was based would be materially affected. (Ord. 92-004 § 13, 1992)

18.113.090. Requirements for final master plan.

It shall be the responsibility of the applicant to provide a Final Master Plan (FMP) which includes text and graphics explaining and illustrating:

- A. The use, location, size and design of all important natural features, open space, buffer areas and common areas;
- B. The use and general location of all buildings, other than residential dwellings and the proposed density of residential development by location;
- C. Preliminary location of all sewer, water, storm drainage and other utility facilities and materials, and specifications and installation methods for water and waste water systems;

EXHIBIT "B"

- D. Location and widths of all roads, streets, parking, pedestrian ways, equestrian trails and bike paths;
- E. Methods to be employed to buffer and mitigate potential adverse impacts on adjacent resource uses and property;
- F. Building elevations of visitor-oriented accommodations, recreational facilities and commercial services sufficient to demonstrate the architectural character of the proposed development;
- G. A description of all commercial uses including approximate size and floor area;
- H. The location of or distance to any emergency medical facilities and public safety facilities;
- I. When a phase includes a residential subdivision, a general layout of the subdivision shall include the number of lots, minimum and maximum lot sizes, and approximate location of roadways shall be included;
- J. A description of measures taken, with copies of deed restrictions, CC&R's and rental contracts, to implement the requirements of DCC 18.113.060(L). ~~measures identified in DCC 18.113~~ ~~assuring that individually owned lodging units considered to be overnight lodgings for at least 45 weeks per calendar year through a central reservation and check-in service.~~
- K. A description of measures taken, with copies of deed restrictions and a final management plan, to implement the open space management plan required by DCC 18.113.
- L. The status of all required off-site roadway improvements.
- M. Methods to be employed for managing automobile traffic demand.
- N. A copy of a WPCF permit issued by DEQ consistent with the requirements of DCC 18.113.070(L).
(Ord. 2007-005 § 2, 2007; Ord. 92-004 § 13, 1992)

18.113.100. Procedure for approval of final master plan.

- A. The FMP shall be submitted in a form approved by the County Planning Director consistent with DCC Title 22 for a development permit. The Planning Director shall review the FMP and if the Planning Director finds that all standards of the CMP have been met, the FMP shall be approved in writing without notice. If approval the FMP involves the exercise of discretion, the FMP shall be treated as a land use action and notice shall be provided in accordance with DCC Title 22;
- B. If the Planning Director finds evidence in the FMP of a substantial change from the CMP, the Planning Director shall advise the applicant to submit an application for modification or amendment of the CMP.
(Ord. 92-004 § 13, 1992)

18.113.110. Provision of streets, utilities, developed recreational facilities and visitor-oriented accommodations.

- A. The Planning Director or Hearings Body shall find that all streets, utilities, developed recreational facilities and visitor-oriented accommodations required by the FMP are physically provided or are guaranteed through surety bonding or substantial financial assurances approved by the County prior to closure of sale of individual lots or units.
- B. Financial assurance or bonding to assure completion of streets and utilities, developed recreational facilities and visitor-oriented accommodations in the FMP shall be required pursuant to the security requirements for site plan review and subdivision review established by the Deschutes County Code.
(Ord. 92-004 § 13, 1992; Ord. 92-003 § 1, 1992)

18.113.120. Conservation easement to protect resource site.

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A. If a tract to be used as a destination resort contains a resource site designated for protection in an acknowledged comprehensive plan pursuant to open spaces, scenic and historic areas and natural resource goals, that tract of land shall preserve the resource site by conservation easement sufficient to protect the resource values of the resource site in accordance with ORS 271.715 to 271.795.

B. A conservation easement under DCC 18.113.120 shall be recorded with the property records of the tract on which the destination resort is sited.

(Ord. 2007-005 § 2, 2007)

(Zoning maps adopted by Ord. 92-031 § 1, 1992)



EXHIBIT "C"

Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

STAFF REPORT

To: Deschutes County Board of County Commissioners
From: Terri Hansen Payne, Senior Planner
Date: August 22, 2007
Subject: Work Session on Text Amendment TA-04-4

I. TA 04-4

TA-04-4 is a proposed amendment to County destination resort zoning code in Title 18. This proposal was initiated by Sunriver, Eagle Crest and Pronghorn resorts in order to bring County Code into line with changes to state destination resort statute.

II. Background

The resorts initiated this application in July 2004 and a public hearing was held in front of the Planning Commission (Commission) on November 4, 2004. The Commission made a recommendation to the Board of County Commissioners (Board) on these amendments, but before the Board could review the recommendation the applicants requested that the proposal be put on hold. It was reopened in May 2006 at the applicants' request. Due to the length of time since the initial Planning Commission review, the Board invited the Commission to again participate and reaffirm their recommendation or make a new recommendation.

A joint public hearing was held with the Board of County Commissioners and the Planning Commission on December 4, 2006 (Attachments 1). The Planning Commission deliberated and made a recommendation to the Board on December 14, 2006 (Attachment 2). The Board held a work session on January 29, 2007 and asked staff to divide this application into discrete decision points. The seven decision points were then discussed at work sessions on February 20, February 26, April 2, May 7 and June 20.

Based on the work session discussions the Board provided direction to staff on the seven issues and requested additional code amendments. The additional amendments were not part of the original discussion and therefore another work session has been scheduled for August 20 and an additional public hearing has been scheduled for August 27.

In the following discussion, for easy reference, the issues discussed are numbered as they were numbered in the discussion of decision points.

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Quality Services Performed with Pride

EXHIBIT "C"

III. Proposed Amendments

Applicant proposed amendments

<i>Required by State Statute</i>	
Issue #1	Increase the required resort investment from \$4 million in adjusted 1984 dollars to \$7 million in adjusted 1993 dollars
<i>Permitted by State Statute</i>	
Issue # 4	Lower the number of weeks individually-owned residential units are required to be available for rent from 45 weeks/year to 38 weeks/year
Issue # 5	Allow the individually-owned residential units to be rented through a property manager as well as the resort
Issue # 6	Allow the overnight lodging to be phased in over 14 years
Issue # 7	Change the required ratio between individually-owned residential and overnight lodging from 2:1 to 2.5:1

Staff additions to the applicant proposal

<i>Required by State Statute</i>	
Issue # 2	Add a new code section to require conservation easements for specified Goal 5 resources
Issue # 3	Require an annual report on resort accommodations

IV. Planning Commission

Amendments recommended by the Planning Commission

<i>Required by State Statute</i>	
Issue #1	Increase the required resort investment from \$4 million in adjusted 1984 dollars to \$7 million in adjusted 1993 dollars
Issue # 2	Add a new code section to require conservation easements for specified Goal 5 resources
Issue # 3	Require an annual report on resort accommodations

Amendments not recommended by the Planning Commission

<i>Permitted by State Statute</i>	
Issue # 4	Lower the number of weeks individually-owned residential units are required to be available for rent from 45 weeks/year to 38 weeks/year
Issue # 5	Allow the individually-owned residential units to be rented through a property manager as well as the resort
Issue # 6	Allow the overnight lodging to be phased in over 14 years
Issue # 7	Change the required ratio between individually-owned residential and overnight lodging from 2:1 to 2.5:1

EXHIBIT "C"

V. Board of County Commissioners

Amendments Included in the Attached Ordinance

<i>Required by State Statute</i>	
Issue #1	Increase the required resort investment from \$4 million in adjusted 1984 dollars to \$7 million in adjusted 1993 dollars
Issue # 2	Add a new code section to require conservation easements for specified Goal 5 resources
Issue # 3	Require an annual report on resort accommodations
<i>Permitted by State Statute</i>	
Issue # 4	Lower the number of weeks individually-owned residential units are required to be available for rent from 45 weeks/year to 38 weeks/year
Issue # 5	Allow the individually-owned residential units to be rented through a property manager as well as the resort
Issue #6	Allow the overnight lodging to be phased in over 14 years with the following changes: Require the first 50 units to be built before any lot or unit sales – this is required to comply with a Land Use Board of Appeals decision on Thornburgh Resort Specify that the 2:1 ratio between individually-owned residential and overnight lodging must be maintained at all times
<i>Additional amendments to ensure the required 150 overnight lodging units are built</i>	
	If a resort chooses not to phase as allowed by Issue # 6, a resort must build all 150 units before the sale of any lots or units
<i>Additional amendments to strengthen overnight lodging reporting and tracking</i>	
	No processing of new land use actions or permits without proof of compliance with resort accommodation requirements
	Require resorts to create and maintain a registry of all overnight lodging
	Require resorts to create and maintain a rental office and phone line
	Require outside property managers to comply with the reporting requirements
	Require documentation of the accommodation ratio and all individually-owned residential units counting as overnight lodging before each final plat is approved
	Clarify that the requirements for CC&R language and rental contract language are enforceable by County Code Enforcement

Amendments Not Included in the Attached Ordinance

<i>Permitted by State Statute</i>	
Issue # 7	Change the required ratio between individually-owned residential and overnight lodging from 2:1 to 2.5:1 Note: There are legal concerns over this issue based on the text of State Statute 197.445 and Goal 8 so no change will be made at this time

VI. Review Criteria

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative zoning text amendment. Instead these types of amendments must show through adequate factual findings that they are consistent with State Statute, the Statewide Planning Goals and the County's Comprehensive Plan. The relevant Statute for reviewing this application is ORS 197.435-197.467. The relevant Statewide Planning Goals are: Goal 1: Citizen Involvement,

EXHIBIT "C"

Goal 2: Land Use Planning and Goal 8: Recreation. Goals 3-7 and 9-19 were reviewed and determined not to apply specifically to this application.

VII. Findings

State Statute ORS 197.435-197.467

State Statute is satisfied because the proposed changes to County Code are consistent with or more restrictive than Statute. In no instance is the proposed ordinance more lenient than Statute.

Goal 1 Citizen Involvement

This goal promotes opportunities for citizen involvement in planning. This goal is satisfied through County code requirements on public noticing and involvement. The following public hearings were held on this proposal.

- Planning Commission public hearing November 4, 2004
- Joint Board of County Commissioners/Planning Commission public hearing on December 4, 2006
- Board of County Commissioners public hearing August 27, 2007

Goal 2: Land Use Planning and the County Comprehensive Plan

This goal establishes a planning process and policy framework for land use decisions based on local comprehensive plans. It ensures that the framework is based on facts and encourages coordination with other jurisdictions and agencies. This goal is satisfied because the proposed amendments conform to the County Comprehensive Plan Destination Resort chapter (DCC 23.84).

Goal 8: Recreation

This goal includes specific language on destination resorts. Goal 8 also includes an overall 2:1 resort ratio between individually-owned residential units and overnight lodging units. This goal is satisfied because the proposed amendments conform to the goal language for destination resorts.

VIII. Ordinance

The amendments discussed by the Board in the series of work sessions have been incorporated into Ordinance 2007-005 (Attachment 3). For the public hearing a copy of this staff report with findings will also be attached to the ordinance.

Attachments

1. 12-4-07 Staff Report
2. 12-14-07 Planning Commission minutes
3. Draft Ordinance 2007-005
 - a. DCC 18.04.030 amendments
 - b. DCC 18.113 amendments

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