



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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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 002-06 B

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: January 19, 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
Matthew Crall, DLCD Transportation Planner
Sandy Mathewson, Jefferson County

<paa> ya/

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

IAN 03 2007

LAND CONSERVATION AND DEVELOPMENT

(See reverse side for submittal requirements)

(originally 0-02-07)

Jurisdiction: Jefferson County Local File No.: 0-04-07 (If no number, use none)

Date of Adoption: 12-27-06 (Must be filled in) Date Mailed: 12-29-07 (Date mailed or sent to DLCD)

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

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
Land Use Regulation Amendment
Zoning Map Amendment
[X] 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 regulations for destination resorts

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."

Regulations for destination resorts were separated from the remainder of the Zoning Ordinance revision. Multiple changes to text submitted to DLCD on April 17, 2006. Copy showing changes enclosed.

Plan Map Changed from: to

Zone Map Changed from: to

Location: Jefferson County Acres Involved:

Specify Density: Previous: New:

Applicable Statewide Planning Goals: 1-14

Was an Exception Adopted? Yes: No: X

DLCD File No.: 002-06 (15154)

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: ODOT, ODFW, ODF, OPRD, USFS, DEQ

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 THE AMENDMENT)
OF THE JEFFERSON COUNTY ZONING)
ORDINANCE TO ADOPT REGULATIONS) Ordinance No. O-04-07
FOR DESTINATION RESORTS)**

WHEREAS, Jefferson County wishes to amend its land use regulations to include provisions for destination resorts, as authorized by statewide planning Goal 8 and ORS 197.435 to .437; and

WHEREAS, the Jefferson County Planning Commission developed draft destination resort regulations as part of the revision of the entire Jefferson County Zoning Ordinance; and

WHEREAS, in accordance with ORS 197.610, notice of the proposed revision, along with two copies of the draft Zoning Ordinance, 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 Zoning Ordinance revisions 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 24, 2006, after which they voted unanimously to recommend that the Board of Commissioners repeal the 2003 Jefferson Zoning Ordinance and adopt a new Zoning Ordinance, including regulations for destination resorts; and

WHEREAS, the Jefferson County Board of Commissioners accepted testimony on the Zoning Ordinance 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 regulations should be separated from the remainder of the Zoning Ordinance and adopted by separate ordinance.

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

1. **Adoption of Destination Resort Regulations**

The 2007 Jefferson County Zoning Ordinance is hereby amended to incorporate Section 430 – Destination Resorts, as shown in Exhibit A, attached hereto and incorporated herein by this reference.

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 Jefferson County Zoning Ordinance to adopt regulations for destination resorts.

3. **Severability**

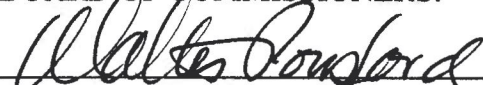
The provisions of this ordinance are severable. If any section, subsection, sentence, clause or phrase of this ordinance or exhibit thereto is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or exhibits thereto.

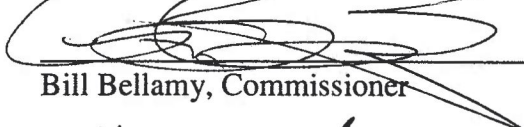
4. **Effective Date**

This amendment to the Jefferson County Zoning Ordinance 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:



Approved as to form.

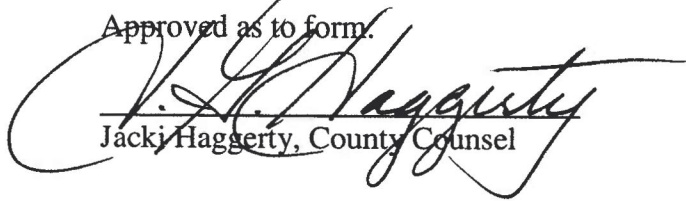

Jacki Haggerty, County Counsel

EXHIBIT A

The Jefferson County Zoning Ordinance is amended to include the following new section:

Section 430 - Destination Resorts

430.1 Purpose

The purpose of this Section is to establish a mechanism for siting destination resorts in compliance with ORS 197.435 to .467, to provide for properly designed and sited destination resort facilities which enhance and diversify the recreational opportunities and the economy of the County, to ensure that resort development will not cause a significant adverse impact on farming and forestry, environmental and natural features, and to ensure that adequate services and utilities are provided to serve the resort.

430.2 Definitions

The following definitions apply to this section:

- A. Destination Resort: A self-contained development providing visitor oriented accommodations and developed recreational facilities in a setting with high natural amenities.
- B. Developed Recreation Facilities: Improvements constructed for the purpose of recreation, including, but not limited to, golf courses, tennis courts, swimming pools, marinas, equestrian facilities and bicycle paths.
- C. Map of Eligible Lands: The map adopted as part of the Comprehensive Plan showing lands that are eligible for the siting of a destination resort.
- D. Overnight Lodgings: Permanent, separately rentable accommodations that are not available for residential use, including, but not limited to, hotel, motel or lodge rooms, cabins, timeshare units and similar transient lodging facilities. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation and check-in service operated by the destination resort or by a real estate property manager, as defined in ORS 696.010. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.
- E. Self-Contained Development: A development for which community sewer and water facilities are provided on site and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A self-contained development must have developed recreational facilities provided on site.

- F. Visitor Oriented Accommodations: Overnight lodging, restaurants, and meeting facilities which are designed to, and provide for, the needs of visitors rather than year-round residents.

430.3 Procedures

- A. An application for a new destination resort or the expansion of an existing destination resort must include the application requirements specified in Section 430.4, a tentative destination resort master plan in accordance with Section 430.5, and evidence showing that the resort will comply with the standards and criteria in Section 430.6.
- B. The application will be reviewed by the Planning Commission under the procedures of Section 903.5. The Planning Commission shall forward a recommendation on whether the tentative master plan should be approved to the Board of Commissioners. The application and Planning Commission recommendation will be reviewed by the Board of Commissioners under the procedures of Section 903.6.
- C. Prior to the Planning Commission hearing, a copy of the application will be sent to city, county, state and federal agencies, special districts that may be affected by the proposed development, and the Confederated Tribes of the Warm Springs Reservation, asking for their comments and recommendations.
- D. Approval of a tentative destination resort master plan is valid for two years, within which time a final destination resort master plan in accordance with the requirements of Section 430.08 must be prepared and submitted to the Community Development Department. An extension of the two year time period may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period stating the reasons that have prevented completion of the final plan. Notice of a decision to grant an extension shall be provided in accordance with Section 906.4. After two years, or at the end of any extension that has been granted, the tentative master plan approval will be void if the final master plan has not been submitted.
- E. Site Plan Review, in accordance with the requirements of Section 414, will be required prior to development of commercial uses, visitor oriented accommodations, recreational facilities, and community and administrative buildings. A single Site Plan Review application may be submitted for the entire resort, or the resort may be developed in phases, with a separate Site Plan Review application submitted for each phase. Site Plan Review application(s) may be submitted concurrent with, or subsequent to, the submittal of the final destination resort master plan. Site Plan Review under Section 414 is not required for single-family dwellings areas, but if the land is in a Forest Management zone such areas will be reviewed for compliance with the siting standards of Section 303.7 as part of the tentative master plan.

- F. Approval of a land division, in accordance with the requirements of Chapter 7, will be required prior to the creation of any residential or other lots. A single subdivision application may be submitted for the entire resort, or the resort may be developed in phases, with a separate land division application submitted for each phase. Land division application(s) may be submitted concurrent with, or subsequent to, the submittal of the final destination resort master plan.
- G. No on-site development shall occur until the final destination resort master plan has been approved.

430.4 Tentative Destination Resort Master Plan Application Requirements

An application for tentative approval of a destination resort master plan shall contain the following:

- A. Fifteen copies of a tentative resort master plan containing the information required by Section 430.5.
- B. One 8½ x 11 or 11 x 17 drawing of the tentative resort master plan for purposes of providing notice. The drawing may be a reduced copy of the tentative resort master plan or one or more separate drawings.
- C. A title report based on research going back in time without limitation, indicating all easements and encumbrances of record that affect the property, and including graphic depictions of the location of all easements and encumbrances that are of record.
- D. A statement of the proposed method of providing water, sanitation, utilities, police protection and solid waste disposal. If the proposed water supply is Deschutes Valley Water District, a statement from the water system Manager or District Engineer shall be submitted indicating whether the District will provide service. If the water supply will be from a different source, a study prepared by a hydrologist, engineering geologist or similar professional shall be submitted describing the following:
 1. An estimate of water demands for the resort at maximum buildout, including a breakdown of estimated demand for commercial uses, residential uses, visitor oriented accommodations, recreational uses, and any irrigated common areas;
 2. The availability of water to meet the estimated demand, including the proposed water source, evidence of the quantity and quality of water from that source, identification of the area that may be impacted if water to serve the resort is taken from that source, and information on whether water rights are needed or have been obtained;
 3. A water conservation plan to reduce water consumption.

- E. A preliminary fire safety protection plan that, at a minimum, includes the following:
1. Proposed fire prevention measures;
 2. Preliminary location of fire safe area(s) in which resort visitors and residents can gather in the event of a fire, and proposed measures to maintain such areas;
 3. A fire evacuation plan; and
 4. Proposed on-site pre-suppression and suppression measures, which must include a provision for trained personnel capable of operating all fire suppression equipment during designated periods of fire danger. This requirement may be waived if the resort is within a fire district that provides structural fire protection and the fire district indicates in writing that on-site fire suppression is not needed.
- F. A description of all proposed recreation facilities, and whether they will be open to the general public.
- G. A statement of the proposed number of overnight lodging units and residences, and description of the proposed type or method of ownership for each.
- H. A description of the proposed residential lot sizes.
- I. If the resort is proposed to be completed in phases, a description of each phase and the proposed timeframe for completing each phase.
- J. Plans for owner's association(s) and the method of ensuring that all facilities and common areas will be maintained in perpetuity.
- K. Plans for the management of any individually owned units that will be used as overnight lodging units, including proposed rental contract provisions to assure that any individually owned units will be available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation and check-in service.
- L. Evidence that the resort will comply with all standards and criteria in Sections 430.6.
- M. A Traffic Impact Study in accordance with Section 421, and a description of all proposed transportation improvements.
- N. A preliminary drainage plan showing how all stormwater runoff generated by the development will be contained on-site.

- O. An estimate of the number of persons the resort will employ, the number of employee housing units that will be provided on-site, and a description of any proposed transportation system that will be provided for employees. If the resort will be developed in phases, the employee housing/transportation plan should reflect any change in employment numbers that will occur as each phase is developed.
- P. Completed application form and application fee.

430.5 Tentative Resort Master Plan Contents

An application for tentative approval of a destination resort master plan must include 15 copies of a tentative plan that includes the information listed below. The tentative plan must be clearly and legibly drawn on white paper to a standard engineer's scale (i.e., 1" = 100', 1" = 400' etc.). The scale used shall be large enough so that all required information is clearly legible. The tentative plan must contain the following:

- A. The words "Tentative Destination Resort Master Plan", the township, range, section, and tax lot number(s) of the property, the date, north point, and scale of the plan, and name and address of the person who prepared the plan.
- B. The approximate areas and number of acres to be developed for commercial uses, visitor oriented accommodations, residential uses, recreational uses, common areas and open space, and any portions of the tract that will not be developed or used as part of the resort.
- C. The location of any designated Goal 5 resources on the tract.
- D. The general location of proposed pedestrian, equestrian and bicycle paths and trails.
- E. The location, width and name of all existing roads on or abutting the property, and whether the roads are public or private; and the approximate location, width and grade of any proposed new road, and whether it will be public or private.
- F. The location, width and purpose of all existing and proposed easements. The reference number of all recorded easements shall be noted. All reservations or restrictions relating to the easements shall be indicated.
- G. The location of approved, or approximate location of proposed, areas for subsurface sewage disposal, any community sewer system, sewer lines and easements.
- H. The location of all existing utilities on or abutting the property, and the approximate location of proposed new utilities.

- I. Topographic information for any area with slopes exceeding 10 percent. Contour intervals shall be ten feet or smaller.
- J. The location of all rivers, streams, wetlands, drainage ways, irrigation canals and ditches, floodways and flood plains shown on the Federal Insurance Rate Maps that are within the site. The approximate location of any other areas which are subject to inundation or storm water overflow should also be shown.
- K. The approximate location of proposed fire safety protection system components, including fire safe area(s), fire evacuation routes, and fire hydrants or other water supply available for fighting fire.
- L. If the resort is proposed to be developed in phases, the approximate boundary of each phase shall be clearly delineated and labeled.
- M. The approximate location of stormwater management facilities.

430.6 Standards and Criteria for Approval of Tentative Master Plan

In order to be approved, the tentative master plan for a destination resort must comply with the following standards and criteria:

- A. The resort will be located on a site of 160 acres or more. A tract may include property that is not included in the proposed site for a destination resort if the property to be excluded is on the boundary of the tract, constitutes less than 30 percent of the total tract, and will not be used or operated in conjunction with the resort.
- B. The resort site is shown as being eligible for the siting of a destination resort on the Comprehensive Plan Destination Resort map of Eligible Lands.
- C. At least 50 percent of the site will be dedicated to permanent open space.
- D. At least \$9.83 million will be spent on improvements for on-site developed recreational facilities and visitor oriented accommodations exclusive of costs for land, sewer and water facilities, and roads. At least one-third of this amount must be spent on developed recreational facilities. (Spending requirements are in 2006 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index).
- E. Visitor oriented accommodations including meeting rooms, restaurants with seating for at least 100 persons and a minimum of 150 overnight lodging units shall be provided. The overnight lodging units may be phased in as follows:
 - 1. At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units;

2. At least 50 of the remaining 100 required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurance in accordance with Section 413 within five years of the initial lot sales;
 3. The remaining required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurances in accordance with Section 413 within 10 years of the initial lot sales;
 4. If the developer of a resort guarantees the overnight lodging units required under subsections (2) and (3) through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within four years of the date of execution of the surety bond or other equivalent financial assurance.
- F. Commercial and entertainment uses shall be limited to types, numbers, location and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted. Commercial uses may include specialty shops such as delis, clothing stores, bookstores and gift shops; barber shops or beauty salons; automobile service stations limited to fuel sales and minor repairs; art galleries; convenience stores; real estate office, limited to the sale of lots or units within the resort; and other similar uses. 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; and
 2. The use is oriented to the resort and is located away from or is screened from highways and other major roads.
- G. The number of units for residential sale shall not exceed 2½ units for each unit of permanent overnight lodging. Individually-owned units shall be considered as overnight lodging if they are available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation and check-in service. Individually-owned units may include single family dwellings, duplexes, multi-family attached dwellings, condominiums, townhouses, time-share projects and similar arrangements. Housing for resort management and staff that remains under resort ownership shall not be counted either as overnight lodging or as units for residential sale.
- H. Density of single-family detached dwelling units for residential sale shall not exceed eight dwelling units per acre.
- I. The proposed development complies with any applicable requirements of the zone in which the property is located, except minimum lot size and setback requirements.

- J. The resort complies with the requirements of this Section, the conditional use provisions in Chapter 6, and any other applicable requirements of this ordinance such as flood plain or riparian protection provisions.
- K. The resort will be in a setting with high natural amenities which will constitute an attraction to visitors.
- L. Important natural features, including habitat of threatened or endangered species, streams, rivers and significant wetlands shall be retained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands shall be retained. Alteration of natural features, including placement of structures, may be allowed provided the overall values of the natural feature are retained.
- M. Improvements and activities shall be located and designed to avoid or minimize adverse effects of the resort on uses on surrounding lands, particularly effects on farming or forestry operations in the area. At a minimum, measures to accomplish this shall include the establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and, where appropriate, fences, berms, landscaped areas and other similar types of buffers, and setbacks of structures and other improvements from adjacent land uses. The applicant shall propose buffers and setbacks as part of the tentative resort plan, and the Planning Commission shall determine whether the proposed measures are adequate to minimize impacts to surrounding lands.
- N. Any designated Goal 5 resource on the tract where the resort will be sited will be preserved through conservation easements as set forth in ORS 271.715 to 271.795. A conservation easement under this section shall be sufficient to protect the resource values of the Goal 5 site and shall be recorded with the property records of the tract on which the destination resort is sited.
- O. The destination resort meets the definition in Section 430.2(E) of a self-contained development, and evidence has been submitted to demonstrate that adequate facilities and services will be available to serve the development, including, but not limited to, water supply, sewage disposal, stormwater management, solid waste disposal, electric power, telephone service, law enforcement services and fire protection. Water used by the resort shall not reduce the availability of water to existing and approved uses on surrounding lands, and all stormwater runoff shall be retained on site.
- P. Adequate access to serve the resort exists or will be provided by the developer. For fire safety purposes, more than one road for ingress and egress shall be provided unless the resort includes a fire safe area that is large enough so that all visitors and residents of the resort can congregate in vehicles and survive a passing wildfire. If a safe area is provided, it shall be kept free of combustible material and vegetation. Information indicating the location of the safe area shall be provided to all resort visitors and residents, and signs shall be posted around the safe area and throughout the resort providing directions to the safe area.

Q. The resort will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:

1. Changing the functional classification of an existing or planned transportation facility;
2. Allowing types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
3. Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan (LOS C).

An amendment to the Transportation System Plan to provide transportation facilities adequate to comply with these provisions and support the proposed resort may be required. The resort developer will be required to construct or pay for any necessary road improvements based on a direct nexus between the level of road impacts that will be caused by the increased traffic generated by the resort development and the level of road improvements that are required.

R. Any portion of the tract on which the resort will be sited that is in a flood hazard area, has slopes exceeding 25 percent, or is subject to other natural hazard shall not be altered or developed except for the following uses:

1. Outdoor recreation facilities including golf courses, bike paths, trails, or similar facilities;
2. Minor drainage improvements which do not significantly impact important natural features of the site; and
3. Roads, bridges and utilities where there are no feasible alternative locations on the site.

Any alteration or structure allowed under this subsection shall be adequately protected from hazard, or shall be of minimal value and be designed to minimize adverse environmental effects.

S. Housing for resort management and staff shall be provided on-site, or the resort shall provide transportation for employees.

430.7 Conditions of Approval

Conditions shall be placed on the approval of a tentative resort master plan to ensure that the destination resort complies with the standards and criteria in this Section. The recommendations and comments of other public agencies will be considered and may also provide the basis for conditions of approval. Conditions shall include, but are not limited to, the following:

- A. Developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or guaranteed through surety bonding or substantially equivalent financial assurances in accordance with Section 413 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 shall be guaranteed through surety bonding.
- B. The on-site sewage system(s) to serve the resort shall be approved by the Department of Environmental Quality.
- C. The on-site water system that will serve the resort shall be approved by the Drinking Water Division of the State Department of Human Services unless connected to Deschutes Valley Water District or other existing public water system.
- D. The resort shall be required to provide an annual accounting to document compliance with the overnight lodging standards. The annual accounting requirement commences one year after the initial lot or unit sales. The annual accounting must contain:
 - 1. Documentation showing that the resort contains a minimum of 150 permanent units of overnight lodging or, during the phase-in period, documentation showing the resort is not yet required to have constructed 150 units of overnight lodging;
 - 2. Documentation showing that there are not more than 2½ residential units for each unit of permanent overnight lodging; and
 - 3. For a resort counting individually-owned units as qualified overnight lodging units, the number of weeks that each overnight lodging unit is available for rental to the general public as described in Section 430.2(D).
- E. The developer shall provide a mechanism to ensure that individually-owned units that will be counted toward the overnight lodging total remain available for rent for at least 38 weeks per calendar year through a central reservation and check-in service. The mechanism shall include all of the following:
 - 1. Designation on the final site plan(s) and land division plat(s) which individually-owned units are to be considered to be overnight lodging;
 - 2. Deed restrictions limiting use of such individually-owned units to overnight lodging available for rental to the general public for at least 38 weeks per calendar year through a central reservation and check-in service;

3. Inclusion in the Covenants, Conditions and Restrictions (CC&R's) an irrevocable provision enforceable by the County limiting use of such individually-owned units to overnight lodging available for rental to the general public for at least 38 weeks per calendar year through a central reservation and check-in service; and
 4. Inclusion of language in any rental contract between the owner of the unit and the central reservation and check-in service requiring that the individually-owned unit be made available for rental to the general public for at least 38 weeks per calendar year.
- F. Provisions must be established to guarantee ongoing property tax responsibility and maintenance of lands reserved as open space. The open space may be conveyed by leasing or conveying title to a corporation, homeowner's association or other legal entity. The terms of the lease or other instrument of conveyance shall include provisions that guarantee:
1. The continuation of use of the land as open space;
 2. The continuity of property maintenance, including the necessary financial arrangements for such maintenance; and
 3. That the legal entity formed for the joint ownership and maintenance of the open space will not be dissolved, nor will it dispose of any open space by sale or otherwise, except to another legal entity which has been conceived and organized for the purpose of maintaining the open space.
- G. Any portion of a tract that is not included as part of the resort shall not be used or operated in conjunction with the resort, and shall be subject to all requirements of the zone where the property is located.
- H. Any necessary off-site road improvements shall be completed prior to approval of the final master plan unless a bonding agreement has been executed in accordance with the provisions in Section 413. Where the County is not empowered to inspect and approve public improvements (e.g., improvements to a state highway), written certification of the acceptance of the improvement by the appropriate agency will be required.

430.8 Final Destination Resort Master Plans

- A. An application for approval of a final destination resort master plan shall be submitted following approval of a tentative master plan. The application shall include the following:
1. Ten copies of the final master plan drawings, showing the final, rather than approximate, location of all items required for submittal of the tentative master plan specified in Section 430.5.

2. Documentation and evidence showing compliance with all conditions of approval of the tentative master plan.
 3. A statement of the total number of overnight lodging units and residences the resort will have upon completion, and the number of each type of unit in each phase if the resort will be developed in phases.
 4. A final fire safety protection plan.
 5. Evidence that adequate water to serve the resort is lawfully available and any necessary water rights or service contracts have been obtained.
 6. Final plans for the management of overnight lodging units, and sample covenants, conditions and restrictions, rental contract provisions, and deed restrictions that will be used to ensure that individually-owned units will be available for rental to the general public for at least 38 weeks per calendar year.
 7. Final estimate of the amount that will be spent on improvements for on-site developed recreational facilities and visitor oriented accommodations, exclusive of costs for land, sewer and water facilities and road. If the resort will be developed in phases, the estimated amount that will be spent for each phase shall be indicated.
 8. Evidence that any required conservation easements, restrictive covenants or other required deed declarations have been recorded.
 9. Final provisions to guarantee ongoing property tax responsibility and maintenance of lands reserved as open space.
 10. Evidence that any required off-site road improvements have been completed or bonded.
 11. Completed application form and application fee.
- B. The final master plan will be reviewed by the Planning Director for conformance with the approved tentative plan and compliance with all conditions of approval. The final master plan will be approved if it substantially conforms to the tentative master plan approval. Notice of a decision to approve a final master plan shall be provided to all parties of record of the tentative master plan application. If the final master plan does not substantially conform to the tentative master plan, the Planning Director will require the applicant to submit an amended tentative master plan in accordance with Section 430.09. "Substantially conform" means that any change in the type, scale, location, access, or other aspect of the proposed development is minor and does not change a finding of fact upon which the tentative master plan approval was based. Once a final master plan is approved,

minor alterations or modifications may be approved by the Planning Director if they substantially conform to the approved final plan.

- C. Conditions may be imposed on the approval of a final master plan to ensure that the resort operates in compliance with all requirements of state statutes and this ordinance. Conditions of approval of the final master plan may include conditions that were imposed as part of the approval of the tentative plan.
- D. Applications for Site Plan Review or land divisions submitted after approval of the final master plan shall conform to the approved final master plan and any conditions thereon.
- E. The final master plan approval shall be valid for two years from the date of the final decision, and will expire if development has not been initiated. An extension of the two year time period may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period stating the reasons that have prevented the developer from beginning development within the approval period. Notice of a decision to grant an extension shall be provided in accordance with Section 906.4. After two years, or at the end of any extension that has been granted, the final master plan approval will be void if development has not been initiated.

430.09 Modification of Approved Tentative or Final Master Plan

An approved tentative destination resort master plan or final master plan may be amended through the same procedure as in the initial approval. Review of an application for an amendment to a tentative or final master plan shall be limited to the specific items or features of the plan that are being revised.

EXHIBIT B**FINDINGS OF FACT AND CONCLUSIONS**

1. The proposed action is a legislative amendment to the text of the Zoning Ordinance. ORS 215.110(2) authorizes a governing body to enact, amend or repeal ordinances to assist in carrying out a comprehensive plan.
2. The destination resort regulations, codified as Section 430, were originally included in a proposal to revise the entire Zoning Ordinance. Notice of the proposal to repeal the existing Zoning Ordinance and to adopt a new Zoning Ordinance, including provisions for destination resorts, 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.
3. 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 Zoning Ordinance. 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 Ordinance. 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 Zoning Ordinance 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.
4. 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 provisions for destination resorts by separate ordinance from the remainder of the Zoning Ordinance. 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 and Zoning Ordinance in an effort to improve efficiency of implementation. The destination resort provisions were the most significant policy change proposed in

the Plan and Zoning Ordinance, and community opposition to the provisions was different in nature from opposition to other changes made elsewhere in the Plan and Zoning Ordinance. Adopting the destination resort provisions by ordinance separate from the remainder of the Plan and Zoning Ordinance could allow any potential appeal of the destination resort provisions to proceed independently of any potential appeal of the remainder of the Plan and Zoning Ordinance. 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, owned by Ponderosa Land & Cattle Company, LLC, and Dutch Pacific Resources. The Board also eliminated the option for developing "small destination resorts" from the map and Zoning Ordinance text. No members of the public had advocated for small destination resorts.
 - C. At the November 29 meeting, the Board directed staff to review and incorporate, as appropriate, certain changes to the procedures for reviewing destination resort applications suggested by public comment. .
 - D. The Board finds that changing the Planning Commission recommendation to adopt provisions for destination resorts separately from the remainder of the Comprehensive Plan and Zoning Ordinance, and to limit the number of tracts that are eligible for siting a destination resort, is in the public interest.
5. 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.
 6. On December 20, 2006, the Board held its final public hearing on the Plan and Zoning Ordinance revisions, including the destination resort provisions. At the conclusion of deliberation, the Board voted to adopt provisions for destination resorts as a new Section 430, to be added to the Jefferson County Zoning Ordinance.
 7. A significant amount of public testimony was received concerning destination resorts. The majority of the testimony related to whether or not destination resorts should be allowed in the County. Little testimony was received concerning the regulations for approval of a destination resort in Section 430 of the Zoning Ordinance. While all public testimony was considered, the Board has chosen not to act on all of the comments. The Board finds that adoption of provisions for destination resorts, including the regulations in Section 430 adopted by this Ordinance, are in the best interests of the County.

GOAL 8 COMPLIANCE

8. 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 through measures including: (a) maintenance of important natural features, including habitat of threatened or endangered species, streams, rivers, and significant wetlands, including riparian vegetation within 100 feet of streams, rivers, and significant wetlands; (b) protection of designated Goal 5 resource sites through the use of conservation easements as set forth in ORS 271.715 to 271.795; (c) implementation of site design measures to avoid or minimize adverse effects of the resort on uses on surrounding land, particularly effects on intensive farming operations in the area. At a minimum, these site design regulations shall include buffers between the resort and adjacent land uses, setbacks of structures and other improvements from adjacent land uses, and measures which prohibit the use or operation in conjunction with the resort of a portion of a tract that is excluded from a site of a destination resort pursuant to ORS 197.435(7). In addition, the county implementing regulations must also contain provisions to limit uses and activities to those permitted by Goal 8, to assure that developed recreational facilities, 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 proportional to the level of development prior to closure of sale of individual lots or units. Finally, the county implementing regulations must also contain measures regulating uses and alterations within the 100 year floodplain and on slopes exceeding 25 percent.
9. The Destination Resort Map of Eligible Lands was adopted as part of the Jefferson County Comprehensive Plan by separate Ordinance (Ordinance #O-03-07). The map indicates 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 DLCDC 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.

10. The Board finds that Section 430 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

- 11. 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 Zoning Ordinance, including the destination resort provisions, was reviewed by the Planning Commission.
- B. Testimony was received that the draft Zoning Ordinance, including the destination resort provisions, were required to be reviewed by the Camp Sherman Local Advisory Committee ("LAC"). The Board disagrees, because the revision of the Zoning Ordinance 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 and Zoning Ordinance 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) 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 Zoning Ordinance and Comprehensive Plan revisions. Thus, everything placed into the record for the revision of the entire Zoning Ordinance (Ordinance #O-02-07) is part of the record supporting the adoption of the destination resort provisions in Section 430 (Ordinance #O-04-07).
- (2) One member of the public commented that there was insufficient time to review and respond to changes to 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.¹ The changes to the destination resort provisions were to (1) separate the destination resort provisions into separate ordinances; (2) eliminate much of the land initially considered for eligibility, as well as all small destination resort areas; (3) make a few substantive changes required by state law (including adding three-mile HVCA buffers and a transportation-related approval criterion); and (4) revise the procedure for reviewing destination resort applications, principally by adding one additional layer of review to destination resort proposals. 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.

¹ Letter from Friends of the Metolius dated December 20, 2006.

- (c) Since the revision of the Zoning Ordinance 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 Zoning Ordinance.
- 12. 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. 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 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. 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 adopting regulations for destination resorts 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.² 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 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.
13. 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.
 14. The Board finds that the Zoning Ordinance 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

² OCAPA v. City of Mosier, 44 Or LUBA 452 (2003).

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 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.)
15. The Board finds that the Zoning Ordinance 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) replicates this requirement.
- A. Testimony was received asserting that destination resorts are a “new conflicting use” under OAR 660-023-250(3)³, 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 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

³ 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.

designated Goal 5 resource. Therefore, adopting provisions for destination resorts 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 2003 Zoning Ordinance will adequately protect any inventoried Goal 5 resources within destination resort eligible sites. The County's programs to 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 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 5.⁴ State regulations confirm this legal principle.⁵ The adoption of destination resort provisions does not affect the existing Goal 5

⁴ 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).

⁵ 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...."

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 adopting Zoning Ordinance regulations.
 - (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 Destination Resort Map of Eligible Lands complies with state law.
 - (4) Finally, the Board notes that the Goal 8 siting standards replicated in Section 430.6(L) require that "important natural features" be retained. This provision ensures that important natural resource sites will be protected from future development of destination resorts.
16. The Board finds that the Zoning Ordinance amendment is consistent with Goal 6 (Air, Water, and Land Resources Quality) because Section 430.06(L) imposes siting standards requiring the maintenance of important natural features, including streams, rivers, and significant wetlands. Section 430.06(R) also regulates 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. Adoption of provisions 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).

17. The Board finds that Section 430 is consistent with Goal 7 (Areas Subject to Natural Disasters and Hazards) because the provisions 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 (Section 430.06(R)).
18. The Board finds that Section 430 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 resorts⁶ 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.

⁶ "Destination Resorts . . . Tourism, Taxes and the Economy," RL Allen Group, LLC.

19. The Board finds that Section 430 is consistent with Goal 10 (Housing) because destination resorts provide opportunities for housing in rural areas otherwise ineligible for significant residential development.
20. The Board finds that the Zoning Ordinance amendment is consistent with Goal 11 (Public Facilities and Services) because Goal 8 and Section 430 requires 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. 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 counties to provide for the siting of destination resorts on rural lands without a Goal 2 exception to Goals 3, 4, 11, or 14.
21. The Board finds that the Zoning Ordinance amendment is consistent with Goal 12 (Transportation) because Goal 8 and Section 430 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 Section 430(P) and (Q) require analysis of transportation impacts of a proposed resort. The Board finds that the amendment has the potential to significantly affect a number of transportation facilities under OAR 660-012-0060(1) because it permits 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 Section 430.04(M) properly limits uses to be consistent with any applicable performance standards by requiring resort applicants to provide a traffic study at the time of development review. The traffic study must satisfy Section 430.06(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 430.06(Q)(3)).
22. The Board finds that Section 430 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.
23. The Board finds that the Zoning Ordinance 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 Section 430.

24. 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 through a total of twelve public hearings.
2. The provisions for destination resorts comply with statewide planning Goals 1 through 14.
3. Section 430 complies with Goal 8 and the requirements of ORS 197.435 through 197.467.

CHANGES TO ZONING ORDINANCE REGARDING DESTINATION RESORTS

The Board of Commissioners decided to remove provisions for destination resorts from the draft Zoning Ordinance and adopt them separately. The following language is based on the Zoning Ordinance sections 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 ~~strike through~~.

ZONING ORDINANCE:

Section 430 - Destination Resorts

430.1 Purpose

The purpose of this Section is to establish a mechanism for siting destination resorts in compliance with ORS 197.435 to .467, to provide for properly designed and sited destination resort facilities which enhance and diversify the recreational opportunities and the economy of the County, to ensure that resort development will not cause a significant adverse impact on farming and forestry, environmental and natural features, and to ensure that adequate services and utilities are provided to serve the resort.

430.2 Definitions

The following definitions apply to this section:

- A. Destination Resort: A self-contained development providing visitor oriented accommodations and developed recreational facilities in a setting with high natural amenities.
- B. Developed Recreation Facilities: Improvements constructed for the purpose of recreation, including, but not limited to, golf courses, tennis courts, swimming pools, marinas, equestrian facilities and bicycle paths.
- C. Map of Eligible Lands: The map adopted as part of the Comprehensive Plan showing lands that are eligible for the siting of a destination resort.
- D. Overnight Lodgings: Permanent, separately rentable accommodations that are not available for residential use, including, but not limited to, hotel, motel or lodge rooms, cabins, timeshare units and similar transient lodging facilities. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation and check-in service operated by the destination resort or by a real estate property manager, as defined in ORS 696.010. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.
- E. Self-Contained Development: A development for which community sewer and water facilities are provided on site and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A self-contained development must have developed recreational facilities provided on site.

- F. Visitor Oriented Accommodations: Overnight lodging, restaurants, and meeting facilities which are designed to, and provide for, the needs of visitors rather than year-round residents.

430.3 Procedures

- ~~A. An application for a destination resort is subject to the requirements for a conditional use in Chapter 6 and the requirements of this Section.~~
- BA. An application for a new destination resort or the expansion of an existing destination resort must include the application requirements specified in Section 430.4, and a tentative destination resort master plan in accordance with Section 430.5, and evidence showing that the resort will comply with the standards and criteria in Section 430.6. Site Plan Review, in accordance with Section 414 will be required prior to development of the resort. Approval of a land division, in accordance with Chapter 7, will be required prior to the creation of any residential lots. The Site Plan Review and land division applications may be submitted concurrent with, or subsequent to, the conditional use application.**
- ~~C. The application for conditional use approval will be reviewed by the Planning Commission under the procedures of Section 903.5. The applications for Site Plan Review and land divisions, if submitted subsequent to the conditional use application, will be reviewed in accordance with the procedures in Section 414 and Chapter 7.~~
- B. The application will be reviewed by the Planning Commission under the procedures of Section 903.5. The Planning Commission shall forward a recommendation on whether the tentative master plan should be approved to the Board of Commissioners. The application and Planning Commission recommendation will be reviewed by the Board of Commissioners under the procedures of Section 903.6.**
- DC. Prior to the Planning Commission hearing, a copy of the application(s) will be sent to city, county, state and federal agencies, and special districts that may be affected by the proposed development, and the Confederated Tribes of the Warm Springs Reservation, asking for their comments and recommendations.**
- D. Approval of a tentative destination resort master plan is valid for two years, within which time a final destination resort master plan in accordance with the requirements of Section 430.08 must be prepared and submitted to the Community Development Department. An extension of the two year time period may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period stating the reasons that have prevented completion of the final plan. Notice of a decision to grant an extension shall be provided in accordance with Section 906.4. After two years, or at the end**

of any extension that has been granted, the tentative master plan approval will be void if the final master plan has not been submitted.

- E. **Site Plan Review, in accordance with the requirements of Section 414, will be required prior to development of commercial uses, visitor oriented accommodations, recreational facilities, and community and administrative buildings. A single Site Plan Review application may be submitted for the entire resort, or the resort may be developed in phases, with a separate Site Plan Review application submitted for each phase. Site Plan Review application(s) may be submitted concurrent with, or subsequent to, the submittal of the final destination resort master plan. Site Plan Review under Section 414 is not required for single-family dwellings areas, but if the land is in a Forest Management zone such areas will be reviewed for compliance with the siting standards of Section 303.7 as part of the tentative master plan.**
- F. **Approval of a land division, in accordance with the requirements of Chapter 7, will be required prior to the creation of any residential or other lots. A single subdivision application may be submitted for the entire resort, or the resort may be developed in phases, with a separate land division application submitted for each phase. Land division application(s) may be submitted concurrent with, or subsequent to, the submittal of the final destination resort master plan.**
- G. **No on-site development shall occur until the final destination resort master plan has been approved.**

430.4 **Tentative Destination Resort Master Plan Application Requirements**

An application for **tentative approval of a destination resort master plan** shall contain the following:

- A. Fifteen copies of a tentative resort **master** plan containing the information required by Section 430.5.
- B. One 8½ x 11 **or 11 x 17** drawing of the tentative resort **master** plan for purposes of providing notice. The drawing may be a reduced copy of the tentative resort **master** plan or a **one or more** separate drawings.
- C. A title report based on research going back in time without limitation, indicating all easements and encumbrances of record that affect the property, and including graphic depictions of the location of all easements and encumbrances that are of record.
- D. A statement of the proposed method of providing water, sanitation, utilities, police protection and solid waste disposal. If the proposed water supply is Deschutes Valley Water District, a statement from the water system Manager or District Engineer shall be submitted indicating whether the District will provide service. If the water supply will be from a different source, a study prepared by a

hydrologist, engineering geologist or similar professional shall be submitted describing the following:

1. An estimate of water demands for the resort at maximum buildout, including a breakdown of estimated demand for commercial uses, residential uses, visitor oriented accommodations, recreational uses, and any irrigated common areas;
 2. The availability of water to meet the estimated demand, including the proposed water source, evidence of the quantity and quality of water from that source, identification of the area that may be impacted if water to serve the resort is taken from that source, and information on whether water rights are needed or have been obtained;
 3. A water conservation plan to reduce water consumption.
- E. A **preliminary** fire safety protection plan that, at a minimum, includes the following:
1. **Proposed fire** prevention measures;
 2. ~~The establishment and maintenance of~~ **Preliminary location of** fire safe area(s) in which resort visitors and residents can gather in the event of a fire, **and proposed measures to maintain such areas;**
 3. A fire evacuation plan; and
 4. **Proposed on-site** pre-suppression and suppression measures, which must include a provision for trained personnel capable of operating all fire suppression equipment during designated periods of fire danger. This requirement may be waived if the resort is within a fire district that provides structural fire protection and the fire district indicates in writing that on-site fire suppression is not needed.
- F. A description of all proposed recreation facilities, and whether they will be open to the general public.
- G. A statement of the proposed number of ~~visitor oriented accommodations~~ **overnight lodging units** and residences, and description of the proposed type or method of ownership **for each**.
- H. A description of the proposed residential lot sizes (~~large destination resorts only~~), ~~setbacks, lot coverage and building heights~~.
- I. If the resort is proposed to be completed in phases, a description of each phase and the proposed timeframe for completing each phase.
- J. Plans for owner's association(s) and the method of ensuring that all facilities and common areas will be maintained in perpetuity.
- K. Plans for the management of any individually owned units that will be used ~~for~~ **visitor oriented accommodations as overnight lodging units**, including proposed rental contract provisions to assure that any individually owned units will be

available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation and check-in service.

- L. Evidence that the resort will comply with all standards and criteria in Sections 430.6 and 430.8 for a large destination resort or Sections 430.7 and 430.8 for a small destination resort.
- M. A Traffic Impact Study in accordance with Section 421, and a description of all proposed transportation improvements.
- N. **A preliminary drainage plan showing how all stormwater runoff generated by the development will be contained on-site.**
- O. **An estimate of the number of persons the resort will employ, the number of employee housing units that will be provided on-site, and a description of any proposed transportation system that will be provided for employees. If the resort will be developed in phases, the employee housing/transportation plan should reflect any change in employment numbers that will occur as each phase is developed.**
- P. Completed application form and application fee.

430.5 Tentative **Resort Master Plan** Contents

An application for **tentative approval of** a destination resort **master plan** must include 15 copies of a tentative plan that includes the information listed below. The tentative plan must be clearly and legibly drawn on white paper to a standard engineer's scale (i.e., 1" = 100', 1" = 400' etc.). The scale used shall be large enough so that all required information is clearly legible. The tentative plan must contain the following:

- A. The words "Tentative Destination Resort **Master Plan**", the township, range, section, and tax lot number(s) of the property, the date, north point, and scale of the plan, and name and address of the person who prepared the plan.
- B. The **approximate** areas and number of acres to be developed for commercial **uses**, visitor oriented accommodations, residential **uses**, ~~and~~ recreational uses, common areas and open space, and any portions of the tract that will not be developed or used as part of the resort.
- C. ~~The location and approximate dimensions of all existing and proposed structures, labeled with the proposed use of the structure.~~ **The location of any designated Goal 5 resources on the tract.**
- D. The general location of proposed pedestrian, equestrian and bicycle paths and trails.
- E. The location, width and name of all existing roads ~~and proposed new roads~~ on or abutting the property, and whether the roads are public or private; **and the**

approximate location, width and grade of any proposed new road, and whether it will be public or private.

- F. The location, width and purpose of all existing and proposed easements, ~~denoted by fine dotted lines.~~ The reference number of all recorded easements shall be noted. All reservations or restrictions relating to the easements shall be indicated.
- G. The location of approved, or **approximate location of proposed**, areas for subsurface sewage disposal, any community sewer system, sewer lines and easements.
- H. The location of all existing ~~and proposed~~ utilities on or abutting the property, **and the approximate location of proposed new utilities.**
- I. Topographic information for any area with slopes exceeding 10 percent. Contour intervals shall be ten feet or smaller.
- J. ~~All water courses,~~ **The location of all rivers, streams, wetlands,** drainage ways, irrigation canals and ditches, and ~~the location of any floodways and flood plains shown on the Federal Insurance Rate Maps that are within the site.~~ The approximate location of any other areas which are subject to inundation or storm water overflow should also be shown.
- K. The **approximate** location of proposed fire safety protection system components, including fire safe area(s), fire evacuation routes, and fire hydrants or other water supply available for fighting fire.
- L. If the resort is proposed to be developed in phases, **the approximate boundary of each phase shall be clearly delineated and labeled.**
- M. **The approximate location of stormwater management facilities.**

430.6 ~~Standards for Large Destination Resorts and Criteria for Approval of Tentative Master Plan~~

~~Large destination resorts must meet~~ **In order to be approved, the tentative master plan for a destination resort must comply with the following standards and criteria:**

- A. The resort will be located on a ~~tract~~ **site** of 160 acres or more. A tract may include property that is not included in the proposed site for a destination resort if the property to be excluded is on the boundary of the tract, constitutes less than 30 percent of the total tract, and will not be used or operated in conjunction with the resort.
- B. The resort site is ~~more than three miles from a high value crop area as shown as~~ **being eligible for the siting of a destination resort** on the Comprehensive Plan ~~High Value Crop Land~~ **Destination Resort map of Eligible Lands.**

- C. At least 50 percent of the site will be dedicated to permanent open space.
- D. At least ~~\$9.68~~ **\$9.83** million will be spent on improvements for on-site developed recreational facilities and visitor oriented accommodations exclusive of costs for land, sewer and water facilities, and roads. At least one-third of this amount must be spent on developed recreational facilities. (Spending requirements are in ~~2005~~ **2006** dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index).
- E. Visitor oriented accommodations including meeting rooms, restaurants with seating for at least 100 persons and a minimum of 150 overnight lodging units shall be provided. The overnight lodging units may be phased in as follows:
1. At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units;
 2. At least 50 of the remaining 100 required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurance in accordance with Section 413 within five years of the initial lot sales;
 3. The remaining required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurances in accordance with Section 413 within 10 years of the initial lot sales;
 4. If the developer of a resort guarantees the overnight lodging units required under subsections (2) and (3) through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within four years of the date of execution of the surety bond or other equivalent financial assurance.
- F. Commercial and entertainment uses shall be limited to types, numbers, location and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted. Commercial uses may include specialty shops such as delis, clothing stores, bookstores and gift shops; barber shops or beauty salons; automobile service stations limited to fuel sales and minor repairs; art galleries; convenience stores; real estate office, limited to the sale of lots or units within the resort; and other similar uses. 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; and
 2. The use is oriented to the resort and is located away from or is screened from highways and other major roads.
- G. ~~Individually owned residential~~ **The number of units for residential sale** shall not exceed 2½ units for each unit of ~~visitor oriented~~ **permanent** overnight lodging.

Individually-owned units shall be considered ~~visitor-oriented~~ **as overnight lodging** if they are available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation and check-in service. Individually-owned units may include single family dwellings, duplexes, multi-family attached dwellings, condominiums, townhouses, time-share projects and similar arrangements. **Housing for resort management and staff that remains under resort ownership shall not be counted either as overnight lodging or as units for residential sale.**

- H. ~~Residential lots shall be a maximum of 22,000 square feet in size.~~ **Density of single-family detached dwelling units for residential sale shall not exceed eight dwelling units per acre.**

~~430.7 Standards for Small Destination Resorts~~

~~In lieu of the standards in Section 430.6, a destination resort may be approved on land that is not defined as agricultural or forest land under Goals 3 and 4, or on land where an exception to Goals 3, 4, 11 and 14 has been taken, if it meets the following standards:~~

- A. ~~The resort will be located on a tract of 20 acres or more. A tract may include property that is not included in the proposed site for a destination resort if the property to be excluded is on the boundary of the tract, constitutes less than 30 percent of the total tract, and will not be used or operated in conjunction with the resort.~~
- B. ~~At least \$2.76 million will be spent on improvements for on-site developed recreational facilities and visitor oriented accommodations exclusive of costs for land, sewer and water facilities and roads. At least one third of this amount must be spent on developed recreational facilities. (Spending requirements are in 2005 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index).~~
- C. ~~At least 25 units, but not more than 75 units, of overnight lodging will be provided.~~
- D. ~~The resort shall not be closer to a high value crop area, as shown on the Comprehensive Plan High Value Crop Land map, than one half mile for each 25 units of overnight lodging or fraction thereof.~~
- E. ~~Restaurant and meeting rooms with at least one seat for each unit of overnight lodging shall be provided.~~
- F. ~~Residential uses shall be limited to those necessary for the staff and management of the resort.~~
- G. ~~The primary purpose of the resort is to provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a~~

~~rural area. Such recreational resources include, but are not limited to, a lake or fishing stream.~~

- ~~H. The resort will be constructed and located so that it is not designed to attract highway traffic. Resorts may not use any manner of outdoor advertising signing except:~~
- ~~1. Tourist oriented directional signs as provided in ORS 377.715 to 377.830;~~
 - ~~and~~
 - ~~2. On site identification and directional signs.~~

~~430.8 Approval Criteria for all Destination Resorts~~

~~A destination resort may be approved if it complies with the standards in Section 430.6 for a large destination resort or Section 430.7 for a small destination resort, and if it meets all of the following criteria:~~

- ~~AI. The zone in which the property is located allows destination resorts, and the proposed development complies with any applicable requirements of the zone in which the property is located, except minimum lot size and setback requirements.~~
- BJ. The resort complies with the requirements of this Section, **the conditional use provisions in Chapter 6**, and any other applicable requirements of this ordinance such as flood plain or riparian protection provisions.**
- ~~C. The resort will be sited on land mapped as being eligible for destination resort siting on the adopted Destination Resort Map of Eligible Lands.~~
- ~~DK. The resort will be in a setting with high natural amenities which will constitute an attraction to visitors.~~
- ~~EL. Important natural features, including habitat of threatened or endangered species, streams, rivers and significant wetlands shall be retained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands shall be retained. Alteration of natural features, including placement of structures, may be allowed provided the overall values of the natural feature are retained.~~
- FM. Improvements and activities shall be located and designed to avoid or minimize adverse effects of the resort on uses on surrounding lands, particularly effects on farming or forestry operations in the area. At a minimum, measures to accomplish this shall include the establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and, where appropriate, fences, berms, landscaped areas and other similar types of buffers, and setbacks of structures and other improvements from adjacent land uses. The applicant shall propose buffers and setbacks as part of the tentative resort plan, and the Planning Commission shall determine whether the proposed measures are adequate to minimize impacts to surrounding lands.**

GN. Any designated Goal 5 resource on the tract where the resort will be sited will be preserved through conservation easements as set forth in ORS 271.715 to 271.795. A conservation easement under this section shall be sufficient to protect the resource values of the Goal 5 site and shall be recorded with the property records of the tract on which the destination resort is sited.

HO. The destination resort meets the definition in Section 430.2(E) of a self-contained development, and evidence has been submitted to demonstrate that adequate facilities and services will be available to serve the development, including, but not limited to, water supply, sewage disposal, **stormwater management**, solid waste disposal, electric power, telephone service, law enforcement services and fire protection. Water used by the resort shall not reduce the availability of water to existing and approved uses on surrounding lands, **and all stormwater runoff shall be retained on site.**

HP. Adequate access to serve the resort exists or will be provided by the developer. For fire safety purposes, more than one road for ingress and egress shall be provided unless the resort includes a fire safe area that is large enough so that all visitors and residents of the resort can congregate in vehicles and survive a passing wildfire. If a safe area is provided, it shall be kept free of combustible material and vegetation. Information indicating the location of the safe area shall be provided to all resort visitors and residents, and signs shall be posted around the safe area and throughout the resort providing directions to the safe area.

Q. **The resort will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:**

- 1. Changing the functional classification of an existing or planned transportation facility;**
- 2. Allowing types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or**
- 3. Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan (LOS C).**

An amendment to the Transportation System Plan to provide transportation facilities adequate to comply with these provisions and support the proposed resort may be required. The resort developer will be required to construct or pay for any necessary road improvements based on a direct nexus between the level of road impacts that will be caused by the increased traffic generated by the resort development and the level of road improvements that are required.

JR. Any portion of the tract on which the resort will be sited that is in a flood hazard area, has slopes exceeding 25 percent, or is subject to other natural hazard shall not be altered or developed except for the following uses:

- 1. Outdoor recreation facilities including golf courses, bike paths, trails, or similar facilities;**

2. Minor drainage improvements which do not significantly impact important natural features of the site; and
3. Roads, bridges and utilities where there are no feasible alternative locations on the site.

Any alteration or structure allowed under this subsection shall be adequately protected from hazard, or shall be of minimal value and be designed to minimize adverse environmental effects.

S. Housing for resort management and staff shall be provided on-site, or the resort shall provide transportation for employees.

430.97 Conditions of Approval

~~The Planning Commission shall impose conditions~~ **Conditions shall be placed on the approval of a tentative resort master plan** to ensure that the destination resort complies with the standards and criteria in this Section. **The recommendations and comments of other public agencies will be considered and may also provide the basis for conditions of approval.** Conditions shall include, but are not limited to, the following:

- A. Developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or guaranteed through surety bonding or substantially equivalent financial assurances in accordance with Section 413 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 shall be guaranteed through surety bonding.
- B. The on-site sewage system(s) to serve the resort shall be approved by the Department of Environmental Quality.
- C. The on-site water system that will serve the resort shall be approved by the Drinking Water Division of the State Department of Human Services unless connected to Deschutes Valley Water District or other existing public water system.
- D. ~~The developer of a large destination~~ resort shall be required to provide an annual accounting to document compliance with the overnight lodging standards. The annual accounting requirement commences one year after the initial lot or unit sales. The annual accounting must contain:
 1. Documentation showing that the resort contains a minimum of 150 permanent units of overnight lodging or, during the phase-in period, documentation showing the resort is not yet required to have constructed 150 units of overnight lodging;
 2. Documentation showing that there are not more than 2½ residential units for each unit of permanent overnight lodging; and
 3. For a resort counting individually-owned units as qualified overnight lodging units, the number of weeks that each overnight lodging unit is

available for rental to the general public as described in Section 430.12(D).

- E. ~~The developer of a large destination resort~~ shall provide a mechanism to ensure that individually-owned units that will be counted toward the overnight lodging total remain available for rent for at least 38 weeks per calendar year through a central reservation and check-in service. The mechanism shall include all of the following:
1. Designation on the final site plan(s) and land division plat(s) which individually-owned units are to be considered to be overnight lodging;
 2. Deed restrictions limiting use of such individually-owned units to overnight lodging available for rental to the general public for at least 38 weeks per calendar year through a central reservation and check-in service;
 3. Inclusion in the Covenants, Conditions and Restrictions (CC&R's) an irrevocable provision enforceable by the County limiting use of such individually-owned units to overnight lodging available for rental to the general public for at least 38 weeks per calendar year through a central reservation and check-in service; and
 4. Inclusion of language in any rental contract between the owner of the unit and the central reservation and check-in service requiring that the individually-owned unit be made available for rental to the general public for at least 38 weeks per calendar year.
- F. Provisions must be established to guarantee ongoing property tax responsibility and maintenance of lands reserved as open space. The open space may be conveyed by leasing or conveying title to a corporation, homeowner's association or other legal entity. The terms of the lease or other instrument of conveyance shall include provisions that guarantee:
1. The continuation of use of the land as open space;
 2. The continuity of property maintenance, including the necessary financial arrangements for such maintenance; and
 3. That the legal entity formed for the joint ownership and maintenance of the open space will not be dissolved, nor will it dispose of any open space by sale or otherwise, except to another legal entity which has been conceived and organized for the purpose of maintaining the open space.
- G. Any portion of a tract that is not included as part of the resort shall not be used or operated in conjunction with the resort, and shall be subject to all requirements of the zone where the property is located.
- H. **Any necessary off-site road improvements shall be completed prior to approval of the final master plan unless a bonding agreement has been executed in accordance with the provisions in Section 413. Where the County is not empowered to inspect and approve public improvements (e.g., improvements to a state highway), written certification of the acceptance of the improvement by the appropriate agency will be required.**

430.8 Final Destination Resort Master Plans

- A. An application for approval of a final destination resort master plan shall be submitted following approval of a tentative master plan. The application shall include the following:**
- 1. Ten copies of the final master plan drawings, showing the final, rather than approximate, location of all items required for submittal of the tentative master plan specified in Section 430.5.**
 - 2. Documentation and evidence showing compliance with all conditions of approval of the tentative master plan.**
 - 3. A statement of the total number of overnight lodging units and residences the resort will have upon completion, and the number of each type of unit in each phase if the resort will be developed in phases.**
 - 4. A final fire safety protection plan.**
 - 5. Evidence that adequate water to serve the resort is lawfully available and any necessary water rights or service contracts have been obtained.**
 - 6. Final plans for the management of overnight lodging units, and sample covenants, conditions and restrictions, rental contract provisions, and deed restrictions that will be used to ensure that individually-owned units will be available for rental to the general public for at least 38 weeks per calendar year.**
 - 7. Final estimate of the amount that will be spent on improvements for on-site developed recreational facilities and visitor oriented accommodations, exclusive of costs for land, sewer and water facilities and road. If the resort will be developed in phases, the estimated amount that will be spent for each phase shall be indicated.**
 - 8. Evidence that any required conservation easements, restrictive covenants or other required deed declarations have been recorded.**
 - 9. Final provisions to guarantee ongoing property tax responsibility and maintenance of lands reserved as open space.**
 - 10. Evidence that any required off-site road improvements have been completed or bonded.**

11. Completed application form and application fee.

- B. The final master plan will be reviewed by the Planning Director for conformance with the approved tentative plan and compliance with all conditions of approval. The final master plan will be approved if it substantially conforms to the tentative master plan approval. Notice of a decision to approve a final master plan shall be provided to all parties of record of the tentative master plan application. If the final master plan does not substantially conform to the tentative master plan, the Planning Director will require the applicant to submit an amended tentative master plan in accordance with Section 430.09. "Substantially conform" means that any change in the type, scale, location, access, or other aspect of the proposed development is minor and does not change a finding of fact upon which the tentative master plan approval was based. Once a final master plan is approved, minor alterations or modifications may be approved by the Planning Director if they substantially conform to the approved final plan.**
- C. Conditions may be imposed on the approval of a final master plan to ensure that the resort operates in compliance with all requirements of state statutes and this ordinance. Conditions of approval of the final master plan may include conditions that were imposed as part of the approval of the tentative plan.**
- D. Applications for Site Plan Review or land divisions submitted after approval of the final master plan shall conform to the approved final master plan and any conditions thereon.**
- E. The final master plan approval shall be valid for two years from the date of the final decision, and will expire if development has not been initiated. An extension of the two year time period may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period stating the reasons that have prevented the developer from beginning development within the approval period. Notice of a decision to grant an extension shall be provided in accordance with Section 906.4. After two years, or at the end of any extension that has been granted, the final master plan approval will be void if development has not been initiated.**

430.09 Modification of Approved Tentative or Final Master Plan

An approved tentative destination resort master plan or final master plan may be amended through the same procedure as in the initial approval. Review of an application for an amendment to a tentative or final master plan shall be limited to the specific items or features of the plan that are being revised.

430.10 Final Approvals

~~If an application for Site Plan Review or a land division is submitted subsequent to the conditional use approval for the destination resort, the application shall comply with all~~

~~applicable conditions placed on the conditional use approval and be substantially in conformance with the tentative resort plan. If the application for Site Plan Review or a land division is substantially different than the approved tentative resort plan in a manner so that any finding of fact on which the conditional use approval was based would need to be substantially revised, an application to revise the conditional use approval shall be submitted. The application will be reviewed by the Planning Commission under the same procedures as the original conditional use approval, but the scope of the public hearing and findings of fact will be limited to the items or features being revised.~~