



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

NOTICE OF ADOPTED AMENDMENT

January 10, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Jefferson County Plan Amendment
DLCD File Number 001-06 B

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 18, 2007

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Sandy Mathewson, Jefferson County

<paa> ya/

The following table shows the results of the experiment. The first column shows the number of trials, the second column shows the number of correct responses, and the third column shows the percentage of correct responses. The data shows that the percentage of correct responses increases as the number of trials increases, indicating that the subject is learning the task.

Number of Trials	Number of Correct Responses	Percentage of Correct Responses
10	6	60%
20	12	60%
30	18	60%
40	24	60%
50	30	60%
60	36	60%
70	42	60%
80	48	60%
90	54	60%
100	60	60%

D L C D 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

(See reverse side for submittal requirements)

DEPT OF LAND CONSERVATION AND DEVELOPMENT JAN 03 2007

(originally 0-01-07)

Jurisdiction: Jefferson County Local File No.: 0-03-07 (If no number, use none)

Date of Adoption: 12-27-06 (Must be filled in) Date Mailed: 12-28-07 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 4-17-06

- X Comprehensive Plan Text Amendment X Comprehensive Plan Map Amendment
Land Use Regulation Amendment Zoning Map Amendment
New Land Use Regulation Other: (Please Specify Type of Action)

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

Adopted provisions for destination resorts and map of eligible lands.

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."

Destination resort provisions were separated from the remainder of the Comp Plan revision; map of lands eligible for a destination resort was revised to include only two properties; various text changes. Copy showing changes enclosed.

Plan Map Changed from: to adopted Destination Resort map

Zone Map Changed from: to

Location: Southwest quarter of County Acres Involved:

Specify Density: Previous: New:

Applicable Statewide Planning Goals: 1-14

Was an Exception Adopted? Yes: No: X
DLCD File No.: 001-060(13152) [13855]

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: ODFW, USFS, ODOT

Local Contact: Sandy Mathewson Area Code + Phone Number: 541-475-4462

Address: 85 SE 'D' St.

City: Madras Zip Code+4: 97741

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 of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will 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 Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON FOR
THE COUNTY OF JEFFERSON**

**IN THE MATTER OF A POST)
ACKNOWLEDGEMENT AMENDMENT)
TO THE TEXT OF THE COMPREHENSIVE) Ordinance No. O-03-07
PLAN TO ADOPT PROVISIONS FOR)
DESTINATION RESORTS)**

WHEREAS, Statewide planning Goal 8 and ORS 197.435 to .437 allow counties to adopt provisions for destination resorts; and

WHEREAS, Jefferson County wishes to adopt Comprehensive Plan provisions and a map showing the lands within the county that are eligible for the siting of a destination resort; and

WHEREAS, the Jefferson County Planning Commission developed a draft of a revised Comprehensive Plan which included provisions for destination resorts and a map of lands that are eligible for the siting of a destination resort, and the draft was then reviewed by a Citizen Advisory Committee made up of members representing various geographic areas in the County and specific areas of interest; and

WHEREAS, in accordance with ORS 197.610, notice of the proposed revision, along with two copies of the draft Comprehensive Plan, was mailed to the Department of Land Conservation and Development on April 17, 2006, and was sent electronically on the same date; and

WHEREAS, on May 9, 2006 individual written notice, including a schedule of public hearings, was mailed to all property owners in the unincorporated areas of the County outside the boundaries of the Confederated Tribes of the Warm Springs Indian Reservation, in accordance with ORS 215.503; and

WHEREAS, the Jefferson County Planning Commission held public hearings on the proposed Comprehensive Plan revision on June 1, June 17, June 29, July 6 and July 22, 2006, and met to deliberate and consider the testimony on August 3, August 17 and August 23, 2006, after which they voted unanimously to recommend that the Board of Commissioners repeal the March, 1981 Jefferson County Comprehensive Plan, as amended, and adopt the draft Comprehensive Plan, subject to a number of changes they suggested as a result of testimony received; and

WHEREAS, the Jefferson County Board of Commissioners accepted testimony on the Comprehensive Plan revisions recommended by the Planning Commission at public hearings on September 6, September 13, September 27, October 4, October 11, November 8 and December 20, 2006; reviewed all written testimony submitted from May 9, 2006 until the close of the

hearing on December 20, 2006; and met in work sessions to deliberate on the proposed revisions on October 25, November 29, December 6, December 13, and December 21, 2006; and

WHEREAS, notice of all public hearings and work sessions before the Planning Commission and Board of Commissioners was published in the Madras Pioneer at least ten days prior to each hearing and work session, in accordance with ORS 215.060; and

WHEREAS, the Board of Commissioners determined that the destination resort provisions and maps should be separated from the remainder of the Comprehensive Plan and adopted under separate ordinance.

NOW THEREFORE, the Jefferson County Board of Commissioners hereby **ORDAINS** as follows:

1. **Adoption of Destination Resort Provisions**

The provisions for destination resorts in Exhibit A, attached hereto and incorporated herein by this reference, are hereby adopted and added to the Jefferson County Comprehensive Plan under Goal 8.

2. **Adoption of Findings**

The Findings of Fact and Conclusions in the attached Exhibit B are hereby adopted and incorporated herein by reference as the basis for the decision to amend the Comprehensive Plan.

3. **Adoption of Destination Resort Map of Eligible Lands**

The 2007 Jefferson County Destination Resort Map of Eligible Lands is hereby adopted as shown in Exhibit C, attached hereto and incorporated herein by this reference.

4. **Severability**

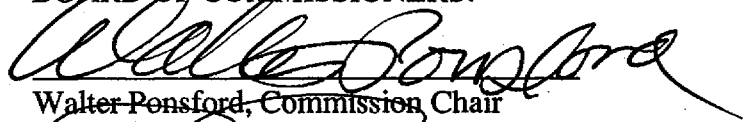
The provisions of this ordinance are severable. If any section, subsection, sentence, clause or phrase of this ordinance or exhibit thereto is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or exhibits thereto.

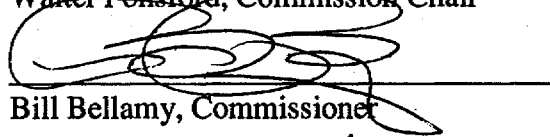
5. **Effective Date**

The Comprehensive Plan destination resort provisions shall take effect on January 1, 2007.

Dated this 27th day of December, 2006.

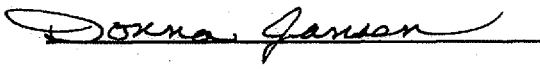
BOARD OF COMMISSIONERS:


Walter Ponsford, Commission Chair


Bill Bellamy, Commissioner


Mary Zemke, Commissioner

Attest:


Donna Janson

Approved as to form:

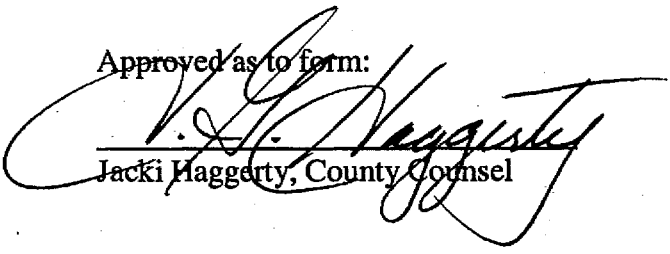

Jacki Haggerty, County Counsel

EXHIBIT A

The following section shall be added to the Jefferson County Comprehensive Plan under Goal 8:

DESTINATION RESORTS

Destination resorts have become a popular feature in Central Oregon, providing overnight lodging, restaurants, meeting facilities and developed recreational facilities, along with some full-time residences. The state has recognized the importance of destination resorts in encouraging tourism and contributing to the state's economic development, and has enacted provisions to allow resorts while still protecting high-value farmland and the most productive forest land. In order to tap this economic potential and provide additional recreational opportunities to visitors, the County has determined that destination resorts should be allowed in the county when consistent with Statewide Planning Goals and Administrative Rules.

ORS 197.465 requires that a Comprehensive Plan that allows for siting of a destination resort include implementing measures which map areas where a resort is permitted, limit uses and activities to those permitted pursuant to ORS 197.455, and assure that developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units.

The county must adopt a map consisting of lands that are eligible for siting a destination resort, based on reasonably available information. The adopted map is the sole basis for determining whether tracts of land are eligible for destination resort siting. However, just because a property is mapped as being eligible does not mean that a destination resort is permitted outright in that location. In order to be approved, a proposal for a resort must comply with standards and criteria contained in the Zoning Ordinance.

ORS 197.455 prohibits the siting of destination resorts in any of the following locations:

1. Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more;
2. On a site with 50 or more contiguous acres of unique or prime farmland identified and mapped by the United States Natural Resources Conservation Service (NRCS) or its predecessor agency, the Soil Conservation Service;
3. On a site within three miles of a high value crop area unless the development will be a "small" destination resort in an exception area consisting of land that is not defined as agricultural or forest land;
4. On predominantly Cubic Foot Site Class 1 or 2 forestlands as determined by the State Forestry Department, unless a goal exception has been approved;
5. In an especially sensitive big game habitat area.

There are no urban growth boundaries with a population of 100,000 or more within 24 miles of the county. According to NRCS maps, there is no unique farmland in the county. There are a number of soils that are classified as prime, but only if they are irrigated. A prime soils map was prepared, based on Natural Resource Conservation Service (NRCS) soils data, North Unit

Irrigation District (NUID) information on irrigated parcels, and state Department of Water Resources data on water rights. Destination resorts will be excluded from these areas.

“High value crop areas” are defined as areas in which there is a concentration of commercial farms capable of producing crops with a minimum gross value of \$1,000 per acre per year. According to OSU Extension Service Agricultural Statistics, there are a number of crops that can be grown in the county that will produce \$1,000 an acre, including grass and vegetable seed. According to the OSU Extension Service, the determining factor in whether a high value crop can be grown is whether irrigation water is available. Consequently, irrigated lands were mapped based on the NUID and Department of Water Resources information. To identify “concentrations of commercial farms”, irrigated areas were overlaid on air photos using the county’s Geographic Information System. Some areas indicated as being watered by the Department of Water Resources are not being farmed or are single isolated farm parcels. These areas were determined to not be concentrations of commercial farms, so were excluded from the map. Other irrigated areas are within wildlife habitat areas, where destination resorts are not allowed. These areas were also deleted from the map. The resulting high value crop area map was then modified to include some additional lands that are interspersed within the high value crop areas – when high value crop areas are less than one mile apart, the intervening area was included since a destination resort could not be approved within this area.

A three mile buffer was drawn around the high value crop areas. Consideration was also given to high value crop areas in adjoining counties. Jefferson County is bordered by Deschutes, Crook, Wasco, Wheeler, Linn and Marion Counties. Deschutes County has determined that there are no high-value crop areas in the county (Deschutes County Ord. No. 92-002). The border between Jefferson County and Linn and Marion Counties is the crest of the Cascades. This area has high elevations and is forested, so there are no agricultural lands or high-value crop areas within three miles of the border. A three mile buffer was mapped from the border with the other counties. Destination resorts will not be allowed within the high value crop areas or within the three mile buffer. (Although “small” destination resorts may be allowed within the three mile buffer pursuant to ORS 197.455(6), the County has chosen not to adopt provisions for small resorts at this time.)

The small amount of class 1 and 2 forest land was mapped based on NRCS soils data. There is no NRCS data for the Mount Jefferson Wilderness and an area south of Camp Sherman. Since it is possible that these areas contain class 1 and 2 forest soils, they will be excluded from destination resort siting.

The County has not determined which big game habitat areas are “especially sensitive”. Consequently, all land subject to the Wildlife Overlay Combining Zone, which protects deer, elk and pronghorn winter range habitat areas were mapped as being excluded from destination resort siting. The big game winter range map is on page 24. Maps showing the other areas where destination resorts are not allowed are on the following pages.

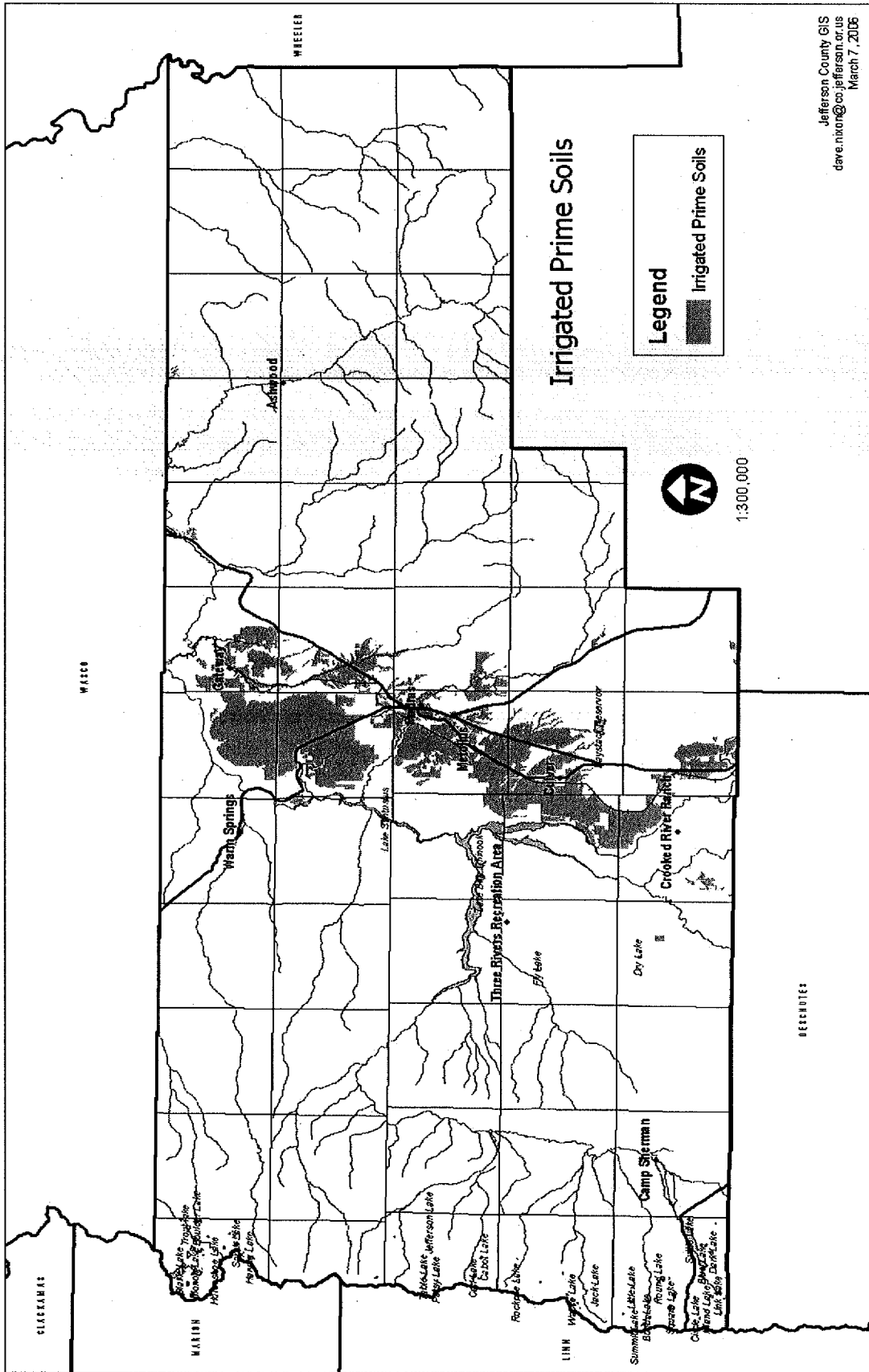
In addition to the areas where destination resorts must be excluded pursuant to ORS 197.455, the County also excluded all federal lands and individual parcels that the property owner requested to have excluded.

A final map showing the areas that were not excluded through the destination resort mapping process was prepared. Upon reviewing the map, the County decided to further limit the areas that will be eligible for siting destination resorts. Destination resort-eligible lands shall be limited to the two areas shown on the "Jefferson County Destination Resort Map of Eligible Lands", which is adopted as part of the Comprehensive Plan. Destination resorts may only be sited in areas shown on the map.

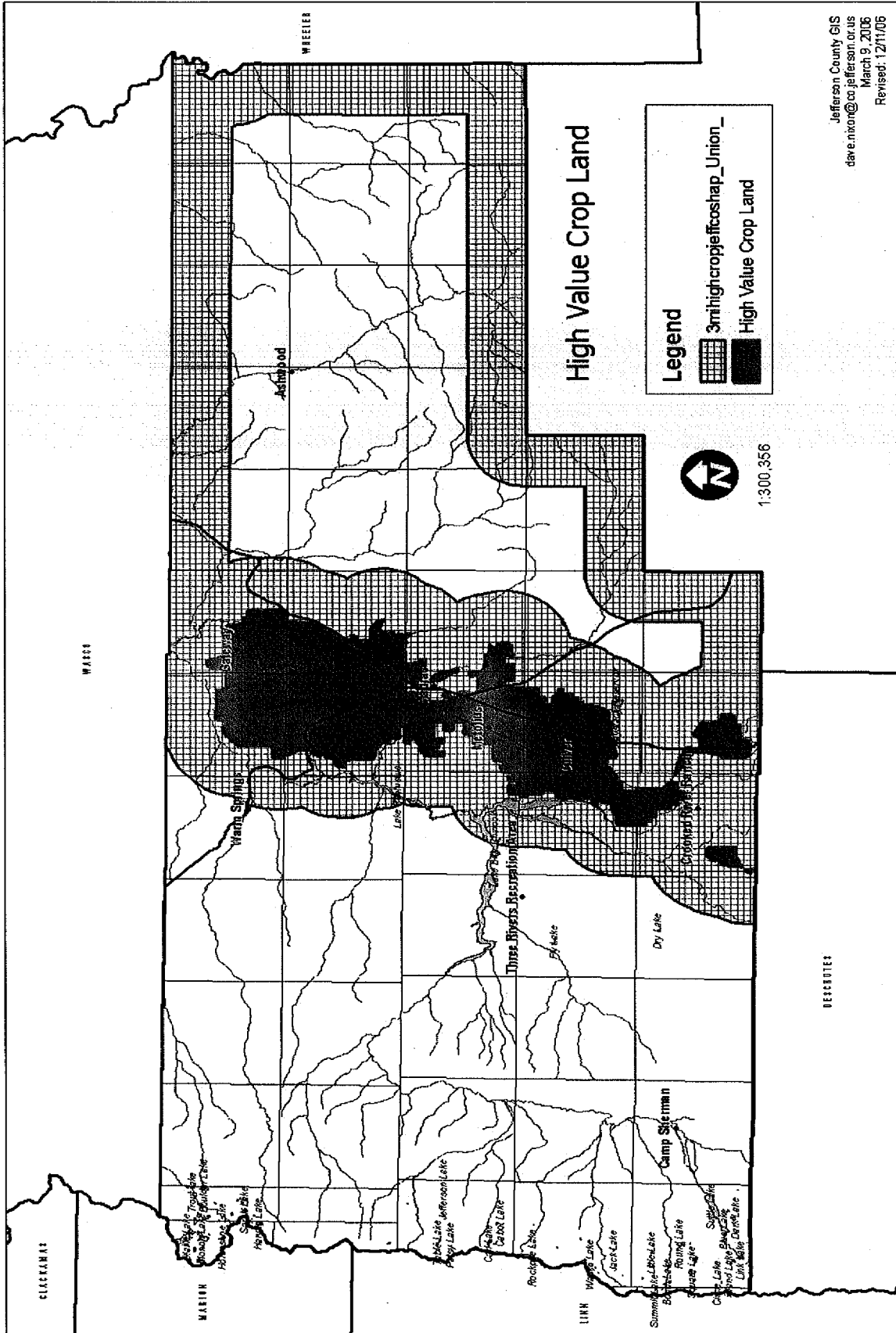
The map may be revised in the future through the Comprehensive Plan amendment procedure in Part 5 to add additional eligible lands, but in accordance with ORS 197.455(2) will not be amended more frequently than once every 30 months. Applications to amend the Destination Resort Map will be collected and will be processed concurrently no sooner than 30 months from the date the map was previously adopted or amended.

Policy 3: Provide opportunities for destination resorts that will include developed recreational facilities and overnight lodging for tourists.

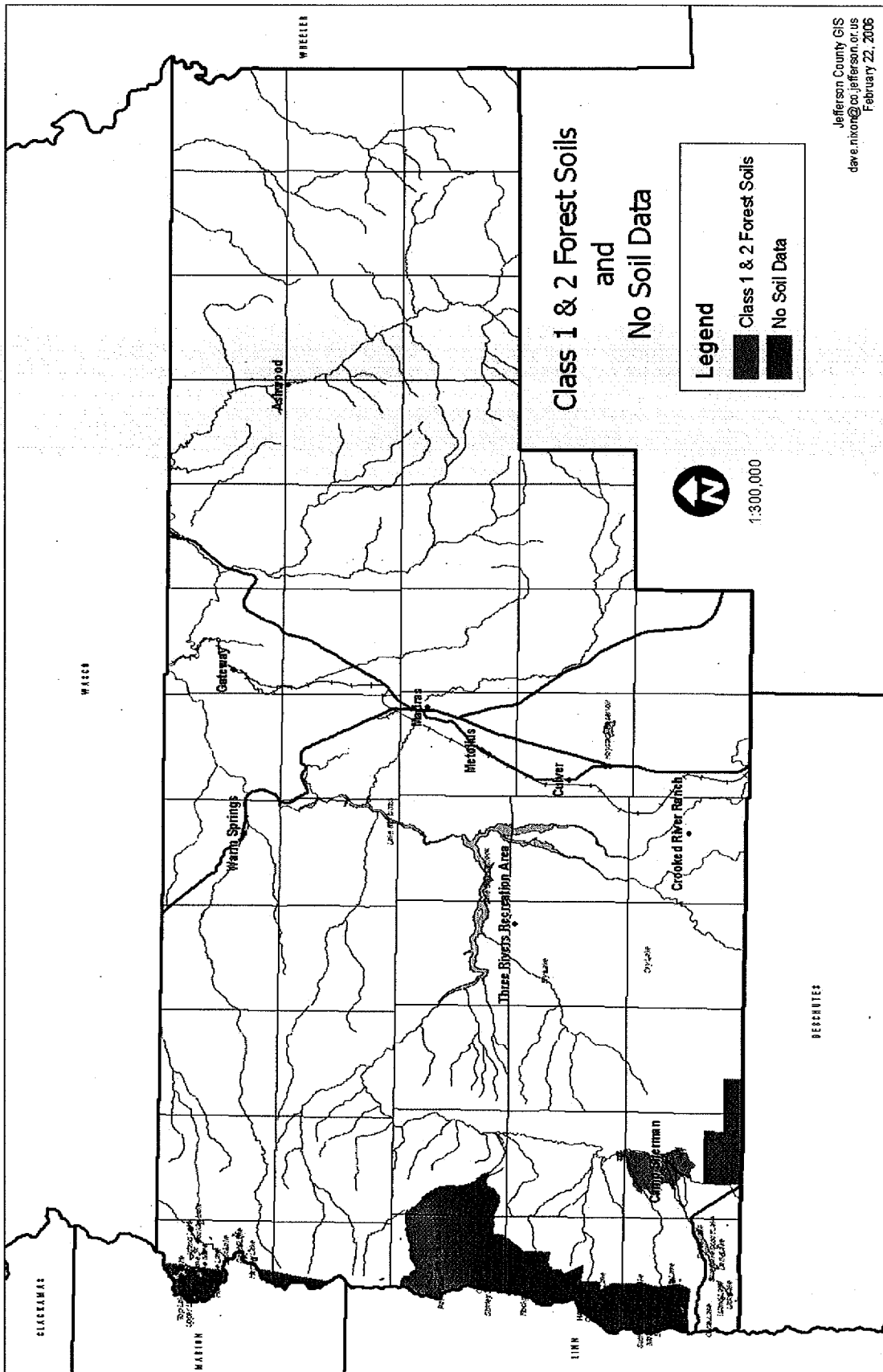
- 3.1 Destination resorts should only be allowed within areas shown on the "Destination Resort Map of Eligible Lands" when in compliance with requirements of Goal 8 and ORS 197.435 to 197.467. Applications to amend the map will be collected and will be processed concurrently no sooner than 30 months from the date the map was previously adopted or amended.
- 3.2 Only those uses and activities allowed by ORS 197.445 should be permitted as part of a destination resort. Developed recreational facilities and key facilities intended to serve the entire development and visitor oriented accommodations must be physically provided or guaranteed through surety bonding or equivalent financial assurances prior to closure of sale of individual lots.
- 3.3 Destination resorts should be compatible with the site and adjacent land uses and should not place inordinate demands on the service structure of the County or on other public utilities or special districts.

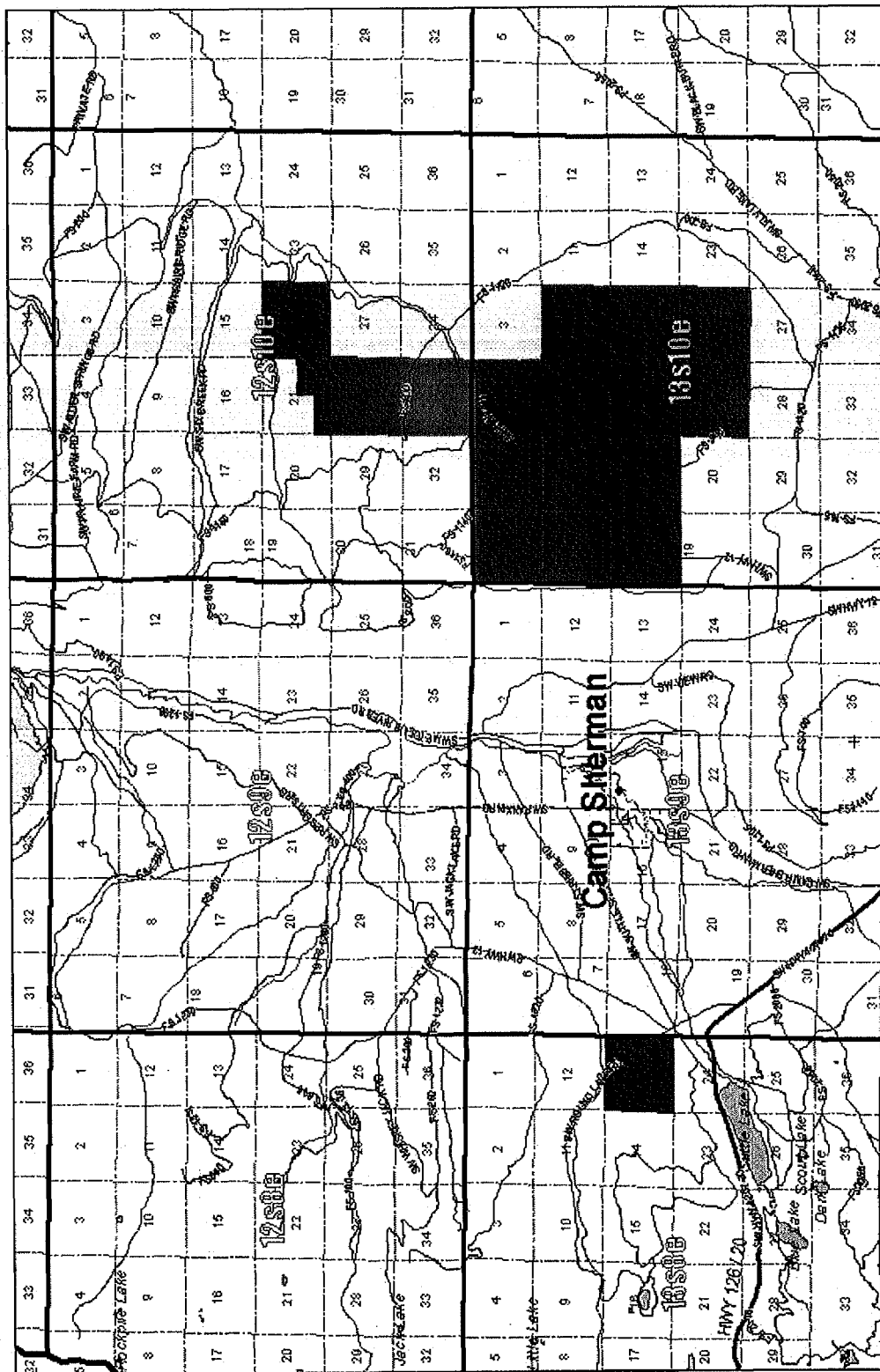


Jefferson County GIS
 dave.nixon@co.jefferson.or.us
 March 7, 2006



Jefferson County GIS
 david.nixon@co.jefferson.mo.us
 March 9, 2006
 Revised: 12/11/06





Legend

- State: US 3
- Warm Springs Indian Reservation
- Eligible Land
- DC 3031A B 3

Scale: 1:120,000

Source: County of Jefferson, Oregon
 Digitized by the Jefferson County GIS Department
 October 11, 2006

Jefferson County Destination Resort Map of Eligible Lands

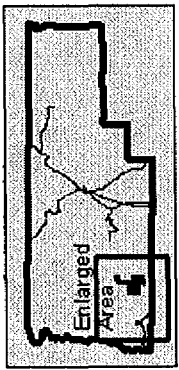


EXHIBIT B

FINDINGS OF FACT AND CONCLUSIONS

1. The proposed action is a legislative amendment to the Comprehensive Plan text. Part V, Administrative Procedures of the 1981 Comprehensive Plan, as amended, contains requirements for legislative revisions, which are defined as *“a policy making change in the text or plan map that will have widespread and significant impact throughout the planning area.”* Part V states that the following procedures must be followed:
 1. *The County Court or Planning Commission may initiate the proposed change.*
 2. *The citizen and agency involvement programs shall be utilized to stimulate the public interest and participation in the amendment process.*
 3. *A public hearing shall be conducted by the Planning commission.*
 4. *Notice to the public as required by the citizen and agency involvement programs shall be provided.*
 5. *In order to submit a favorable recommendation for the proposed change to the County Court, the Planning Commission shall establish the compelling reasons and make findings of fact for the proposed change. These include:*
 - A. *The proposed change will be in conformance with statewide planning goals.*
 - B. *There is a demonstrated need for the proposed change.*
 6. *The County Court, upon receipt of the Planning Commission recommendation, may adopt, reject, or modify the recommendations or may conduct a second public hearing on the proposed change.*
 7. *In all proposed amendment actions, the County Court must make the final decision to adopt or deny the proposed change.*
 - A. The Board of Commissioners (previously the County Court) initiated the Comprehensive Plan revision process. The citizen involvement program outlined in the 1981 Plan contains the following policies:

Policy (1-A-1): The County Planning Commission will continue as the Committee for Citizen Involvement.

(1-A-2): The Planning Commission will maintain an Advisory Committee, representing geographic areas of the County. The Advisory Committee will assist the Planning Commission at update reviews to insure that the

Commission is aware of changes in the several geographic areas of the County.

- B. The Planning Commission held a visioning session in early December, 2005 to consider potential changes which might occur within the County in the next 20 – 50 years, and in following weeks drafted new Comprehensive Plan policies to guide development in a manner that will attain the vision while complying with statewide planning Goals. Upon completion, the first draft of the revised Comprehensive Plan, which included provisions for destination resorts, was forwarded to the Citizen Advisory Committee for review. The Citizen Advisory Committee, which was appointed by the Board of Commissioners to assist and review the draft Plan, was made up of members representing various geographic areas in the County and specific areas of interest.¹ The Advisory Committee held two meetings and suggested changes in the draft Plan to the Planning Commission. The Planning Commission considered the changes suggested by the Advisory Committee before scheduling a series of public hearings to take testimony on the draft revised Plan.
- C. Notice of the proposal to revise the Plan was sent to all property owners in the unincorporated area of the county in accordance with the requirements of ORS 215.503, and to the following agencies: Oregon Departments of Transportation, Forestry, Aviation, Fish and Wildlife, State Lands, State Parks and Recreation, and Agriculture; Bureau of Land Management; Crooked River National Grassland; US Forest Service; Federal Emergency Management Agency; and all Fire Districts in the county. The Planning Commission held five public hearings, on June 1, June 17, June 29, July 6 and July 22, 2006, including Saturday hearings at Crooked River Ranch and Camp Sherman, to take public testimony on the draft Plan. The Board of Commissioners held seven public hearings, on September 6, September 13, September 27, October 4, October 11, November 8 and December 20, 2006, including hearings at Crooked River Ranch and Camp Sherman, to take public testimony on the Planning Commission's recommended draft Comprehensive Plan.
- D. Notice of all public hearings and work sessions before the Planning Commission and Board of Commissioners was published in the Madras Pioneer at least ten days prior to each hearing and work session, in accordance with ORS 215.060. The draft Comprehensive Plan was posted on the County website prior to the first Planning Commission hearing, hard copies were placed in the County library, Camp Sherman Post Office and Crooked River Ranch Administration building, and copies were available for purchase.
- E. The Planning Commission found that there is a demonstrated need, and compelling reasons for the proposed revisions to the Comprehensive Plan because the 1981 Plan contains such outdated information that it is no longer useful as a planning tool, and because it no longer reflects the County's vision for the future.

¹ The Citizen Advisory Committee included representatives from Camp Sherman, the Three Rivers Recreation Area, Crooked River Ranch, the agricultural community, and the Madras Chamber of Commerce.

The Planning Commission also found that the draft Comprehensive Plan complied with all applicable statewide planning goals. After closing the hearings and deliberating, the Planning Commission recommended that the Board of Commissioners adopt the revised Comprehensive Plan, including provisions to implement statewide planning Goal 8 and allow for destination resorts. Included in the recommended Comprehensive Plan was a Destination Resort Map of Eligible Lands.

2. At work sessions on October 25 and November 29, 2006, and at a public hearing on November 8, 2006, the Board of Commissioners considered adopting the amendments and maps related to destination resorts by separate ordinance from the remainder of the Comprehensive Plan. The Board also discussed amending the Destination Resort Map of Eligible Lands to reduce the amount of land eligible for destination resort siting to two specific parcels whose owners had expressed interest in pursuing destination resort development. ORS 215.110(2) states that if an ordinance is recommended by a planning commission, the governing body may make any amendments to the recommendation required in the public interest.
 - A. At the November 29, 2006 work session, the Board directed staff to separate the destination resort provisions from the remainder of the Comprehensive Plan in an effort to improve efficiency of implementation. The destination resort provisions were the most significant policy change proposed in the Plan, and community opposition to the provisions was different in nature from opposition to numerous smaller changes made elsewhere in the Plan. Adopting the destination resort provisions by ordinance separate from the remainder of the Plan could allow any potential appeal of the destination resort provisions to proceed independently of any potential appeal of the remainder of the Plan. The Board's hope was that neither ordinance would be held up by delay in implementation of the other.
 - B. Also at the November 29, 2006 work session, the Board determined to limit eligibility for destination resorts to two specific tracts.
 - (1) The Board had received numerous comments urging it to limit the eligibility mapping. Public comments noted that, once a parcel was mapped, ORS 197.352 (Measure 37) could prevent the County from later removing it from the map. Also, the Board recognized that state law allows for amendments to the destination resort map every 30 months, which would allow additional land to be added to the map of eligible lands in the future.
 - (2) Therefore, the Board tentatively determined that the best policy for the County would be to adopt its initial map with only two of the tracts that had been found by the Planning Commission to be eligible. The two tracts were those whose owners, Ponderosa Land & Cattle Company, LLC, and Dutch Pacific Resources, had specifically requested destination resort mapping. In these findings, the two tracts are referred to as the "Ponderosa tract" and the "Dutch Pacific tract."

- (3) The Board also eliminated the option for developing “small destination resorts” from the map and text. No members of the public had advocated for small destination resorts.
- C. The Board finds that changing the Planning Commission recommendation to adopt provisions for destination resorts separately from the remainder of the Comprehensive Plan, and to limit the number of tracts that are eligible for siting a destination resort, is in the public interest.
3. Additional work sessions were held on December 6, 2006, and December 13, 2006. At the meeting on December 13, 2006, County staff made a handout containing the revisions to the destination resort provisions available for public review. The revisions were also available on the County’s website by at least December 15, 2006.
4. On December 20, 2006, the Board held its final public hearing on the Plan revisions, including the destination resort provisions. At that time, a third property owner requested that a tract be added to the Destination Resort Map of Eligible Lands. On December 21, 2006, the Board held a final deliberation session. During the deliberation, a motion was made to add the third property to the Map of Eligible Lands. The motion was not seconded, because of inadequate opportunity for Board and public review of the third property. At the conclusion of deliberation, the Board voted to adopt provisions for destination resorts and a Destination Resort Map of Eligible Lands, to be added to the Jefferson County Comprehensive Plan under Goal 8.
5. A significant amount of public testimony was received concerning destination resorts. While all public testimony was considered, the Board has chosen not to act on all of the comments. The Board finds that the Destination Resort Map of Eligible Lands and other Comprehensive Plan provisions for destination resorts adopted by this Ordinance are in the best interests of the County.
6. Ordinance No. O-03-07 amends the Comprehensive Plan to adopt (1) a new section containing an introductory statement and policies related to destination resort development; and (2) a countywide Destination Resort Map of Eligible Lands (hereafter, “the Destination Resort Map”) and supporting maps.

GOAL 8 COMPLIANCE

7. Statewide Planning Goal 8 sets forth two steps for counties seeking to implement the Goal’s destination resort siting program:
- A. First, the County must adopt a map identifying areas eligible for destination resort siting. Pursuant to ORS 197.455, the map must exclude: (a) land within 24 air miles of an urban growth boundary with an existing population of 100,000 or more, unless residential uses are limited to those necessary for the staff and management of the resort; (b) tracts with 50 or more contiguous acres of unique or prime farmland identified and mapped by the Natural Resource Conservation Service; (c) tracts within three miles of farm land within a High Value Crop Area; (d) predominantly cubic foot site Class 1 or 2 forest land as determined by the

State Forestry Department, where such lands are not subject to an approved goal exception; (e) land within the Columbia River Gorge National Scenic area; (f) especially sensitive big game habitat as mapped by the Oregon Department of Fish & Wildlife in July 1984 or in an acknowledged comprehensive plan identifying especially sensitive big game habitat. The map must be based on "reasonably available information."

- B. Second, the County must adopt regulations to ensure that destination resorts are compatible with the site and with adjacent land uses. These regulations are contained in the Jefferson County Zoning Ordinance, which were adopted by separate Ordinance (Ordinance #O-04-07).
8. The County has adopted as part of its Comprehensive Plan a Destination Resort Map indicating where destination resorts, subject to compliance with applicable development regulations, may be sited in the County. County staff initially prepared, and the Planning Commission recommended adoption of, a map in which all areas of the County that met certain objective criteria were eligible for destination resorts. Although this map excluded more land that state law required, the Board decided to further limit the lands eligible for destination resorts to two properties. The reasons for the Board's additional limitation included Measure 37 concerns, the specific requests of two property owners that their land be mapped, and the likelihood that their development efforts would begin within the next 30 months. One of the properties, the Ponderosa tract, is approximately 10,000 acres and is located east of Green Ridge, in T.12S and T.13S, R10E. The other property, the Dutch Pacific tract, is 640 acres (T.13S, R.8E, Section 13) and is located north of Suttle Lake, near Lake Creek. Both are zoned Forest Management. For the following reasons, the Board finds that these two properties meet all of the relevant requirements under ORS 197.455 to be mapped as eligible for the siting of a destination resort:
- A. *Areas within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential sites are limited to those necessary for the staff and management of the resort. ORS 197.455(a).*
- (1) The Board finds that Madras has the largest urban growth boundary in Jefferson County. The 2006 population estimate for Madras is 6,070 people, according to the Population Research Center, Portland State University (estimate dated November 15, 2006).
 - (2) The Board also finds that urban growth areas in neighboring counties within 24 air miles of the Jefferson County eligible lands do not have populations of 100,000 or more. Sisters has a population of 1,745, and Redmond has a population of 23,500, according to the PSU estimate. (Bend is more than 24 air miles away from the eligible lands, and has a population of 75,290.)
- B. *On a site with 50 or more contiguous acres of unique or prime farmland identified and mapped by the United States Natural Resources Conservation Service, or its predecessor agency. ORS 197.455(b)(A).*

- (1) Neither of the tracts made eligible for destination resorts in the Destination Resort Map adopted by the Board of Commissioners is zoned for agricultural uses. Nonetheless, the following findings further demonstrate that this criterion is met.
- (2) County staff reviewed lists of unique and prime soils and soil survey maps prepared by the NRCS. Staff found that there are no unique soils in Jefferson County. No soils in Jefferson County are listed as prime unless they are irrigated. Several soils are listed as prime when irrigated. Thus, County staff prepared a prime soils map by identifying prime soils using NRCS soils data and overlaying the prime soils with irrigated areas identified by the North Unit Irrigation District's map of irrigated acreage and by Department of Water Resources. The "Irrigated Prime Soils Map" shows that irrigated prime soils in the County are concentrated within the central Deschutes River Valley.
- (3) Neither of the two tracts identified as eligible for destination resorts is within the area identified by the County for exclusion on the "Irrigated Prime Soils Map."
- (4) In addition to research by County staff, the Board received into the record a letter and November 2003 study report by Wert & Associates (Steve Wert, C.P.S.S.) conducted for the Ponderosa tract. The report confirmed County staff findings that unique soils are not found in Jefferson County and that prime soils are not found within the Ponderosa tract.

C. *On a site within three miles of a high value crop area unless the resort complies with the requirements of ORS 197.445(6) in which case the resort may not be closer to a high value crop area than one-half mile for each 25 units of overnight lodging or fraction thereof. ORS 197.455(b)(B).*

- (1) Goal 8 and ORS 197.435 define "high value crop area" as "an area in which there is a concentration of commercial farms capable of producing crops or products with a minimum gross value of \$1,000 per acre per year. These crops and products include field crops, small fruits, berries, tree fruits, nuts or vegetables, dairying, livestock feedlots or Christmas trees as these terms are used in the 1983 County and State Agricultural Estimates prepared by the Oregon State University Extension Service."
- (2) Neither of the tracts made eligible for destination resorts in the Destination Resort Map is zoned for agricultural uses. Nonetheless, the following findings further demonstrate that this criterion is met.
- (3) The Board finds that high value crops cannot be grown in Jefferson County without irrigation water. High value crops identified in statistics prepared by the Oregon State University Extension Service and included in the record are vegetable seed, some grass seed, some mint crops, and potatoes. According to the Extension Service, none of those crops are

being grown in Jefferson County without irrigation water. (Letter from Marvin Butler, OSU Extension Service, dated 11/27/2006.)

- (4) To identify high value crop areas, the County identified all irrigated lands by reviewing maps from the North Unit Irrigation District, which is the County's primary source of irrigation water, and the Department of Water Resources. County staff reviewed aerial photographs of isolated irrigated parcels to determine if they were part of a concentration of commercial farms (at least three). If they were not, the isolated irrigated parcels were removed from the inventory. All other irrigated parcels were shown on the "High Value Crop Areas Map" and were excluded from destination resort eligibility. Thus, even before the Board limited the Destination Resort Map to two properties, the "High Value Crop Areas Map" had excluded more land from destination resort siting than is required by state law: all irrigated concentrations of commercial farms were excluded, regardless of whether they were capable of producing more than \$1,000 per acre annually.
- (5) The County also excluded areas within three miles of counties that contain potential agricultural land within three miles of their borders with Jefferson County, and that have not made a determination regarding high value crop areas. The County excluded a three-mile buffer around Wasco, Wheeler, and Crook Counties. (Crook County may have studied high value crops, but because of insufficient information about Crook County's determination, the Board elected to exclude the entire three-mile area along the Crook County border.) The County did not exclude the three-mile area around Deschutes County, because Deschutes County determined in Deschutes County Ordinance No. 92-002 that there are no high value crop areas within Deschutes County. The County also did not exclude the three-mile area around Marion County and Linn County, because their borders with Jefferson County are at the crest of the Cascade Mountains, which plainly is too high and forested for agricultural production.
- (6) In addition to research by County staff, the Board received into the record a letter and April 2004 study report by Wert & Associates (Steve Wert, C.P.S.S.). This study conducted an in-depth review of agricultural production, soil capability, and irrigation within three miles of the Ponderosa tract, both in Jefferson County and Deschutes County. It concluded that no high value crop areas existed within a three-mile area around the Ponderosa tract. The report confirmed County staff's conclusions that no high value crop area exists within the three-mile zone around the Ponderosa tract.

- D. *On predominantly Cubic Foot Site Class 1 or 2 forestlands as determined by the State Forestry Department, which are not subject to an approved goal exception. ORS 197.455(c).*

The Board finds that neither of the mapped parcels contains predominantly Cubic Foot Site Class 1 or 2 forest lands.

- (1) Page 8 of the Destination Resort Handbook prepared by the Oregon Department of Land Conservation and Development states that Cubic Foot Site Class 1 or 2 forest lands are limited to western Oregon. The Handbook states: "This factor doesn't affect counties in central and eastern Oregon."
- (2) Nonetheless, County staff undertook a closer examination and found that a small amount of land in the southwestern part of the County was mapped as Class 1 and 2 forest land based on NRCS data. That area, near Camp Sherman, was excluded from destination resort mapping. In addition, to ensure that Class 1 and 2 forest land is not made eligible for destination resorts, the County excluded all areas in the western part of the County where soils have not been mapped by NRCS. Those two areas were placed on the "Class 1 & 2 Forest Soils and No Soil Data Map" and excluded from destination resort eligibility. Neither of the two properties made eligible for destination resorts is within those areas.
- (3) In addition to research by County staff, the Board received into the record a letter and November 2003 study report by Wert & Associates (Steve Wert, C.P.S.S.). This report confirms County staff's findings that no Class 1 or 2 forest land is found within the Ponderosa tract. Specifically, Page 9 of the report states:
 - (a) "None of the soils listed on the NRCS soils map, within the study area, are rated as Site Class 1 or 2. The minimum productivity to qualify for Class 2 soil is 165 cubic feet per acre per year at the culmination of mean annual increment. The highest production value shown in the NRCS data on the subject study area is 149 cubic feet per acre per year. This is the estimated productivity for white fir on the Gap soil series."
 - (b) "In conclusion, the NRCS data clearly shows that the soils on the study area are not predominately Site Class 1 or 2 soils. The vast majority of the soils in the study area have been rated for woodland productivity and all rated soils have a Site Class rating significantly lower than Site 2. Of the areas not rated, most of these are rock out-croppings, [which are not rated for timber] because their productivity is insignificant to nonexistent."

E. *In an especially sensitive big game habitat area as determined by the State Department of Fish and Wildlife in July 1984 or as designated in an acknowledged comprehensive plan.* ORS 197.455(e).

- (1) This criterion excludes from destination resort siting a particular category of big game habitat identified by ODFW: "especially sensitive" habitat.

This category is explained on Page 8 of the DLCD Destination Resort Handbook, as follows: "In 1984, LCDC adopted a map showing areas identified by the Oregon Department of Fish and Wildlife as especially sensitive big game habitat. This map shows much less area designated big game habitat than one would find by consulting the Goal 5 inventory of a local comprehensive plan. Goal 8 focuses on a narrower category of land that deserves additional protection."

- (2) Even though state law requires the County to exclude only this narrower category of "especially sensitive" habitat, in this instance the Board has chosen to be more restrictive than state law. The County has excluded destination resorts from all big game habitat identified in its Goal 5 big game habitat inventory ("Jefferson County Big Game Winter Range Map"). Therefore, the County has exceeded the requirement of state law by excluding not only all "especially sensitive" habitat, but also all big game habitat identified in its Goal 5 inventory.
9. The Board finds that Section 430 of the Jefferson County Zoning Ordinance meets "step two" of Goal 8's requirements (as described above in Finding 8(B)), for the following reasons:
- A. The Goal 8 requirement that uses and development in destination resorts be limited to those that are consistent with the goal is satisfied by provisions in Section 430. Section 430.6(F) limits the uses allowed in destination resorts to those allowed by Goal 8. All definitions of the component parts of a destination resorts in Section 430 duplicate or are more restrictive than those found in Goal 8.
 - B. One member of the public commented that there is nothing in Section 430 to ensure that resorts are visitor-oriented. The Board disagrees with this comment and notes that Section 430.06(E) requires a minimum number of overnight lodging units and visitor-oriented accommodations, including meeting rooms or restaurants with seating for at least 100 people. This duplicates the visitor-orientation requirements of state law.
 - C. The Goal 8 requirement that important natural features be maintained is satisfied by inclusion in the Zoning Ordinance of Section 430.6(L), which includes language duplicating that found in Goal 8.
 - D. The Goal 8 requirement that designated Goal 5 resources be protected during destination resort development by use of a conservation easement is satisfied by inclusion in the Zoning Ordinance of Section 430.6(N), which duplicates the relevant text of Goal 8 and ORS 197.467.
 - E. The Goal 8 requirement that buffers and setbacks be required to avoid or minimize adverse affects on land uses on surrounding lands, particularly intensive farming operations, is satisfied by the setback requirement of Section 430.6(M). That section duplicates the relevant section of Goal 8 by requiring the County to

determine that all buffers and setbacks proposed to separate a resort from surrounding lands be of adequate size to minimize impacts on those lands.

- F. The Goal 8 requirement that prohibits the use or operation in conjunction with the resort of a portion of a tract that is not part of the proposed destination resort site is satisfied by Section 430.6(A).
- G. The Goal 8 requirement that a mechanism be included to assure that developed recreational facilities, visitor oriented accommodations, and key facilities intended to serve the entire development are physically provided or guaranteed is satisfied by Section 430.7(A), which duplicates the Goal 8 provision and allows the County to require security through surety bonding or substantially equivalent financial assurances pursuant to Section 413.
- H. The Goal 8 requirement that requires measures regulating uses and alterations within the 100 year floodplain and on slopes exceeding 25 percent is satisfied by Section 430.6(R).

COMPLIANCE WITH OTHER STATEWIDE PLANNING GOALS

- 10. The Board of Commissioners finds that adoption of the destination resort provisions is consistent with Statewide Land Use Planning Goal 1 (Citizen Involvement).
 - A. The Comprehensive Plan, including the destination resort provisions and map, were reviewed by the Citizen Advisory Committee and Planning Commission. The Advisory Committee's comments were taken into consideration by the Planning Commission.
 - B. Testimony was received that the draft Comprehensive Plan, including the destination provisions, were required to be reviewed by the Camp Sherman Local Advisory Committee ("LAC"). The Board disagrees, because the revision of the Comprehensive Plan is a legislative amendment. The Board interprets Appendix 1, Part IV, "Function of the LAC" of the acknowledged Jefferson County Comprehensive Plan (ver. 1981, last amended March 8, 2006) to require LAC review only of quasi-judicial land use applications initiated by an applicant. Therefore, review by the LAC was not required for a legislative amendment initiated by the County.
 - (1) The Board's interpretation of Appendix 1, Part IV, is based on the underlined portions of the following text: "Upon receipt of an application for approval of any proposed use or development, the secretary of the LAC shall forward the application and all available information to the County Planning Department[.] . . . If the planning department is contacted by the applicant prior to contact with the LAC, the director will notify the secretary of the LAC and forward all available information." The Board interprets this section's references to "the applicant" to refer only to quasi-judicial, applicant-initiated land use actions.

- C. All property owners in the County were notified of the proposed revision to the Comprehensive Plan on May 9, 2006, and many hearings and work sessions were held before both the Planning Commission and the Board of Commissioners, as described above, with public notice of every hearing and work session. Sufficient notice and opportunity to comment was provided to any interested party on the proposed revisions related to destination resorts.
- (1) The Board notes that all maps were made available to the public. In particular, only two tracts were ultimately selected for destination resort eligibility. Those tracts were identified even more specifically on a small-scale map made available to the public on December 13, 2006.
 - (2) Testimony was received that the County was required to provide new notice to the public and DLCD when it decided to adopt the destination resort provisions by separate ordinance, and that the County at least was required to include all previous comments made regarding destination resorts in the record for the new ordinance. The Board finds that new notice to the public and DLCD was not required, but agrees with the latter comment.
 - (a) The notice to DLCD and the numerous notices to the public stated that the County would be revising its entire Plan and Ordinances. Provisions and maps for implementing Goal 8 were part of that revision as initially proposed. Numerous public hearings were held to comment on all aspects of the revised Plan, including the destination resort provisions and map. The destination resort provisions did not change in nature simply by being adopted by separate ordinance, so no new notice was required.
 - (b) The Board adopted the provisions for destination resorts separately in an effort to separately channel issues likely to be appealed. However, the hearing schedule encompassed all of the Plan revisions. Thus, everything placed into the record for the revision of the entire Comprehensive Plan (Ordinance #O-01-07) is part of the record supporting the adoption of the destination resort provisions and map (Ordinance #O-03-07).
 - (3) One member of the public commented that there was insufficient time to review and respond to changes to the maps and text of the destination resort provisions between December 13, 2006, when the revisions were made available at a public meeting (or December 15, 2006, when they were posted on the County's website) and December 20, 2006, which was the final opportunity for public testimony.² The changes to the destination resort provisions were to (1) separate the destination resort provisions into a separate ordinance; (2) eliminate much of the land initially considered for eligibility, as well as all small destination resort areas; and (3) make a

² Letter from Friends of the Metolius dated December 20, 2006.

few substantive changes required by state law (including adding three-mile HVCA buffers and a transportation-related approval criterion). The Board finds that there was ample public notice of these changes.

- (a) The Board discussed the issues at public work sessions on October 25 and November 29, 2006, and at a public hearing on November 8, 2006. A draft of some of the suggested revisions was submitted into the record by a member of the public on November 27, 2006. Many of these suggestions were revised or not accepted by staff in the final revisions to the destination resort provisions distributed on December 13, 2006, but an interested party would have had ample notice of the nature of the revisions being considered as of at least the November 29, 2006, meeting date.
 - (b) The revisions were distributed at the public meeting on December 13, 2006, and made available on the county website on December 15, 2006. The public had approximately one week before the December 20, 2006, public hearing to review the final version of the changes to the destination resort provisions. The changes, as listed above, were not so complex that one week was insufficient for review and comment. In addition, the main substantive change (to reduce the amount of eligible land) had been advocated by most public commenters, and the procedural changes did not involve issues that had generated any public comment in the prior version.
 - (c) Since the revision of the Comprehensive Plan is a legislative amendment, there is no legal requirement that the public be allowed to testify on modifications the Board decides to make to the Planning Commission's recommended draft Comprehensive Plan.
11. The Board finds that the destination resort provisions are consistent with Goal 2 (Land Use Planning), because the Board has set forth an adequate factual basis for its decision in these findings.
- A. One member of the public commented that the Planning Commission's findings for their recommendation to the Board were inadequate. The Board has conducted many public hearings and work sessions of its own, and finds that written findings by the Board of Commissioners satisfy Goal 2 and the acknowledged 1981 Comprehensive Plan where the Board has conducted its own public hearings on the amendments. In addition, no one has stated that they were specifically prejudiced by any omission from the Planning Commission's findings.
 - B. Some members of the public have commented that federal and state agencies were not adequately consulted in adopting the destination resort provisions. The Board disagrees. The County provided notice of the proposed amendments to federal and state agencies. This satisfied Goal 2's coordination requirement. The Board

also notes that eligibility mapping is only a preliminary step for destination resort development. To gain land use approval, destination resorts will have to satisfy siting criteria that protect natural resources. Public agencies will have another, more useful opportunity to comment on specific destination resort proposals that are submitted for approval under Section 430 of the Jefferson County Zoning Ordinance. Section 430.3(C) states that copies of any destination resort proposal will be sent to all affected public agencies and the Confederated Tribes of the Warm Springs Reservation. Section 430.7 states that the recommendations and comments of other public agencies will be considered and may be the basis for conditions of approval.

C. Some members of the public also have commented that the County did not take into account federal and state programs protecting the Metolius Basin. The Board notes that mapping sites for destination resort eligibility does not in itself affect those programs or the resources they protect. By coordinating with federal and state agencies to review a specific destination resort proposal, any effects that a specific resort proposal may have on programs such as the Metolius Wild & Scenic River, Metolius Conservation Area, and the State Scenic Waterways program will be taken into consideration by the Planning Commission and Board of Commissioners at the time of an actual destination resort application.

(1) The Board further finds that the Ponderosa tract is east of Green Ridge, and therefore is outside the federally designated Metolius Conservation Area (established by the United States Forest Service, August 10, 1990) and outside the Metolius River Basin.

D. Finally, the Board notes that the Goal 2 requirement for an adequate factual base does not exist in a vacuum. In alleging a Goal 2 factual base inadequacy, a petitioner must establish that some applicable statewide planning goal or other criterion imposes obligations that are of such a nature that a factual base is required to determine if the enactment is consistent with the goal or other criterion.³ The Board's findings provide an adequate factual base for each Goal, depending on its level of applicability to the destination resort provisions.

(1) Testimony was received asserting that the County must update its Goal 5 inventories before adopting the destination resort provisions. The Board finds that, to the extent that a Goal 5 factual base is relevant to implementation of Goal 8 at all, the County's existing Goal 5 inventories provide an adequate factual base for adoption of the destination resort provisions. No person provided the Planning Commission or the Board with evidence that specific resources should be added to Goal 5 inventories or that the inventories should be updated to reflect specific changes or new information. More importantly, the presence of Goal 5 resources is not relevant to the factual findings required to apply Goal 8's destination resort eligibility criteria. Instead, Goal 5 resources are protected through Goal 8's siting standards that will be applied by the

³ OCAPA v. City of Mosier, 44 Or LUBA 452 (2003).

County at the time of destination resort development applications. The County does anticipate updating the inventories soon, but the Board finds that the County is not legally required to do so before adopting the Destination Resort Package.

12. The Board finds that the provisions for destination resorts are consistent with Goal 3 (Agricultural Lands) because no agriculturally zoned lands are made eligible for destination resorts.
 - A. Also, OAR 660-033-0120 authorizes destination resorts on agricultural land if such resorts are approved pursuant to Goal 8. Goal 8 allows comprehensive plans to provide for the siting of destination resorts on rural lands without a Goal 2 exception to Goals 3, 4, 11, or 14. The destination resort provisions comply with the Goal 8 provisions designed to protect agricultural land, including the restriction on siting resorts on 50 or more contiguous acres of prime or unique farmland or within three miles of land within a High Value Crop Area. All such lands (and many more lands) are excluded from the Destination Resort Map.
 - B. The destination resort provisions need not comply at this time with the destination resort siting restrictions set forth in OAR 660-033-0120, which specify that destination resorts are prohibited on High Value Farmland. High Value Farmland is a tract composed predominantly of soils that are classified as prime, unique, Class I, or Class II. OAR 660-033-0020(8)(a). No agricultural land is mapped as eligible for destination resorts, therefore provisions to address OAR 660-033-0120 are not needed.

13. The Board finds that the Comprehensive Plan amendment is consistent with Goal 4 (Forest Lands) because OAR 660-006-0025(3)(n) allows destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8 to be sited outright in forest zones. In addition, Goal 8 allows comprehensive plans to provide for the siting of destination resorts on rural lands without a Goal 2 exception to Goals 3, 4, 11, or 14.
 - A. The destination resort provisions comply with the Goal 8 provisions designed to protect forest land, including by limiting eligible lands to those that do not contain Cubic Foot Site Class 1 or 2 forest lands.
 - B. In addition, the Destination Resort Map of Eligible Lands adopted by the County excludes land owned and managed by the United States Forest Service, thereby preserving public forest land.
 - C. Finally, the Board notes that destination resorts located in the Forest Management Zone will be required to comply with all relevant and appropriate fire safety siting standards. One public commenter states that the two properties mapped as eligible for destination resorts are not "appropriate areas for destination resort development considering fire risk and impact to forestry." The Board finds that state law specifically allows destination resorts on forest lands, and that destination resorts located in the Forest Management Zone will be required to comply with all relevant and appropriate siting criteria of Sections 303 and 430 of

the Jefferson County Zoning Ordinance. The siting standards of Section 303.7 are “designed to make uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands.” (The Board also notes that, contrary to the public testimony, Deschutes County does allow destination resorts on forest lands. Deschutes County Code Section 18.40.030, the F-2 Forest Zone, allows destination resorts as a conditional use.)

14. The Board finds that the Comprehensive Plan amendment is consistent with Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources) because Goal 8 and ORS 197.467 require the preservation of designated Goal 5 resources located on any tract used for a destination resort through conservation easements as set forth in ORS 271.715 to 271.795. Section 430.6(N) of the Jefferson County Zoning Ordinance replicates this requirement.
- A. Testimony was received asserting that destination resorts are a “new conflicting use” under OAR 660-023-250(3)⁴, such that the County is required to apply Goal 5 and conduct an ESEE analysis. The Board disagrees. Destination resorts that meet the siting approval criteria in Section 430 of the Jefferson County Zoning Ordinance by definition cannot conflict with any inventoried Goal 5 resource, because the siting standards require the resource to be preserved by a conservation easement “sufficient to protect the resource values of the resource site” (Section 430.6(N)). This requirement will prevent approval of any destination resort that would conflict with the resource values of a designated Goal 5 resource. Therefore, adopting an eligibility map does not introduce a new conflicting use within the meaning of OAR 660-023-250(3).
- B. The Board further finds that, even if destination resorts could be a conflicting use with Goal 5 resources despite those resources being protected by conservation easements, the County’s existing programs to protect inventoried Goal 5 resources would continue to adequately protect the resources. Therefore, even if Goal 5 were “triggered” under OAR 660-023-250, a new inventory and ESEE analysis would not be required. See N.W.D.A. v. City of Portland, 47 Or LUBA 533, 543-44 (2004). Destination resorts involve residential, recreational, and limited commercial development. These types of uses in a destination resort setting are not qualitatively different from the existing uses that the County’s programs to protect Goal 5 resources are implemented to regulate. The County finds that its existing programs to protect Goal 5 resources in its acknowledged 1981 Plan and Zoning Ordinance will adequately protect any inventoried Goal 5 resources within destination resort eligible sites. The County’s programs to

⁴ OAR 660-023-0250(3): “Local governments are not required to apply goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

protect Goal 5 resources include the following, and commenters have not established why these programs are inadequate to protect Goal 5 resources (already protected by conservation easements) from destination resort impacts:

- (1) Identification of sensitive bird habitat nesting sites and enforcement of a one-quarter mile buffer and other development regulations around nest sites. These regulations will ensure that any nest sites on destination resort eligible properties will be identified and protected during destination resort development.
- (2) Identification and regulation of big game winter range wildlife habitat areas through the Comprehensive Plan map and the Wildlife Overlay Combining Zone. Big game habitat will not be affected by destination resort development, as the County has elected to exclude all big game habitat areas identified in its Goal 5 inventory from eligibility for destination resort development.
- (3) Riparian protection regulations establishing setbacks from all fish-bearing water areas and regulated wetland areas. The destination resort siting criteria also subject any Goal 5 water body to the conservation easement requirement and require protection of all riparian vegetation within 100 feet of streams, rivers and significant wetlands.
- (4) Scenic and Natural Hazard Rim Setback regulations establishing setbacks from rims. Development in destination resorts will be subject to the rim setback.
- (5) Historic resources and cultural resources are regulated by the Zoning Ordinance and will apply to any Goal 5 historic resources located on a destination resort site.

C. In addition, the Board finds that there is no reasonably available evidence to suggest that eligibility for destination resorts, subject to compliance with development criteria, will conflict with specific significant Goal 5 resources within or around the eligible tracts.

- (1) There are no designated Sensitive Bird Habitat nesting sites on or near the two eligible properties. If nest sites are found through consultation with ODFW during resort development or in future Goal 5 inventory updates, the nest sites will be protected as stated above.
- (2) Site 29 of the County's Goal 5 Natural Area Inventory (Fly Creek and Thorn Spring, located within T.13, R.10, Sec. 4 and T.12, R.10, Sections 33 & 34), overlaps to some degree with the Ponderosa tract. However, the site is not a Goal 5 significant resource site, because the County did not have sufficient information about the resource site to deem it significant at the time of the inventory. No new information has been received to warrant a determination of significance. In addition, water body setbacks

and development criteria requiring protection of natural resources will apply to Fly Creek and Thorn Spring during destination resort development.

- (3) No specific significant Goal 5 resources have been identified within the Dutch Pacific tract. Comments have been made regarding the high water table, flooding, and groundwater impacts of destination resort development in the Metolius Basin. (The Board notes that this comment applies only to the Dutch Pacific tract, as the Ponderosa tract is outside the Metolius River Basin.) The Board finds that any destination resort development will be subject to state and local water quality and water rights laws, which will be applied to prevent adverse impacts to water quality and availability in the Metolius River Basin.

D. Testimony was received that the County's Goal 5 inventories must be updated before the destination resort provisions are adopted. The Board disagrees. The County is planning to update Goal 5 inventories in 2007, but is not legally required to do so before its adoption of the destination resort provisions.

- (1) Oregon courts have noted several times that reassessment of Goal 5 inventories is required only during periodic review, or when a plan amendment itself causes an inventory to be out of compliance with Goal 5.⁵ State regulations confirm this legal principle.⁶ The adoption of destination resort provisions does not affect the existing Goal 5 implementing measures, because the measures will apply equally to protect against impacts from destination resort development. Also, the destination resort provisions do not affect Goal 5 resources, because they will be protected by conservation easements, the fifty percent open space requirement for destination resorts, and other development regulations. Therefore, state law does not require updated inventories prior to adopting provisions for destination resorts.
- (2) The Board also finds that the County's acknowledged 1981 Comprehensive Plan does not require Goal 5 inventories to be updated in connection with the adoption of provisions for destination resorts. The Board interprets the statement at Page 3 of the acknowledged 1981 Comprehensive Plan - "An integral part of the review and update program will be to review and include new inventory material which contributes to the usefulness of the plan"- to be aspirational and introductory. It does not impose a specific requirement that the County must prepare new inventories when updating an element of the Comprehensive Plan.

⁵ See Urquhart v. Lane Council of Governments, 80 Or App 176, 180-81 (1986); see also Plotkin v. Washington County, 165 Or App 246, 252-53 (2000) (adhering to Urquhart).

⁶ OAR 660-023-0250(4): "Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA...."

- (3) Testimony was received that the County's inventory of big game habitat is out of date, but no evidence was submitted to explain specifically how or where changes have occurred. The Board finds that it has not been presented with new evidence nor encountered reasonably available evidence that the big game habitat has shifted significantly. In addition, the Board notes that the County has chosen to exclude from destination resort eligibility significantly more big game habitat than state law requires. State law requires only exclusion of "especially sensitive big game habitat" (as identified by ODFW in 1984), yet the County has chosen to exclude all big game habitat identified in its inventory. Thus, the Board concludes that the County's much broader big game habitat exclusion covers at least all "especially sensitive" habitat that state law excludes from eligibility for destination resorts. The Board finds that the County's map complies with state law.
 - (4) Finally, the Board notes that the Goal 8 siting standards replicated in Section 430.6(L) of the Jefferson County Zoning Ordinance also require that "important natural features" be retained. This provision further ensures that important natural resource sites will be protected from future development of destination resorts.
15. The Board finds that the Comprehensive Plan amendment is consistent with Goal 6 (Air, Water, and Land Resources Quality) because the Zoning Ordinance regulations adopted to guide destination resort siting in the county impose siting standards requiring the maintenance of important natural features, including streams, rivers, and significant wetlands (Section 430.8(E)). The siting standards also regulate uses and development within the 100 year floodplain and on slopes exceeding 25 percent as specified in Goal 8 to minimize the adverse environmental impacts of the resort on the site and the surrounding area.
 - A. Specifically related to concerns raised about water management in the Upper Metolius Basin, the Board notes that the State Scenic Waterways program and OAR 690-310-0250 require that natural flows be maintained above the mouth of Candle Creek. Mapping a parcel as eligible for destination resort siting does not affect the requirements of the State Scenic Waterways program or the ability to obtain the right to ground or surface water. If water resources would be adversely impacted by development of a specific destination resort proposal, this factor would be part of the County's land use review (in conjunction with other agencies).
 16. The Board finds that the Comprehensive Plan amendment is consistent with Goal 7 (Areas Subject to Natural Disasters and Hazards) because the Zoning Ordinance provisions adopted to guide destination resort siting in the County impose siting standards that regulate uses and development within the 100 year floodplain and on slopes exceeding 25 percent as specified in Goal 8, in order to minimize the adverse environmental impacts of the resort on the site and the surrounding area, particularly in areas subject to natural hazards.

17. The Board finds that the Comprehensive Plan amendment is consistent with Goal 9 (Economic Development) because it is a policy of the state to promote Oregon as a vacation destination and to encourage tourism as a valuable segment of the state economy (ORS 197.440(1)), and the legislature has recognized that the establishment of destination resorts will provide jobs for Oregonians and contribute to the state's economic development (ORS 197.440(2)). The Board finds that the same is true for the County.
- A. Economic development policies are the Board's primary motivator for adopting provisions for destination resorts. The Board has considered how destination resorts in Deschutes County and Crook County have positively affected their tax revenues and general economic development. The Board finds that taking steps toward allowing appropriate and sensitive destination resort development in Jefferson County is necessary to promote the long-term economic health of the County.
 - B. The Board was presented with an economic analysis of destination resorts⁷ that supports the Board's conclusion that destination resort development can have a positive economic and fiscal impact on Jefferson County. Destination resort development can create significant tax revenue and create employment opportunities, while having a relatively lesser burden on schools and other public facilities and services than other types of developments.
 - C. For a hypothetical development scenario at the Ponderosa tract shown in the RL Allen Group presentation, tax revenues could significantly exceed those of the County's current highest revenue generators. Of particular note is the fact the Ponderosa tract is within the Culver School District. If developed with a destination resort, it has the potential to provide much needed resources to the District without generating a significant number of new students (see RL Allen Group report, School Funding). The demonstrated need of the Culver School District was one of the factors leading the Board to approve the destination resort provisions.
18. The Board finds that the Comprehensive Plan amendment is consistent with Goal 10 (Housing) because destination resorts provide opportunities for housing in rural areas otherwise ineligible for significant residential development.
19. The Board finds that the Comprehensive Plan amendment is consistent with Goal 11 (Public Facilities and Services) because Goal 8 and the Jefferson County implementing regulations require developers to provide sewer and water facilities at the resort or to connect to existing sewer or water service, so long as the development bears all costs related to the extension and any capacity increase (Section 430.2(E) of the Jefferson County Zoning Ordinance). Consistent with Goal 11, lines connecting a resort to a sewer or water system must be sized to meet only the resort needs and cannot extend service to rural areas outside the resort without an approved goal exception. Goal 8 allows

⁷ "Destination Resorts . . . Tourism, Taxes and the Economy," RL Allen Group, LLC.

comprehensive plans to provide for the siting of destination resorts on rural lands without a Goal 2 exception to Goals 3, 4, 11, or 14.

20. The Board finds that the Comprehensive Plan amendment is consistent with Goal 12 (Transportation) because Goal 8 and the Jefferson County implementing regulations require destination resorts to be constructed so that they are not designed to attract highway traffic through the use of extensive outdoor advertising signage.
 - A. The amendment is also consistent with OAR 660-012-0060, the Transportation Planning Rule implementing Goal 12, because the implementing regulations in the Zoning Ordinance require analysis of transportation impacts of specific resort proposals at the time of future development review. The Board finds that the amendment has the potential to significantly affect a number of transportation facilities under OAR 660-012-0060(1) because the amendments permit the siting of destination resorts in Jefferson County, and future resorts are likely to add traffic to existing facilities. However, the Board finds that OAR 660-012-0060(2) allows the Board to adopt the subject amendments so long as it adopts "measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility." Since compliance with particular performance standards cannot be determined until a specific resort proposal is submitted, the Board finds that the amendments properly limit uses to be consistent with any applicable performance standards by requiring resort applicants to provide a traffic study (Section 430.4(M) of the Jefferson County Zoning Ordinance) at the time of development review. The traffic study must satisfy Section 430.6(Q) by showing that the proposed development will not change the functional classification or reduce the level of service of any impacted transportation facility below the performance standards set forth in the applicable transportation system plan (or LOS C, as identified in Section 430.6(Q)(3)).
21. The Board finds that the Comprehensive Plan amendment is consistent with Goal 13 (Energy) because the consolidation of a variety of land uses within a destination resort site maximizes energy conservation through efficient land use.
22. The Board finds that the Comprehensive Plan amendment is consistent with Goal 14 (Urbanization) because Goal 8 allows comprehensive plans to provide for the siting of destination resorts on rural lands without a Goal 2 exception to Goals 3, 4, 11, or 14. Urban-level development associated with destination resorts will be confined to the resort boundaries and subject to the siting regulations set forth in the Zoning Ordinance.
23. The Board finds that goal 15, 16, 17, 18 and 19 are not applicable because they govern resources not present in Jefferson County.

CONCLUSIONS

1. Substantial opportunity for citizen input on the proposed destination resort provisions was provided both through the Citizen Advisory Committee and public hearings.

2. The Destination Resort Map of Eligible Lands complies with the requirements of ORS 197.455 for mapping lands where destination resorts must be excluded.
3. The provisions for destination resorts comply with statewide planning Goals 1 through 14, state statutes and administrative rules.

CHANGES TO COMPREHENSIVE PLAN REGARDING DESTINATION RESORTS

The Board of Commissioners decided to remove provisions for destination resorts from the draft Comprehensive Plan and adopt them separately. The following language is based on the Comprehensive Plan section from the April, 2006 hearing draft that was mailed to DLCD on April 17, 2006. Language that was added is in **bold**, language that was deleted is in ~~strikethrough~~.

COMPREHENSIVE PLAN:

DESTINATION RESORTS

Destination resorts have become a popular feature in Central Oregon, providing overnight lodging, restaurants, meeting facilities and developed recreational facilities, along with some full-time residences. The state has recognized the importance of destination resorts in encouraging tourism and contributing to the state's economic development, and has enacted provisions to allow resorts while still protecting high-value farmland and the most productive forest land. In order to tap this economic potential and provide additional recreational opportunities to visitors, the County has determined that destination resorts should be allowed in the county when consistent with Statewide Planning Goals and Administrative Rules.

ORS 197.465 requires that a Comprehensive Plan that allows for siting of a destination resort include implementing measures which map areas where a resort is permitted, limit uses and activities to those permitted pursuant to ORS 197.455, and assure that developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units.

The county must adopt a map consisting of lands that are eligible for siting a destination resort, based on reasonably available information. The adopted map is the sole basis for determining whether tracts of land are eligible for destination resort siting. **However, just because a property is mapped as being eligible does not mean that a destination resort is permitted outright in that location. In order to be approved, a proposal for a resort must comply with standards and criteria contained in the Zoning Ordinance.**

ORS 197.455 prohibits the siting of destination resorts in any of the following locations:

1. Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more;
2. On a site with 50 or more contiguous acres of unique or prime farmland **identified and mapped by the United States Natural Resources Conservation Service (NRCS) or its predecessor agency, the Soil Conservation Service;**
3. On a site within three miles of a high value crop area unless the development will be a "small" destination resort in an exception area consisting of land that is not defined as agricultural or forest land;
4. On predominantly Cubic Foot Site Class 1 or 2 forestlands **as determined by the State Forestry Department,** unless a goal exception has been approved;
5. In an especially sensitive big game habitat area.

There are no urban growth boundaries with a population of 100,000 or more within 24 miles of the county. **According to NRCS maps,** there is no unique farmland in the county. There are a number of soils that are classified as prime, **but** only if they are irrigated. A prime soils map was prepared, based on Natural Resource Conservation Service (NRCS) soils data, North Unit Irrigation District (NUID) information on irrigated parcels, and state Department of Water Resources data on water rights. Destination resorts will be excluded from these areas.

“High value crop areas” are defined as areas in which there is a concentration of commercial farms capable of producing crops with a minimum gross value of \$1,000 per acre per year. According to OSU Extension Service Agricultural Statistics, there are a number of crops that can be grown in the county that will produce \$1,000 an acre, including grass and vegetable seed. **According to the OSU Extension Service, the primary determining factor in whether a high value crop can be grown is whether irrigation water is available. Consequently, irrigated lands were mapped based on the NUID and Department of Water Resources information. To identify “concentrations of commercial farms”, irrigated areas were overlaid on air photos using the county’s Geographic Information System. Some areas indicated as being watered by the Department of Water Resources are not being farmed or are single isolated farm parcels. These areas were determined to not be concentrations of commercial farms, so were excluded from the map. Other irrigated areas are within wildlife habitat areas, where destination resorts are not allowed. These areas were also deleted from the map. The resulting high value crop area map was then modified to include some additional lands that are interspersed within the high value crop areas – when high value crop areas are less than one mile apart, the intervening area was included since a destination resort could not be approved within this area.**

~~A three mile buffer was drawn around the high value crop areas. Large destination resorts will not be allowed within the high value crop areas or within the three mile buffer. Small² destination resorts may be allowed within the three mile buffer subject to compliance with Zoning Ordinance regulations. Consideration was also given to high value crop areas in adjoining counties. Crook County is the only adjoining county with high value crop areas near the county line. The portion of Jefferson County that is within three miles of the Crook County high value crop area is excluded from destination resort siting because it is a big game habitat area. Jefferson County is bordered by Deschutes, Crook, Wasco, Wheeler, Linn and Marion Counties. Deschutes County has determined that there are no high-value crop areas in the county (Deschutes County Ord. No. 92-002). The border between Jefferson County and Linn and Marion Counties is the crest of the Cascades. This area has high elevations and is forested, so there are no agricultural lands or high-value crop areas within three miles of the border. A three mile buffer was mapped from the border with the other counties. Destination resorts will not be allowed within the high value crop areas or within the three mile buffer. (Although “small” destination resorts may be allowed within the three mile buffer pursuant to ORS 197.455(6), the County has chosen not to adopt provisions for small resorts at this time.)~~

The small amount of class 1 and 2 forest land was mapped based on NRCS soils data. There is no NRCS data for the Mount Jefferson Wilderness and an area south of Camp Sherman. Since it is possible that these areas contain class 1 and 2 forest soils, they will be excluded from destination resort siting.

The County has not determined which big game habitat areas are “especially sensitive”. Consequently, all land subject to the Wildlife Overlay Combining Zone, which protects deer, elk and pronghorn winter range habitat areas were mapped as being excluded from destination resort siting. The big game winter range map is on page 24. Maps showing the other areas where destination resorts are not allowed are on the following pages.

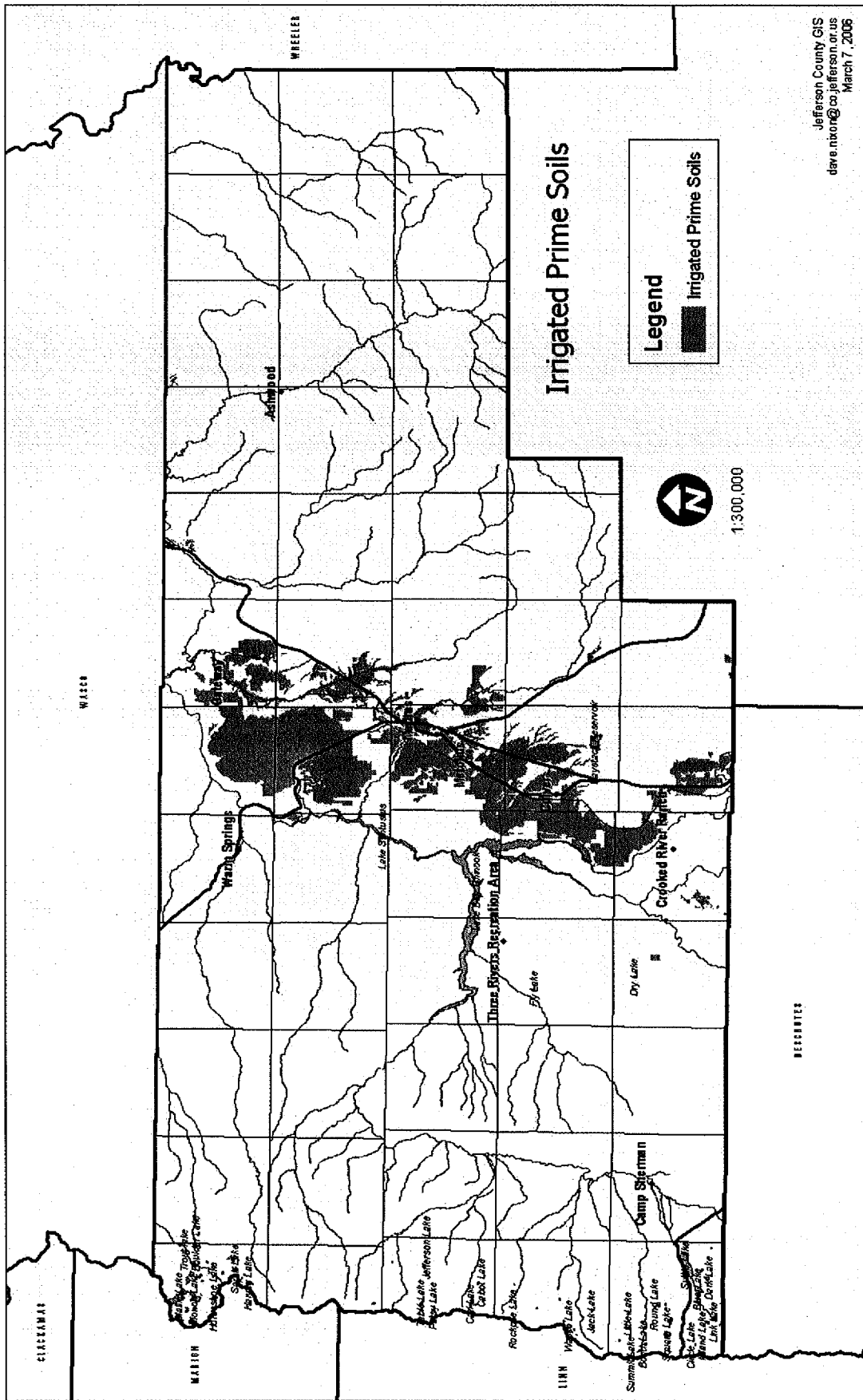
In addition to the areas where destination resorts must be excluded pursuant to ORS 197.455, the County also excluded all federal lands and individual parcels that the property owner requested to have excluded.

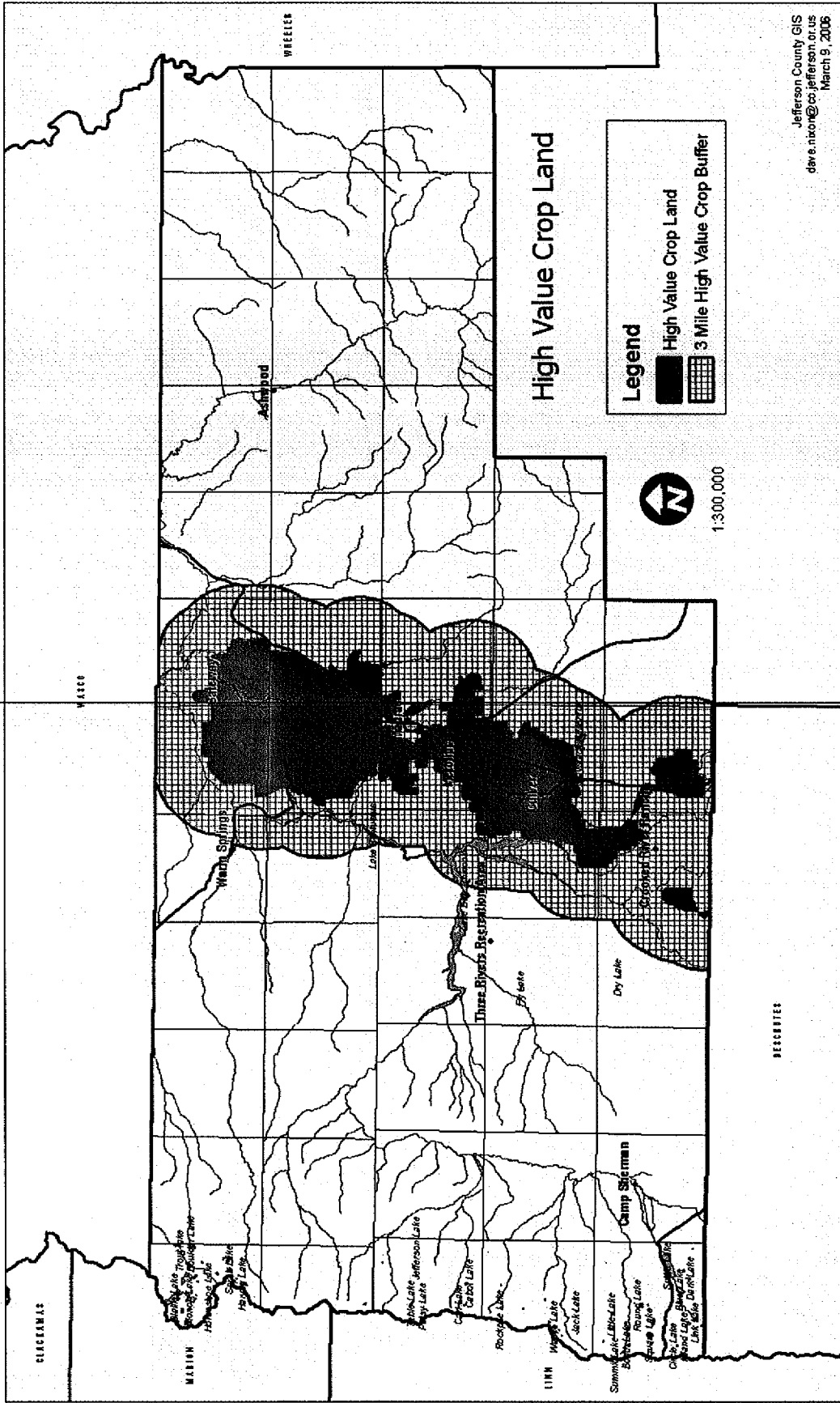
A final map showing the areas that were not excluded through the destination resort mapping process was prepared. **Upon reviewing the map, the County decided to further limit the areas that will be eligible for siting destination resorts. Destination resort-eligible lands shall be limited to the two areas shown on The map is titled the “Jefferson County Destination Resort Map of Eligible Lands”, which and is adopted as part of the Comprehensive Plan. Destination resorts may only be sited in areas shown on the map.**

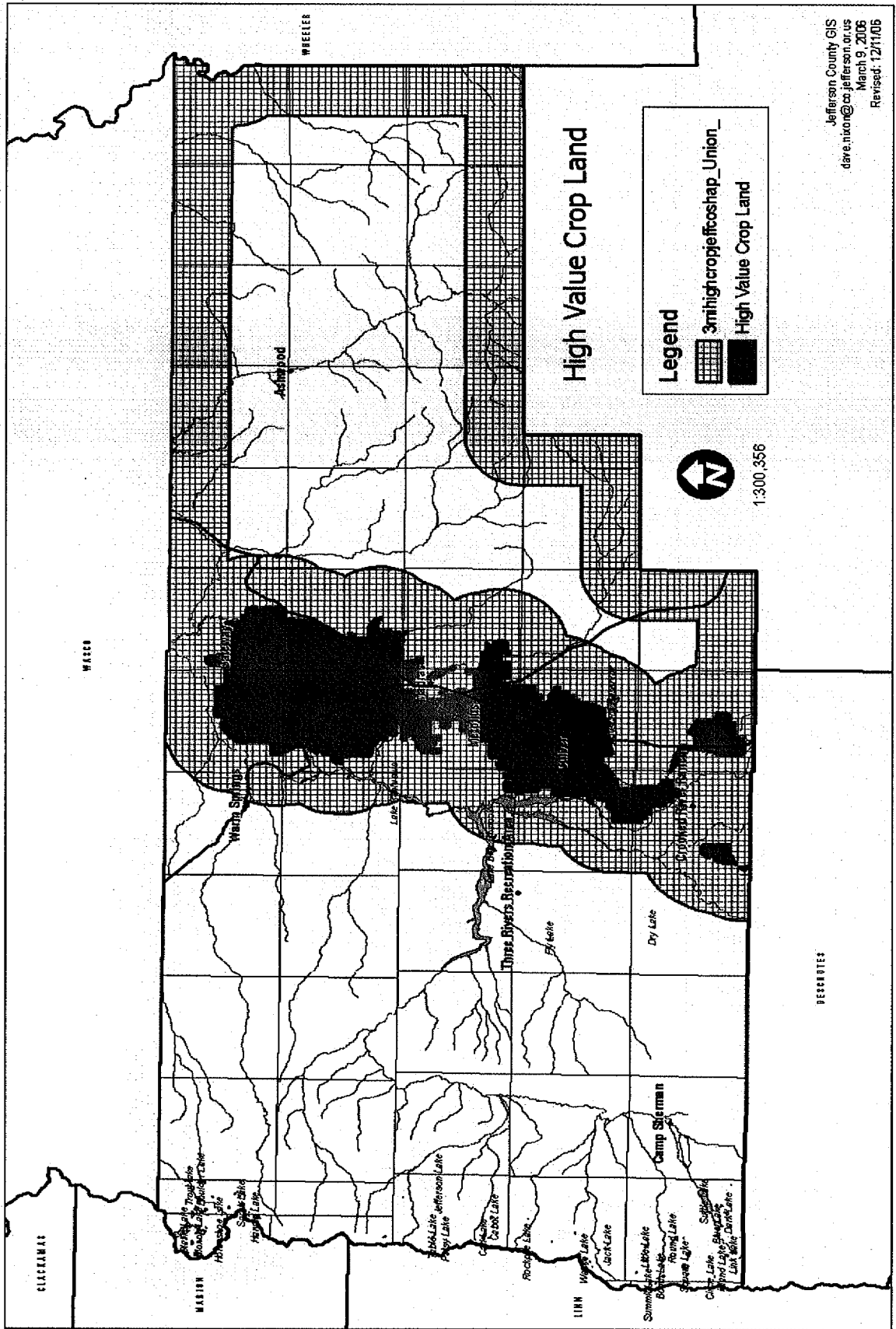
The map may be revised in the future through the Comprehensive Plan amendment procedure in Part 5 to add additional eligible lands, but in accordance with ORS 197.455(2) will not be amended more frequently than once every 30 months. Applications to amend the Destination Resort Map will be collected and will be processed concurrently no sooner than 30 months from the date the map was previously adopted or amended.

Policy 23: Provide opportunities for destination resorts that will include developed recreational facilities and overnight lodging for tourists.

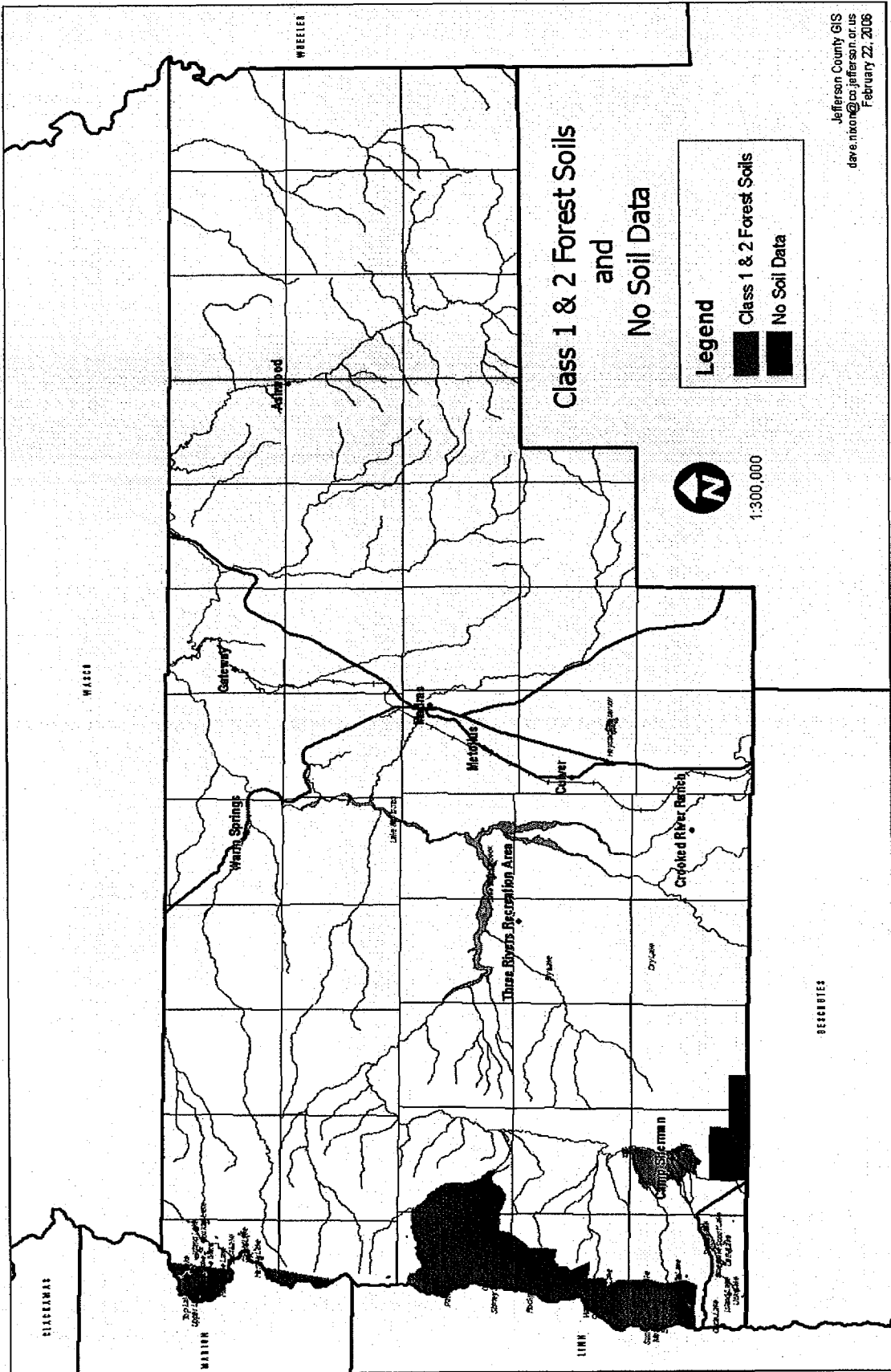
- 23.1** Destination resorts should only be allowed within areas shown on the “Destination Resort Map of Eligible Lands” when in compliance with requirements of Goal 8 and ORS 197.435 to 197.467. **Applications to amend the map will be collected and will be processed concurrently no sooner than 30 months from the date the map was previously adopted or amended.**
- 23.2** Only those uses and activities allowed by ORS 197.445 should be permitted as part of a destination resort. Developed recreational facilities and key facilities intended to serve the entire development and visitor oriented accommodations must be physically provided or guaranteed through surety bonding or equivalent financial assurances prior to closure of sale of individual lots.
- 23.3** Destination resorts should be compatible with the site and adjacent land uses and should not place inordinate demands on the service structure of the County or on other public utilities or special districts.

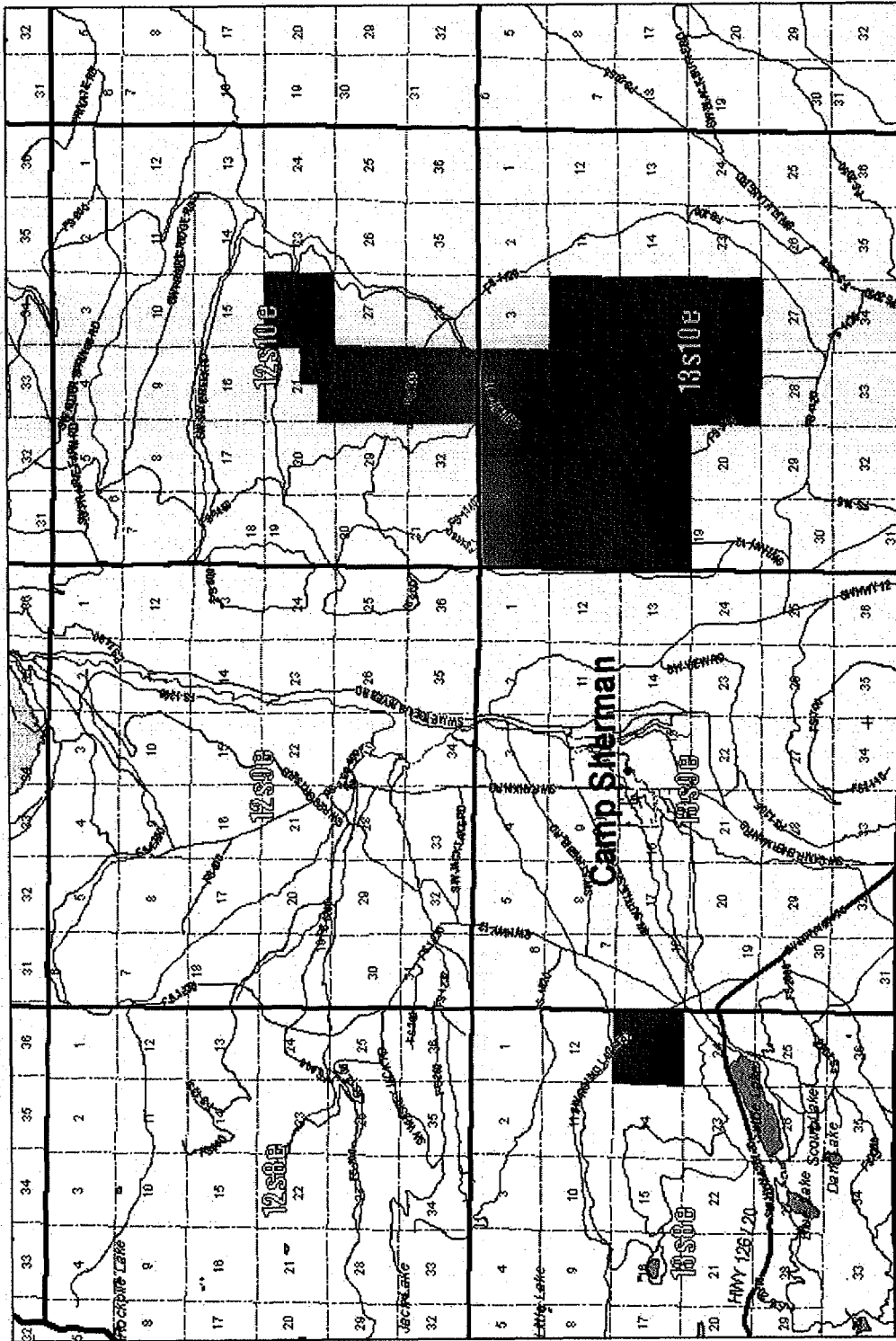






Jefferson County GIS
 dave.nixon@co.jefferson.or.us
 March 9, 2006
 Revised: 12/1/05





Legend

- ROAD: US 1
- RAIL: SPRINGFIELD RAILROAD
- STATE: ARK
- COUNTY: JEFFERSON

Scale

1:120,000

North Arrow

Source: USGS, 1980

Jefferson County Destination Resort Map of Eligible Lands

