



For Recording Stamp Only

Deschutes County Board of Commissioners
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MINUTES OF BUSINESS MEETING
DESCHUTES COUNTY BOARD OF COMMISSIONERS
WEDNESDAY, JANUARY 27, 2016

Commissioners' Hearing Room - Administration Building - 1300 NW Wall St., Bend

Present were Commissioners Alan Unger, Tammy Baney and Anthony DeBone. Also present were Tom Anderson, County Administrator; Erik Kropp, Deputy County Administrator; Dave Doyle, County Counsel; Will Groves, Peter Russell and Nick Lelack, Community Development; Chris Doty and George Kolb, Road Department; and approximately fifty other citizens. No representatives of the media were in attendance.

1. CALL TO ORDER

Chair Alan Unger called the meeting to order at 10:00 a.m.

2. PLEDGE OF ALLEGIANCE

3. CITIZEN INPUT

None was offered.

CONSENT AGENDA

Before the Board was Consideration of Approval of the Consent Agenda.

DEBONE: Move approval of the Consent Agenda.

BANEY: Second.

VOTE: DEBONE: Yes.

BANEY: Yes.

UNGER: Chair votes yes.

4. Board Signature of Document No. 2015-702, a Pre-Disaster Mitigation Grant Program Agreement with Keno Rural Fire Protection District
5. Board Signature of a Letter Reappointing Dawn Sofich to the Deschutes River Recreation Homesites Special Road District #1 Board, through December 31, 2018
6. Board Approval of Adoption of Policy GA-16, Title 6
7. Board Signature of Document No. 2016-017, an Amendment to an Intergovernmental Agreement with WEBCO regarding Early Learning Hub and Young Adult Transition Hub Programs
8. Board Signature of Minutes:
 - Work Sessions: January 13 and 15, 2016
 - Business Meeting: January 13, 2016
 - Joint Meeting with the Sunriver Service District Board of Directors, December 16, 2015

ACTION ITEMS

9. **Before the Board was Consideration of Board Signature of Document No. 2016-003, a Notice of Intent to Award Contract Letter for the Construction of the Powell Butte Highway Roundabout.**

George Kolb explained the number of bids received and that some of them were very close on price. He also noted that during the opening bid process, it was noted that JAL, the lowest bidder, did not include one of the required documents. On the bottom of the sheet it is stated that this form is necessary and, therefore, this bid should be rejected pursuant to instructions given to all bidders. The other six bidders submitted a complete set of documents.

The second lowest bid was from Shamrock Construction. The notice of intent to award contract letter allows a week for the other bidders to protest. If there is a protest, the hearing would be conducted at the February 10 business meeting.

Chris Doty stated that they are excited about the project, and the bids came in lower than expected except for one. This will be a much-needed safety improvement that is coming in about \$500,000 under what was anticipated.

Commissioner Baney said that there is only about \$3,000 difference in the bids. Mr. Kolb stated that in his history with the County, there has only been one bid awarded to other than the lowest bidder, which occurred when the low bidder had not been prequalified by ODOT.

Chair Unger said that JAL or others are able to protest the award and there will be a hearing if they do so.

BANEY: Move Board signature.

DEBONE: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

Item #12 was addressed next, along with an addition to the agenda, #16.

10. Before the Board was a Public Hearing on Widgi Creek Development Application - Fairway – File #247-14-000395-TP.

11. Before the Board was a Public Hearing on Widgi Creek Development Application - Pool – File #247-14-000391-TP.

Chair Unger opened both hearings at this time. Will Groves' staff report includes a review of the specifics of the applications and appeals. The assumption is that all testimony will be applied to both applications unless the speaker specifically notes otherwise. Mr. Groves gave the opening statement.

Regarding conflicts of interest or ex parte contact, Commissioner Baney said she worked at Widgi Creek as the food and beverage director a long time ago, and also helped with marketing efforts years ago with the previous owners.

Commissioners DeBone and Unger said they had nothing to disclose.

There were no objections from the audience.

Mr. Groves provided a PowerPoint presentation explaining the issues. (*His presentation is attached for reference.*)

The property was in a forest zone and the State recognized that this was not going to be the use, so a zone change and plan amendment were put into place to identify this difference. The Hearings Officer decided that previous findings were contradictory regarding the master plan. It is unclear if it should be considered now.

Another matter is the Milepost One case, which is mostly in the 7th Mountain development but contains some parts of Widgi Creek. It will come before the Board eventually.

The Fairway application is for nine lots near the entrance. The Pool application is an eight-lot zero lot line development that includes replacing the pool facility.

There are concerns about the entrance traffic and mailboxes. There is limited access due to the ownership of the properties. A primary question is whether these areas are appropriate for residential development, per ORS 92. The Goal 4 exception process had been implemented previously and it is unclear how this applies. It is felt that designated open space is to remain open space unless otherwise suitable for development. The Hearings Officer felt this was not appropriate. Some golf professionals feel that part of the area is a portion of the course out-of-bounds area.

The community pool is in disrepair. The Hearings Officer felt this is part of the common area. However, it was never given to the homeowners' association and is in private ownership. The proposed replat for Elkai subdivision would remove what the Hearings Officer felt is part of the common area. The Hearings Officer had issues with design and layout at both the entrance and pool areas.

Another issue is that the effect of any decision made might affect Black Butte Ranch and Seventh Mountain. They have been contacted for comment, but have not yet responded.

There is a request for a continued hearing until February 29. Most of the applicant's presentation would take place on that date. Some people may want to speak now, however.

Commissioner Baney asked if the minutes from 2001 are available to review. Mr. Groves will pursue this.

Tia Lewis, representing the applicant, said her comments will be brief. She is asking for the continuance due to a medical issue of one of the parties. They have worked with opposing counsel to set a date that is acceptable to all.

Everyone can agree that these are important policy considerations for everyone. She wants to distinguish this from Black Butte Ranch and Seventh Mountain. She does not think this will impact them if findings are written to distinguish Widgi Creek, as each has its own series of approvals and different community plans. Each is distinct and they have comprehensive plan provisions that are regulated by different sections in the zone language, plus different private restrictions.

She feels these issues are specific to Widgi Creek. The Board needs to look back at what was intended and decided, the history of the golf course and development, its ownership and the community plan. These have changed over the years due to financial issues and land use. The Board needs to decide what was intended years ago by the decisions of others. There are differing opinions about property ownership, development rights and expectations. She feels these are modest applications and should be approvable. Both are small scale and located on private property that was never owned by the community, nor funded by community assessments. The Board will need to decide what level of residential development is appropriate. She hopes they can keep an open mind.

Chair Unger stated that the Board can discuss the continuation at this time. Commissioner Baney said that they should consider the situation and feels that the extra time would be beneficial towards making the best decision possible. She realizes people have made time to be here today, but their voices matter now as well. Commissioner DeBone said that it will be an extended hearing and testimony can be submitted during that time. Chair Unger feels it will allow the Board to hear more to help them with a decision.

Commissioner Baney asked Ms. Lewis if the changes as proposed would be applicable to any other area. Ms. Lewis stated they would relate directly to privately owned property at Widgi Creek.

The Board was supportive of continuing the hearing until February 29.

Chair Unger wondered if there are associations that perhaps could have one individual speak for the larger group. Mr. Groves said this is reasonable, to allow more time for others to speak.

Michael McGean said he is an attorney representing the Widgi Creek Homeowners' Association, Elkai Woods Homeowners' Association and Elkai Woods Fractional Homeowners' Association. They do not object to a continuance, and look forward to addressing the merits of the applications. There is a lot of testimony on both sides. The staff summary presented the issues well, but they are complex due the history. There is a specific development agreement that occurred in 1998 between Elkai Woods and the proposed pool area, and a conditions of approval agreement which is an additional aspect. This was a predecessor to the previous owner. It is not a simple case of a mistaken designation of a common area. He will reserve the rest of his argument until February 29.

Jim Ouchi stated that he is representing one of the three homeowner associations. The president is unable to be here today so he is speaking for them.

Commissioner Baney said that she would prefer no ex parte contact during the next month, so would like this be limited since any contact has to be disclosed for the record. David Doyle said the record will be held open for a month, but there should not be one on one verbal conversations about this issue between the Commissioners and parties to the situation. This can create procedural problems.

Paul Nylander stated that he lives on 7th Mountain Dr. in the Elkai Woods fractional area since 2013. He and his wife relocated from the Midwest, seeking quality of life in a mature development. Part of their review was recognition that the pool area was platted as common area, as well as the golf course. They might have gone to Tetherow or another development otherwise. He asked the Board to uphold denial of the applications.

Kirk Sandburg said he has lived in Widgi Creek since 2005. He was involved in project before it was one. He was director of creation at the Inn years ago, then director of operations for five more years. He has seen a lot of changes, including the inception of the golf course and its development. He recommends upholding the Hearings Officer's decision because he wants to honor the integrity and respect the original master plan of 1983, and the 2001 comprehensive plan changes which maintained a set number of homes. The 2001 issue was brought up regarding the 7th Mountain area. He feels that the integrity has been set.

There is room for a decent golf course, but to add nine more buildings on the first hole would not be good. The first shot does not always go where it should, and making it smaller would be dangerous. There is the entry road that services the homesite owners and visitors. It is not just an entry road into the golf course. Part of the road is one lane, and it is an intersection where the mailboxes are located. It is a congested area already. There is not adequate room for nine more condo units. It is narrow as well, and there is potential for people to be struck by golf balls. He asked that the Hearings Officer's decision be upheld and allow development of open space only as such. He recommends no further housing development.

David Black has lived in Widgi Creek since 2001. He referred to the map of the development, pointing out the first fairway. When first developed and up till about 2010, the first fairway included a bigger area. The road was considered out of bounds. All was mowed and playable as the first hole. The owners found they could save money if they let the area just go wild instead. They then moved the out of bound stakes to along the cart path.

His concern is how they can take what was considered golf course property and move the out of bounds stakes, to create a buildable lot. Going forward, if they can move markers to create buildable lots, what prevents them from doing the same in another part of the golf course. Where does it stop? They could decide to make it an executive course to add even more lots. Everyone bought there with the understanding of what is the golf course and open space. This feels this is like eminent domain, because of greed and a desire to make money. It would take away from the entire development.

David Chase wanted to address the safety issue of Fairway #1. On a typical summer day, there are golfers teeing off every fifteen minutes. Most of them are not good golfers. They don't always hit the middle of the fairway. It takes him probably three shots to get it onto the green. This means about 30 or 40 shots total. If 10% are errant balls that slice off to the right, they will go into the condo area. This is dangerous. People have been killed by golf balls. If this happens, who do they sue? The golfer, the golf course owner, or the government agency that allowed the development. He urged upholding the Hearings Officer's decision.

Steve Kimple said he has lived there since 1997. The tee times are actually set nine minutes apart so there are more golfers than that. He was born and raised in Salem, and has always been proud of Oregon because of the planning processes to protect natural and open areas, and people's property rights. They bought a lot in Widgi Creek in 1991. They knew that there was a comprehensive plan in place for the County to protect the areas around there. They built with those assurances. These applications would undercut this. These rights have been eroded and it seems unfair to everyone who bought there, thinking the open areas would remain as such. He encouraged supporting the Hearings Officer's decision of denial.

Brenda Pace stated they have been inundated with request to build on the golf course for years. They thought because of the comprehensive plan that they could trust the area would not be built upon. The issue of golf courses as open space was discussed in developing the zone. It was repeated in the 2011 update of the comprehensive plan. She feels this is mandatory and has been approved by the State three times. There is a good reason why Hearings Officer Green denied these applications.

They are also concerned about the master plan. The conditional use plan and master plan for these areas are important, and they don't understand how those were overlooked. There is a savings clause, a basic provision, but it was not in the resort community zone or any other. The interpretation has to be that it is worthless and should either not be in code or should be in all.

There were lots of references to the master plan but she has a letter on this subject from Catherine Morrow who was a planner for many years. She wrote a letter that included language stating that future development would be inconsistent with the master plan. *(A copy of this letter is attached for reference.)*

It is also relevant that the resort community language was created without inclusion of resort or recreation language, so there must be other documents that were developed in conjunction with this. If these projects got approved, if the comprehensive plan or master plan are not relevant, nothing would prevent this from happening more. LUBA and the Oregon Appeals Court remanded the Hearings Officer's decision before on the master plan issue. The Board needs to find out if this has any relevance. The Hearings Officer did not feel it was necessary to make more decisions in this regard.

The marketing for this development never indicated that these areas might be developed. Questions on the comprehensive plan and master plan are now back to the Board. She asked that they settle the confusion by supporting existing code.

Chair Unger asked if the resort community process really did not talk about recreation or resort. Ms. Pace said the process did, but not the document.

Kevin Foss co-owns a townhouse on 7th Mountain Drive with his in-laws. He is a resident of Redmond and has done research for a place for his parents to retire, which they will soon. In 2013 he thought he found the best place for them. It came down to several places, but he concluded that Widgi had the most benefits and he was sold by the idea that there would not be any further development. (*He pointed out the location on the map.*) Realtors and others felt that the pool was going to have repairs done and eventually would be okay. They were told that this was part of the common area for everyone.

The reality is that the pool was maintained for a while. He feels they were sold a bill of goods, after finding out that the pool won't be maintained and that there would be more development. He has talked with Realtors there and they are still telling clients the same thing, and showing copies of plans showing that development won't occur. The value of properties there is based on some of these amenities.

He understands the desire to make money, but they could look at the greens fees or other opportunities, and not sacrifice the people who already live there. It is hard to think of changing the game there. The reality is that this area should not be developed further. The real estate community tries to stay on top of all this and have some kind of documentation. They should know whether the pool will be repaired. He wants to know that his investment will be protected in the future. Other people want to know, also.

Mara Stein stated that she lived in Widgi Creek from 1993 to 2004. She is a Realtor and represents residents there. She was part of the sale of properties and thought she knew what was intended. She started out as a broker for Widgi Creek Realty. She brought information with her that was presented to buyers. They were limited to 86 townhomes at the time, and 107 homesites. She stated that this was shared with pride. Since this is a de novo hearing, all of this information applies. It was based on platted information at the time. The applications do conflict with the State subdivision law and policies set forth in the comprehensive plan, and the 7th Mountain master plan and conditions. She supports the Hearings Officer's denial.

Dennis Cone lives in Widgi Creek across from the swimming pool. He has watched it deteriorate. He bought in 2011, and assumed that it was built-out and had the amenities he wanted. He knew there was a problem with the pool but was assured that it would be resolved. He is surprised there are applications based on the history of the development. He supports the Hearings Officer's findings.

Bob Dempster said he lives on Elkai Woods Drive, and asked that the applications be denied on common 18. Based upon information provided and his belief, he asked the Board to put themselves into the shoes of those who have lived there for a long time. There is a question of common sense, what is equitable and accountable, integrity, and the results of the hearings.

The person who filed the application is the owner of the golf course. When he purchased the property out of bankruptcy, he did not even know he bought the pool and multi-purpose building, which are several blocks away from the main clubhouse. Mr. Dempster said he has been against the pool and multi-purpose building from the beginning. There is a maintenance agreement between the County and the prior owner of the golf course, and the current owner should be involved.

Mr. Dempster said he bought a vacant lot and asked planning about other development, and they showed the plan and said there would be no further development within the open spaces. He built a townhouse there, and the present owner got the County to let them build on common 18. That agreement requires the owner to maintain and operate the amenities. The new owner took over maintains them and then closed them down.

This is a big eyesore and an attractive nuisance. There are mosquitoes and the building is deteriorating. The applicant/owner now stores cars in the parking lot, RV's and boats. Those who bought property nearby have to live with this. The owner won't maintain or operate it because he is losing money. That is not their problem, but his. He is asking the County to help him assist with his financial problems. This is nonsense and it is not equitable. Now he wants to remove the buildings and pool and sell the land for condos. This Board should not be a part of this. The owner bought the property out of bankruptcy and should have known what he was buying,

Regarding integrity, why should the residents believe that the applicant and developer will do what they say. They are third party beneficiaries of the agreement between the County and the previous owner. They have a right to force the owner to maintain these. He thinks it is totally wrong to let this keep moving forward. He wanted to ask for a show of hands from the audience who are against this application.

Toby Tobin lives on Ikai Woods Drive, directly opposite the pool area. He started coming to Bend in 1956. He owned property at 7th Mountain for 18 years and bought in Widgi Creek in 2002. The common 18 area had a pool and was part of their decision to buy. It was felt to be a common area to benefit all residents. He disapproves of the proposed changes and is annoyed that the pool has not been maintained. It is an eyesore. Some people visited the planning department to ask why it was allowed in the first place. They need to fight this proposal. He wants to see them follow the rules. He supports the Hearings Officer's decision and also having an additional hearing. They want to be treated fairly and with integrity and according to the rules

Justin Ripley lives across from the common area. He is a recent addition in June of 2014. He thinks his agent did a good job with presenting documentation, but the focus was the master plan which at the time was felt to be the overriding document. He learned that it is more complex with the addition of the other proposals. He was not a golfer when he purchased but now is a bad one. He said you don't want to learn to golf by having your deck in line with the tee box. He supports the first green issue should be looked at carefully.

In addition to the basic unfairness, people have invested heavily in what they thought was the truth, and should not have to constantly have to defend against these development efforts. At some point, they should be viewed as frivolous. He stated the Board should uphold the Hearings Officer's decision, and find a way to cement the master plan that they all rely on, in the process.

Jim Ouchi, an owner for thirteen years, spoke regarding the fairway development and hazard of golf balls. Few have ever designed a golf course. The homeowners' association documents should be reviewed. John Fought is a golf designer known worldwide, who looked at the situation and gave a consultant's report. He said it would create a hazard and put people and structures at risk. This report is in the stack of documents. He would encourage the Commissioners to do a visit to see what everyone is talking about.

No other testimony was offered.

Mr. Groves confirmed that the hearing will be continued to February 29, and any testimony should be submitted to him in writing. He added that the public be careful about e-mails and make sure there is time for those to come through, and not to wait until the last minute. Ideally, comments should go to the planning office or staff at the BOCC, so they can forward it.

The Board can go to the location to view the properties, but should be careful not to engage with anyone there. This all needs to be in public and on the record. These observations would need to be a part of the record.

The hearing was continued to February 29, 2016, at 10 AM, at the same location.

12. Before the Board were Deliberations and Consideration of First Reading by Title Only of Ordinance No. 2016-007, Amending the Comprehensive Plan to Add an Exception to Statewide Planning Goal 11.

(This item was moved before item #10 due to audience attendance.)

Peter Gutowsky explained there have been two items received since the last hearing. There was one e-mail, and a proposal from the La Pine Citizen Action Group asking for alternative language. Staff provided a memo summarizing this.

Commissioner DeBone stated that most of the lots in the area were platted for recreational use years ago. Roads and infrastructure were not addressed at the time and are now an issue. There is good groundwater, but it is high and the soil is volcanic, so the water needs to be protected. This is being done in conjunction with the DEQ and others, plus based on input from a citizens' committee that met for years.

He supports less density than what is already platted, but this cannot be undone, except by the use of transfer development credits and other programs that may allow some of these lots to be left unbuilt. This is an option for some current property owners. Any change regarding sewer systems has to be from the ground up, with citizens coming together to create what they want. A sewer system can be small or large.

Commissioner Baney appreciates everyone's hard work. Disagreement hinges around the public health hazard language, but this language signals the ability to be able to move forward. The area with all the patted lots would never occur today without a community sanitation district or other management of systems. Creating sewer systems is nothing that the community has to do, but they can with this change, if they want. She does not want to tell them they have to develop sewer systems. With the information in the record, it is clear that with nothing being done, with the density and expected growth, she is convinced there is a responsibility to protect the groundwater. There are other areas in the County with high ground water, but this is much bigger. She believes this language is proactive and not derogatory, but meant to protect the future.

Commissioner DeBone said that in five or ten years or maybe even later, the community can act on what is best for them. He supports monitoring the groundwater and revisiting this in the future. If there is a bad well or specific issues, they want to fix it and protect the water and people.

Commissioner Baney would support having an ongoing committee to do future work. They can monitor testing and address other issues.

Chair Unger feels this has been an open and collaborative process that has taken years, and the language allows the State to be able to go forward to address this particular area. There is an opportunity to move positively forward; perhaps through a pilot project to create an impact with a positive result. Commissioner Baney stated that this area has pristine water and the County is supportive of whatever the community wants to do to keep it that way. She hopes this can be cost-effective as well.

She pointed out that it appears there is limited availability of wastewater management systems that are on the DEQ list, so she would like to make sure there are more options available to residents. Commissioner DeBone stated there were multiple manufacturers at one point, and he does not know why the list has gotten smaller. He noted that there has been a very interesting history of this issue over the past ten years.

DEBONE: Move first reading of the Ordinance, by title only.

BANEY: Second.

VOTE: DEBONE: Yes.

BANEY: Yes.

UNGER: Chair votes yes.

Chair Unger conducted the first reading of the ordinance, by title only.

Consideration of the second reading and adoption would occur no sooner than in two weeks.

CONVENED AS THE GOVERNING BODY OF THE 9-1-1 COUNTY SERVICE DISTRICT

- 13. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for the 9-1-1 County Service District (two weeks), in the Amount of \$223,452.82.**

BANEY: Move approval, subject to review.

DEBONE: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

**CONVENED AS THE GOVERNING BODY OF THE EXTENSION/4-H
COUNTY SERVICE DISTRICT**

- 14. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for the Extension/4-H County Service District (two weeks), in the Amount of \$4,954.09.**

BANEY: Move approval, subject to review.

DEBONE: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

**RECONVENED AS THE DESCHUTES COUNTY BOARD OF
COMMISSIONERS**

- 15. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for Deschutes County (two weeks), in the Amount of \$1,150,400.25.**

BANEY: Move approval, subject to review.

DEBONE: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

16. OTHER ITEMS

The Board addressed an addition to the agenda, prior to addressing item #10.

Will Groves asked that the Board consider an Order to extend the record in the Lower Bridge area case. There needs to be sufficient time to review information in the record, including any site visits done by the Commissioners. This Order extends the timeframe to allow for this.

BANEY: Move Board signature of Order No. 2016-007.

DEBONE: Second.

VOTE: BANEY: Yes.
DEBONE: Yes.
UNGER: Chair votes yes.

17. ADJOURN

Being no further discussion, the meeting was adjourned at 11:50 a.m.

DATED this 3rd Day of February 2016 for the
Deschutes County Board of Commissioners.

Alan Unger
Alan Unger, Chair

Tammy Baney
Tammy Baney, Vice Chair

ATTEST:

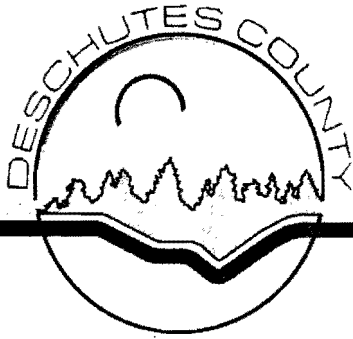
Bonnie Baker
Recording Secretary

Anthony DeBone
Anthony DeBone, Commissioner

**PRELIMINARY STATEMENT FOR A
QUASI-JUDICIAL PUBLIC HEARING BEFORE
THE DESCHUTES COUNTY BOARD OF COMMISSIONERS**

- The applicants have the burden of proving that they are entitled to the approval requested.
- Testimony and evidence at this hearing must be directed toward the approval criteria, as well as toward any other criteria in the comprehensive land use plan of the County or land use regulations which any person believes apply to this decision.
- Failure on the part of any person to raise an issue with sufficient specificity to afford the Board of County Commissioners and parties to this proceeding an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue. Additionally, failure of the applicant to raise constitutional or other issues relating to the approval with sufficient specificity to allow the Board to respond to the issue precludes an action for damages in circuit court.
- The Board's decision on this application will be based upon the record before the Hearings Officer, the Hearings Officer's decision, the Staff Report and the testimony and evidence presented at this hearing.
- The hearing will be conducted in the following order.
 1. The staff will give a report.
 2. The applicant presents testimony and evidence.
 3. Proponents and opponents testify and present evidence.
 4. The applicant presents rebuttal testimony.
 5. At the Board's discretion, if the applicants presented new evidence on rebuttal, opponents may be recognized for a rebuttal presentation.
 6. Staff will be afforded an opportunity to make any closing comments.
- The Board may limit the time period for presentations.
- If anyone wishes to ask a question of a witness, the person may direct the question to the Chair. The Chair is free to decide whether or not to ask such questions of the witness.
- The grant of a continuance or record extension shall be at the discretion of the Board.

- If the Board grants a continuance, it shall continue the public hearing to a date certain.
- If, at the conclusion of the hearing, the Board leaves the record open for additional written evidence or testimony, the record shall be left open to a date certain for submittal of new written evidence or testimony.
- If the hearing is continued or the record left open, the applicant shall also be allowed a period to a date certain after the record is closed to all other parties to submit final written arguments but no new evidence in support of the application.
- Commissioners must disclose any ex-parte contacts, prior hearing observations, biases or conflicts of interest. Does any commissioner have anything to disclose and, if so, please state the nature and extent?
- Does any party wish to challenge any Commissioner based on ex-parte contacts, biases or conflicts of interest?



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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MEMORANDUM

DATE: January 11, 2016
TO: Board of County Commissioners
FROM: Will Groves, Senior Planner
RE: De novo hearing on the Kine & Kine Properties appeal of a Hearings Officer's decision. File Nos. 247-14-000391-TP, 392-SP, 393-LM, and 207-A.

Before the Board of County Commissioners (BOCC) is an appeal filed by Kine & Kine Properties. The appeal is submitted in response to a Deschutes County Hearings Officer's decision that a proposed subdivision does not comply with all applicable regulations. The BOCC agreed to hear this matter under Order 2015-030. A de novo public hearing is scheduled for January 27, 2016.

BACKGROUND

The applicant, Kine & Kine Properties, requested approval of an eight-lot, zero-lot-line subdivision consisting of a partial replat of Elkai Woods Townhomes Phase III, as well as site plan and non-visible Landscape Management (LM) review for dwellings on the proposed subdivision lots. The proposal is on property in Widgi Creek zoned Resort Community (RC) and LM and located on land developed with a swimming pool, community building, and parking area.

The Hearings Officer issued a decision on April 6, 2015 finding that the proposal does not comply with all applicable regulations. On April 17, 2015, Kine & Kine Properties appealed the decision to the BOCC. The BOCC agreed to hear this matter under Order 2015-030.

The applicant has agreed to toll the 150-day deadline within which the County has to issue a decision in this matter until March 1, 2016

APPEAL

The notice of appeal describes several assignments of error. These are summarized below, with references to those pages within the decision where the Hearings Officer addressed the issue.

- (a) The Hearings Officer erred when she concluded Comprehensive Plan Policy 4.8.2 applies to the subject property and requires it to remain undeveloped except for community amenities. H.O. Decision, p. 7, 26.1
- (b) The Hearings Officer erred when she used the "physically developed" exception process as a basis to conclude the BOCC intended to limit future development at Widgi Creek to all but 14 acres. H.O. Decision, p. 12, 25-26.
- (c) The Hearings Officer erred when she concluded Comprehensive Plan Policy 4.8.2. was intended to maintain the status quo at Widgi Creek as of 2001. H.O. Decision, p. 23.
- (d) The Hearings Officer erred when she failed to apply the definition of "Common Area" in the County Comprehensive Plan to the subject property. H.O. Decision, p. 25.
- (e) The Hearings Officer erred when she concluded there was nothing in Ordinance 2001-046 and -048, the RC Zone or the RC plan policies that "otherwise zoned" the subject property for development. H.O. Decision, p. 26.
- (f) The Hearings Officer erred when she concluded the proposal to create a subdivision of 8 zero lot line lots and remove the common area notation did not constitute a replat and was not authorized under ORS Chapter 92. H.O. Decision, p. 27, 30.
- (g) The Hearings Officer erred when she concluded the Conditions of Approval Agreement requires the applicant to permanently maintain the community amenities on the subject property, including the pool, community building, parking areas and landscaping. H.O. Decision, p. 28-30.
- (h) The Hearings Officer erred when she concluded the configuration of the private road and Lots 6, 7 and 8 would not relate harmoniously with the existing development. H.O. Decision, p. 39.
- (i) The Hearings Officer erred when she concluded the removal of the pool, building, parking area and landscaping on the subject property and the development of dwellings would not be harmonious with the existing development. H.O. Decision, p. 40.
- (j) The Hearings Officer erred when she concluded the proposed subdivision and residential development do not contribute to the land use patterns of the area. H.O. Decision, p. 50.
- (k) The Hearings Officer erred when she concluded the orientation of Lots 6, 7 and 8 is not appropriate for the type of development and use contemplated. H.O. Decision, p. 61.
- (l) The Hearings Officer erred when she applied the double frontage standards to the zero lot line subdivision and when she concluded the double frontage on Lots 1, 2 and 3 was not essential or appropriate. H.O. Decision, p. 62.
- (m) The Hearings Officer's decision violates Article I, Section 18 of the Oregon Constitution and the Fifth Amendment of the U.S. Constitution by interpreting the County Conditions of Approval agreement in a way that results in a taking of private property for public use by requiring the private property owner to dedicate his property to community use and permanently maintain improvements thereon for the benefit of the community.

- (n) The Hearings Officer's decision violates Article I, Section 18 of the Oregon Constitution and the Fifth Amendment of the U.S. Constitution by interpreting the County Code and Comprehensive Plan to require the subject property to be devoted to community uses.

Attachments

1. Hearing Officer's decision
2. Notice of Intent to Appeal

**IN A MATTER BEFORE
THE DESCHUTES COUNTY BOARD OF COMMISSIONERS**

KINE AND KINE PROPERTIES,)	NOTICE OF APPEAL -
)	File Numbers 247-14-000391-TP,
Applicant/Appellant.)	247-14-000392-SP, 247-14-000393-LM –
)	Decision of Deschutes County
)	Hearings Officer
)	

1. DCC 22.32.010 Who May Appeal.

Appellant Kine and Kine Properties was the applicant below, a party to the proceedings and is entitled to appeal under DCC 22.32.010(A)(1).

2. DCC 22.32.015 Filing Appeals.

Appellant Kine and Kine Properties submits the attached Notice of Appeal form, the appeal fee and the following statement of issues on appeal.

3. DCC 22.32.020 Notice of Appeal.

The present Notice of Appeal includes the following statement of issues relied upon for appeal, a request for de novo review and the reasons why the Board should review the Hearings Officer's decision and why it should do so de novo for the issues on appeal.

4. Issues on Appeal.

The Hearings Officer's decision is in error in the following ways:

(a) The Hearings Officer erred when she concluded Comprehensive Plan Policy 4.8.2 applies to the subject property and requires it to remain undeveloped except for community amenities. H.O. Decision, p. 7, 26.¹

(b) The Hearings Officer erred when she used the "physically developed" exception process as a basis to conclude the Board intended to limit future development at Widgi Creek to all but 14 acres. H.O. Decision, p. 12, 25-26.

(c) The Hearings Officer erred when she concluded Comprehensive Plan Policy 4.8.2. was intended to maintain the status quo at Widgi Creek as of 2001. H.O. Decision, p. 23.

(d) The Hearings Officer erred when she failed to apply the definition of "Common Area" in the County Comprehensive Plan to the subject property. H.O. Decision, p. 25.

¹ The version of the H.O. Decision received by Appellant did not contain page numbers. Therefore, for purposes of specificity, the Appellant numbered the pages, attached the Decision hereto and refers to those page numbers to identify the issues on appeal in the assignments of error.

(e) The Hearings Officer erred when she concluded there was nothing in Ordinance 2001-046 and -048, the RC Zone or the RC plan policies that "otherwise zoned" the subject property for development. H.O. Decision, p. 26.

(f) The Hearings Officer erred when she concluded the proposal to create a subdivision of 8 zero lot line lots and remove the common area notation did not constitute a replat and was not authorized under ORS Chapter 92. H.O. Decision, p. 27, 30.

(g) The Hearings Officer erred when she concluded the Conditions of Approval Agreement requires the applicant to permanently maintain the community amenities on the subject property, including the pool, community building, parking areas and landscaping. H.O. Decision, p. 28-30.

(h) The Hearings Officer erred when she concluded the configuration of the private road and Lots 6, 7 and 8 would not relate harmoniously with the existing development. H.O. Decision, p. 39.

(i) The Hearings Officer erred when she concluded the removal of the pool, building, parking area and landscaping on the subject property and the development of dwellings would not be harmonious with the existing development. H.O. Decision, p. 40.

(j) The Hearings Officer erred when she concluded the proposed subdivision and residential development do not contribute to the land use patterns of the area. H.O. Decision, p. 50.

(k) The Hearings Officer erred when she concluded the orientation of Lots 6, 7 and 8 is not appropriate for the type of development and use contemplated. H.O. Decision, p. 61.

(l) The Hearings Officer erred when she applied the double frontage standards to the zero lot line subdivision and when she concluded the double frontage on Lots 1, 2 and 3 was not essential or appropriate. H.O. Decision, p. 62.

(m) The Hearings Officer's decision violates Article I, Section 18 of the Oregon Constitution and the Fifth Amendment of the U.S. Constitution by interpreting the County Conditions of Approval agreement in a way that results in a taking of private property for public use by requiring the private property owner to dedicate his property to community use and permanently maintain improvements thereon for the benefit of the community.

(n) The Hearings Officer's decision violates Article I, Section 18 of the Oregon Constitution and the Fifth Amendment of the U.S. Constitution by interpreting the County Code and Comprehensive Plan to require the subject property to be devoted to community uses.

5. Request for De Novo Review.

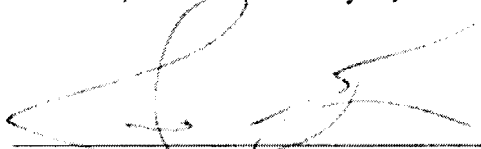
Appellant requests review by the Board because the Hearings Officer interprets the Resort Community Ordinance and the findings for that Ordinance, as adopted by the Board, for the first time. She interprets it incorrectly in many instances and, in fact, refuses to apply one of the

definitions in the Comprehensive Plan provisions adopted as a part of the Resort Community Zone. She incorrectly interprets the Ordinance to preclude future development of private property. She also incorrectly interprets a County development agreement to require a property owner to permanently maintain significant improvements on private property at significant expense to this property owner for the benefit of residents who have specifically excluded the improvements from their covenants, assessments or responsibility.

De novo review is required because it is necessary to fully and properly evaluate several significant policy issues relevant to the proposed land use action. Specifically, de novo review is necessary to fully evaluate and correct the Hearings Officer's conclusions regarding the scope, intent and meaning of the Resort Community zone, the supporting plan policies and definitions and to correct her unfounded conclusions that a County development agreement could somehow bind a property owner to maintain significant community improvements in perpetuity despite complete abandonment of those improvements by the community they are supposed to benefit.

DATED this 17th day of April, 2015.

Schwabe, Williamson & Wyatt, P.C.



Tia M. Lewis, OSB # 933437
Of Attorneys for Appellant



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi / Elka Date: 1/27/16
Name Michael H. McGowan
Address 1148 NW Hill St.
Attorney for Widgi Cr. HOA; EW HOA; Elka Woods Fractional HOA
Phone #s _____
E-mail address _____

☐

In Favor

☐

Neutral/Undecided

☐

Opposed

Submitting written documents as part of testimony? ☐ Yes ☐ No
If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi Creek Date: 1/27/16
Name Jim Ouchi
Address 60698 Golf Village Loop
Bend 97702
Phone #s 541-330-6723
E-mail address jimouchi89@gmail.com

☐

In Favor

☐

Neutral/Undecided

☒

Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No
If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi Pool + 1st Hole Date: 1/27/16

Name Paul Nylander

Address 60578 7th Mountain

Phone #s 304 TTD 8875

E-mail address PAUL@AGL.COM

☐ In Favor ☐ Neutral/Undecided ☒ Opposed

Submitting written documents as part of testimony? ☐ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi Creek Date: 1/27/16

Name Kirk Sandburg

Address 18805 Peary Place
Bend, OR 97702

Phone #s 541.556-1804

E-mail address kirk@bendproperty.com

☐ In Favor ☐ Neutral/Undecided ☒ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: "OPEN SPACE" TO BUILDING LOT Date: 1/27/2016

Name DAVID V. BLACK

Address 60520 ELKAI WOODS

BEND, OR 97702

Phone #s 541-322-9362

E-mail address DAVEBLACK@BENDBROTHERS.COM

☐

In Favor

☐

Neutral/Undecided

☒

Opposed

Submitting written documents as part of testimony? ☐ Yes ☒ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgig Date: 1/27

Name David Chase

Address 60819 Cumant Way

BEND OR 97702

Phone #s 541-388-7549

E-mail address davidchasebend@gmail.com

☐

In Favor

☐

Neutral/Undecided

☒

Opposed

Submitting written documents as part of testimony? ☐ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi Creek Date: 1/27/16

Name Steve Kimpl

Address 60738 Golf Village Loop
Bend, OR 97702

Phone #s 541-383-8055

E-mail address grunski@bendcable.com

☐ In Favor ☐ Neutral/Undecided ☐ Opposed

Submitting written documents as part of testimony? ☐ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Kline & Kline Date: _____

Name Brenda Rose

Address 60738 Golf Village Loop

Phone #s 541-383-8055

E-mail address grunski@bendcable.com

☐ In Favor ☐ Neutral/Undecided ☐ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: WIDGI CRATER Date: JAN.

Name MARA STEIN

Address 65765 Hwy 20
BEND, OR 97703

Phone #s 541-420-3400

E-mail address mara@palmirproperties.com

☐ In Favor ☐ Neutral/Undecided ☐ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No
If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: WIDGI Date: 1/27/16

Name KEVIN FOSS

Address 60454 SEVENTH MTN DR.
BEND

Phone #s _____

E-mail address kfoss@bendbroadband.com

☐ In Favor ☐ Neutral/Undecided ☒ Opposed

Submitting written documents as part of testimony? ☐ Yes ☒ No
If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi Creek Date: 01-27-16
Name: Bob Montgomery
Address: 60580 Elbow Road
Beaverton 97002
Phone #s: 501-383-5120
E-mail address: NA

☐ In Favor ☐ Neutral/Undecided ☒ Opposed

Submitting written documents as part of testimony? ☐ Yes ☐ No
If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi Creek Date: 1/29/16
Name: Dennis Cove
Address: 60572 Elkai Woods Dr
Phone #s: 503-780-8383
E-mail address: denniscove@gmail.com

☐ In Favor ☐ Neutral/Undecided ☒ Opposed

Submitting written documents as part of testimony? ☐ Yes ☒ No
If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: _____ Date: 1/27/16

Name Kiefer (Toby) Tobin

Address 60524 Elkai Woods Dr

Phone #s 541-617-0554 ↔ 206-390-2066

E-mail address toby.tobin@band.dnrecba.net

☐ In Favor ☐ Neutral/Undecided ☒ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: WIDGI DEV Date: _____

Name JUSTIN RIPLEY

Address 60528 ELKAI WOODS

Phone #s 907-240-7565

E-mail address justin@dynamalaska.com

☒ In Favor ☐ Neutral/Undecided ☐ Opposed

UPHOLDING GREEN DENIAL
Submitting written documents as part of testimony? ☐ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Widgi Creek Date: 1/27/16

Name Jim Ouchi

Address 60694 Golf Village Loop

Boz 97702

Phone #s 541-330-6723

E-mail address jimouchi.89@gmail.com

☐ In Favor ☐ Neutral/Undecided ☒ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.

P.O. Box 1721
Bend OR 97709
January 16, 2015

Mr. Will Groves
Ms. Karen Green
Deschutes County Hearings Officer
Deschutes County Planning Division
117 NW Lafayette Avenue
Bend OR 97701

RE: TP-247-14-000395 and TP-247-14-000391

Dear Ms. Green:

I have been asked by a resident of Widgi Creek to submit a letter regarding the above referenced land use applications. In 2001 when the subject property was rezoned to Resort Community I was a principal planner for Deschutes County and was supervising the exception, comprehensive plan amendment and rezone in accordance with the state administrative rules for Unincorporated Communities (OAR 660 Division 22).

At the time of the rezone I do not think there was any intent that the open space and recreational facilities would be eligible for redevelopment with uses other than open space or recreational facilities. The evidence in the record at the time supports the intent to maintain the open space and recreational facilities.

First, the comprehensive plan policy adopted in Exhibit B of Ordinance 2001- 047 for The Inn of the Seventh Mountain/Widgi Creek Resort Community specifically states:

3. Designated open space and common area shall remain undeveloped except for community recreation uses. Areas developed as golf courses shall remain available for that purpose or for open space/recreation use.

Also prior to adoption of this ordinance an October 16, 1998 memorandum to the planning commission included a draft policy that stated:

5. Open Space and common area shall remain undeveloped except for community recreation uses.

The current comprehensive plan adopted in 2011 carries forward the following policy for the Resort Community of The Inn of the Seventh Mountain and Widgi Creek:

Policy 4.8.2 Designated open space and common area, unless otherwise zoned for development, shall remain undeveloped except for community amenities such as bike and pedestrian paths, park and picnic areas. Areas developed as golf courses shall remain available for that purpose or for open space/recreation uses.

All of these policies are stated with "shall." At the time I believe that people who participated in the public process clearly thought the intent was that open space and recreational facilities would be retained.

Second, a physically developed exception was taken because the area was "...substantially built out and have their own internal controls for future development in accordance with approved master plans." (see page 3 of the staff memorandum dated October 16, 1998). The master plan designates the golf course as open space.

The approved master plan for the Inn of the Seventh Mountain and Widgi Creek, the existing comprehensive plan policy, and the fact that a physically developed exception was taken with the rezoning project indicates that, at the time of the zone change, there was no intent that the existing golf course, designated open space and recreational facilities would be subject to future development such as townhouses that are inconsistent with the master plan and adopted policy.

Please enter this letter into the record for the above referenced applications.

Sincerely,

Catherine Morrow

Pamir Properties, Inc.

65765 W Highway 20 Bend, OR 97701-9189 Cell (541) 420-3400

www.pamirproperties.com mara@pamirproperties.com

January 27, 2016

To: Deschutes County Board of Commissioners:

Commissioner Tammy Baney
Commissioner Tony DeBone
Commissioner Alan Unger

Re: Widgi Creek Applications – Kine & Kine Properties
247-14-000395-TP; 247-14-000396-SP; 247-14-000397-LM

Dear Commissioners,

It is almost a year ago to the day, that I, along with many members of the Widgi Creek community, provided testimony to you in opposition to the Kine & Kine Properties applications for expanded site development at Widgi Creek. Since then, there have been a series of legal presentations and reviews ...many of which will be repeated in the 2nd hearing in February.

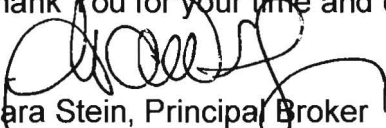
I testify today in my role as a previous resident of Widgi Creek, a current representative/property manager of several homes and townhomes at Widgi Creek, as well as an Oregon licensed Real Estate Principal Broker, who began my career with Widgi Creek Realty in 1997 in the marketing and sales agent for this sub-division.

I prepared the majority of our informational packets for distribution to interested buyers, as well as setting up our marketing kiosks at the airport and downtown Bend. We were very proud to share information on the Widgi Creek Conditional Use Permit and the Master Plan in our marketing. We emphasized that the **approved plat maps** provided a special environment **with limited building to the 107 residential lots ...and the 86 Elkai Woods townhomes**. Our buyers invested here because they believed that information...and that County land use approvals/permits meant what they said...and would ensure their investment. Changing the rules, the assurances **and that product** is incredible.

As a de novo hearing, you will again have extensive detailed and cited legal testimony, as well as findings and decisions from the County Hearing Officer, Karen Green, who supported the above cited building limitations in previous hearings.

In summary, these applications for expanded townhome construction at Widgi Creek conflict with state subdivision law, the policies set forth by the Comprehensive Plan for Widgi Creek and the Resort Community Zone, as well as provisions of the Seventh Mountain Master Plan and Conditional Use Permit. Based on those documents, I **strongly urge the County** Commissioners to deny these current applications.

Thank You for your time and considerate review.



Mara Stein, Principal Broker
PAMIR PROPERTIES, INC.

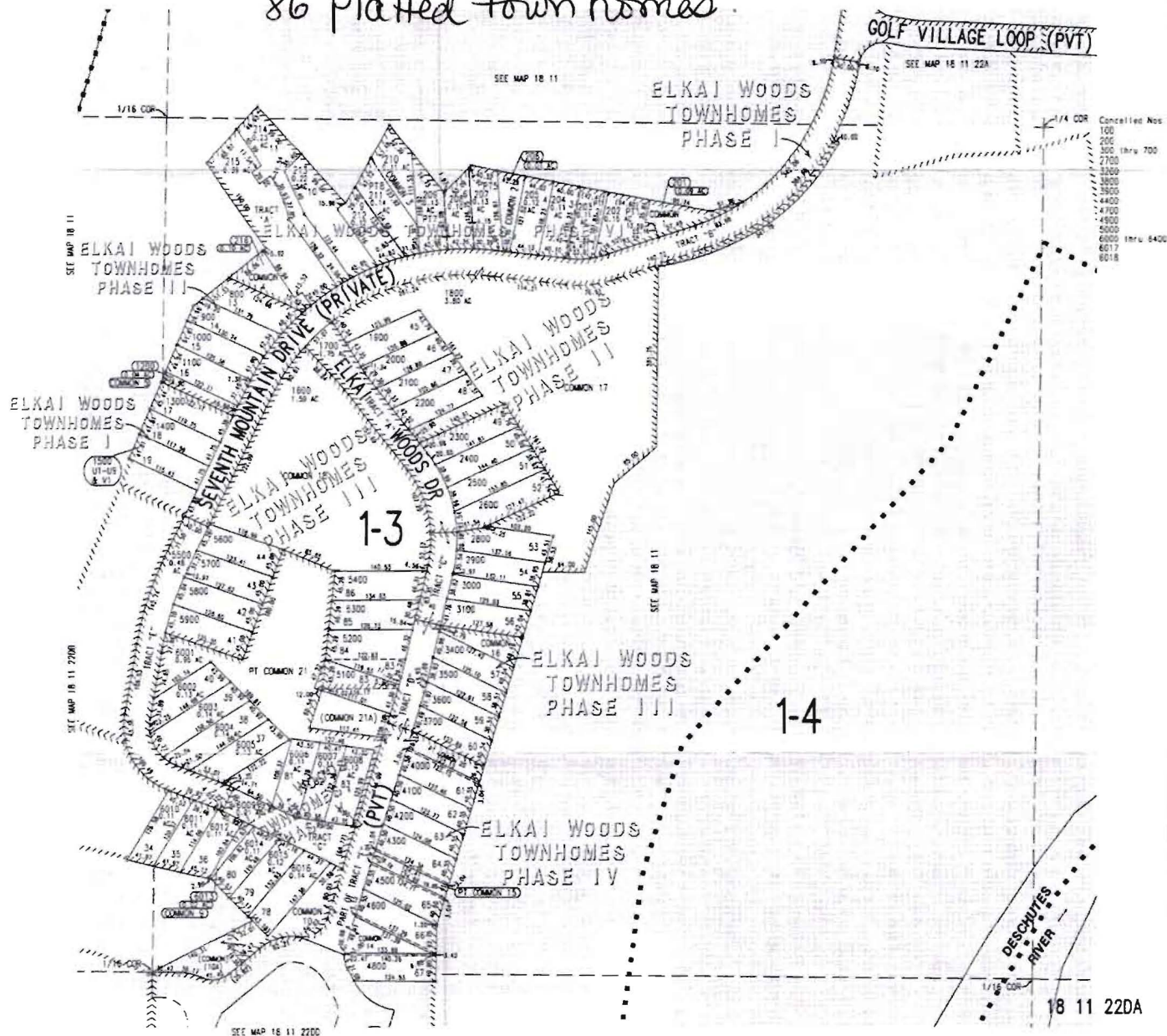
Elkai Woods -

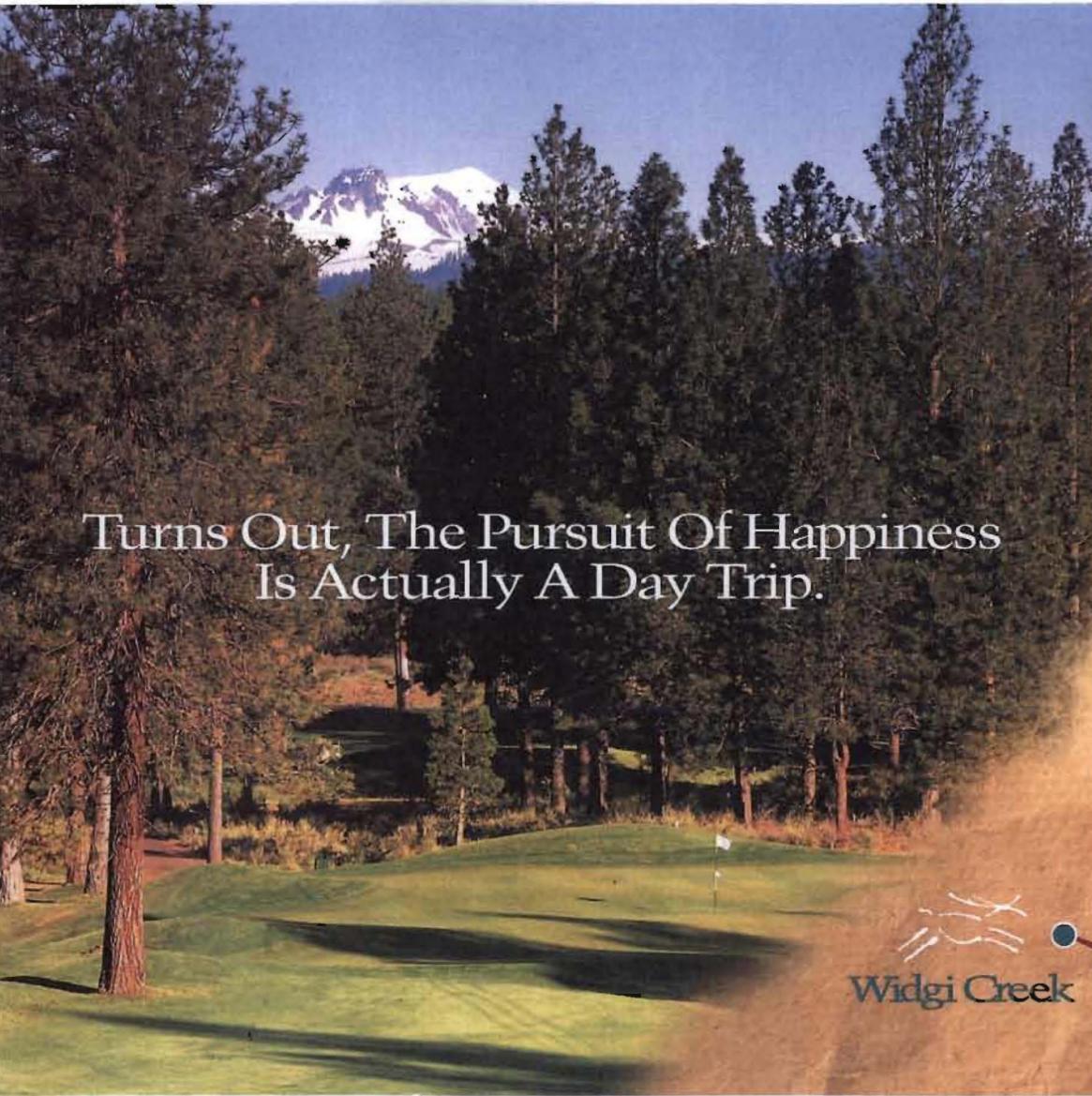
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY.
REVISED: 11/17/2009

NE1/4 SE1/4 SEC. 22 T.18S. R.11E. W.M.
DESCHUTES COUNTY

18 11 22DA

86 Platted town homes.





Turns Out, The Pursuit Of Happiness
Is Actually A Day Trip.



Widgi Creek

On the road to happiness, it helps to have a map. It's even better if you can make the trip and still get home in time for dinner. ♦ That's why we created a village of custom-designed townhomes called Elkai Woods at Widgi Creek. It's nestled in the heart of the Cascade Mountains, just a couple scenic hours from most places in Oregon. Elkai Woods is surrounded by a championship golf course, and right next door you'll find the million-acre Deschutes National Forest and Mt. Bachelor Ski Area. ♦ We make owning a vacation townhome affordable. In fact, fractional-share ownership plans start as low as \$70,000. ♦ But don't wait. With only 86 townhomes in the village, ownership opportunities are limited. So pick a sunny day and wander over to see Elkai Woods. We think you'll be back again and again.

Widgi Creek

HOMES • TOWNHOMES • GOLF

18707 Century Drive, Bend, Oregon 97702

(Five miles from town on the road to Mt. Bachelor)

541/317-5000 1-800-327-5102



To Get The Best Return From Employees And Clients Try Using A Club.



Or pair of skis. A backpack. More peace and quiet.

It's all here in Elkai Woods at Widgi Creek. Elkai Woods is a village of custom-designed townhomes

in the heart of the Cascades. It's surrounded by a championship golf course, residential homesites, the dramatic Deschutes River canyon and Deschutes National Forest.

You'll never find a better way to invest in relationships with key employees and clients. Because when you bring them to Elkai Woods, you're not just away, you're getting a fresh perspective.

We make owning a business retreat easy. Townhomes come in four flexible floor plans, each priced affordably. Fractional-share ownership options are priced as low as \$70,000 for 10 full weeks each year.

But with only 86 townhomes in the village, ownership opportunities are limited. So call or visit soon to see Elkai Woods. You'll never get a better return.

ELKAI WOODS

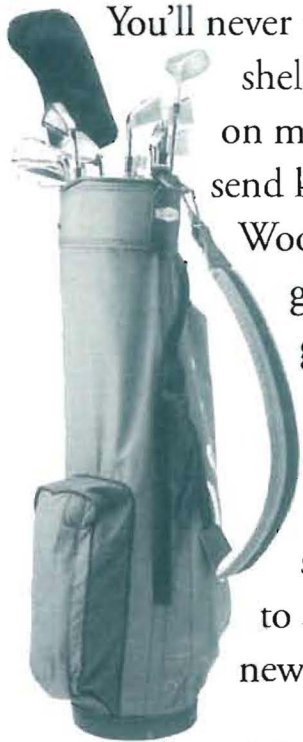
AT WIDGI CREEK
Homes • Townhomes • Golf

18707 Century Dr., Bend, OR 97702 (Five miles from town on the road to Mt. Bachelor) 541/317-5000 • 1-800-541-3175

Many successful companies are investing in their employees by mixing business *and* pleasure.

A couple of hours away, in the heart of the Cascade Mountains, lies a village of custom-designed townhomes called Elkai Woods at Widgi Creek. It's surrounded by a championship golf course, a dramatic river canyon, and the Deschutes National Forest.

Send Your Best Employees Packing.



You'll never find a better place to shelter the assets you depend on most. Because when you send key employees to Elkai Woods, they won't just be getting away, they'll be getting a fresh perspective.

Golf, skiing, fishing, white water rafting — it's all available. And so is the solitude that makes it easy to see business problems in a new light.

Tell Your Favorite Client To Take A Hike.

Experts agree that business success in the 21st Century will depend on building solid strategic relationships with customers and suppliers. In the quiet, forested setting of Elkai Woods, getting to know each other better comes naturally.



Get A Fraction Of The Big Picture.

While there's plenty to do within walking distance, Elkai Woods lies only a few miles from the shopping, entertainment, restaurants and business services of Bend. And with Mt. Bachelor Ski Area only minutes away, you'll have plenty to do anytime of year.

Plus, we've made owning a business retreat easy. Our townhomes come in four flexible floor plans, each priced affordably. Fractional-share ownership options are priced as low as \$70,000 for 10 full weeks each year.

But with only 86 townhomes in the village, ownership opportunities are limited. So we do recommend you visit soon. Or call and we'd be glad to send you further information.



Elkai Woods. It could be the smartest investment you'll make.

INN OF THE SEVENTH MOUNTAIN

14 MILES TO
MOUNT BACHELOR



Widgi Creek



Mara Stein, Principal Broker
Certified EcoBroker®-Green Seal
*Widgi Creek * Elkai Woods Specialist*

Pamir Properties, Inc.

65765 W Highway 20
Bend, OR 97701-9189
(541) 617-6195 (541) 420-3400 Cell

mara@pamirproperties.com
www.pamirproperties.com Lic. # 971100012





Deschutes County Board of Commissioners
1300 NW Wall St., Bend, OR 97703-1960
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

BUSINESS MEETING AGENDA

DESCHUTES COUNTY BOARD OF COMMISSIONERS

10:00 A.M., WEDNESDAY, JANUARY 27, 2016

Commissioners' Hearing Room - Administration Building - 1300 NW Wall St., Bend

Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered or discussed at the meeting. This notice does not limit the ability of the Board to address additional subjects. Meetings are subject to cancellation without notice. This meeting is open to the public and interested citizens are invited to attend. Business Meetings are usually recorded on video and audio, and can be viewed by the public live or at a later date; and written minutes are taken for the record.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. CITIZEN INPUT

This is the time provided for individuals wishing to address the Board, at the Board's discretion, regarding issues that are not already on the agenda. Please complete a sign-up card (provided), and give the card to the Recording Secretary. Use the microphone and clearly state your name when the Board Chair calls on you to speak. PLEASE NOTE: Citizen input regarding matters that are or have been the subject of a public hearing not being conducted as a part of this meeting will NOT be included in the official record of that hearing.

If you offer or display to the Board any written documents, photographs or other printed matter as part of your testimony during a public hearing, please be advised that staff is required to retain those documents as part of the permanent record of that hearing.

CONSENT AGENDA

4. **Board Signature** of Document No. 2015-702, a Pre-Disaster Mitigation Grant Program Agreement with Keno Rural Fire Protection District
5. **Board Signature** of a Letter Reappointing Dawn Sofich to the Deschutes River Recreation Homesites Special Road District #1 Board, through December 31, 2018
6. **Board Approval** of Adoption of Policy GA-16, Title 6
7. **Board Signature** of Document No. 2016-017, an Amendment to an Intergovernmental Agreement with WEBCO regarding Early Learning Hub and Young Adult Transition Hub Programs
8. **Board Signature** of Minutes:
 - Work Sessions: January 13 and 15, 2016
 - Business Meeting: January 13, 2016
 - Joint Meeting with the Sunriver Service District Board of Directors, December 16, 2015

ACTION ITEMS

9. **CONSIDERATION of Board Signature** of Document No. 2016-003, a Notice of Intent to Award Contract Letter for the Construction of the Powell Butte Highway Roundabout – *George Kolb, Road Department*

Suggested Action: Move Board signature of Document No. 2016-003, a Notice of Intent to Award Contract Letter.
10. **A PUBLIC HEARING** on Widgi Creek Development Application - Fairway – File #247-14-000395-TP – *Will Groves, Community Development*

Suggested Actions: Open hearing; take testimony; leave hearing open or close hearing as appropriate.
11. **A PUBLIC HEARING** on Widgi Creek Development Application - Pool – File #247-14-000391-TP – *Will Groves, Community Development*

Suggested Actions: Open hearing; take testimony; leave hearing open or close hearing as appropriate.

12. **DELIBERATIONS** and Consideration of First Reading by Title Only of Ordinance No. 2016-007, Amending the Comprehensive Plan to Add an Exception to Statewide Planning Goal 11 – *Peter Russell, Community Development*

Suggested Actions: Deliberate; move first reading by title only of Ordinance No. 2016-007.

CONVENE AS THE GOVERNING BODY OF THE 9-1-1 COUNTY SERVICE DISTRICT

13. **CONSIDERATION of Approval** of Weekly Accounts Payable Vouchers for the 9-1-1 County Service District (two weeks)

CONVENE AS THE GOVERNING BODY OF THE EXTENSION/4-H COUNTY SERVICE DISTRICT

14. **CONSIDERATION of Approval** of Weekly Accounts Payable Vouchers for the Extension/4-H County Service District (two weeks)

RECONVENE AS THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

15. **CONSIDERATION of Approval** of Weekly Accounts Payable Vouchers for Deschutes County (two weeks)

16. **OTHER ITEMS**

These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.

At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories. Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.

17. ADJOURN

To watch this meeting on line, go to:

<http://www.deschutes.org/bcc/page/board-meeting-videos>

Please note that the video will not show up until recording begins.

You can also view past meetings on video by selecting the date shown on the website calendar.



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FUTURE MEETINGS:

(Please note: Meeting dates and times are subject to change. All meetings take place in the Board of Commissioners' meeting rooms at 1300 NW Wall St., Bend, unless otherwise indicated. If you have questions regarding a meeting, please call 388-6572.)

Wednesday, February 17

10:00 a.m. Board of Commissioners' Business Meeting

Monday, January 25

1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, January 27

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, February 1

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, February 2

11:00 a.m. County Forester Update

3:30 p.m. Regular Meeting of Public Safety Coordinating Council

Wednesday, February 3

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, February 10

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, February 15

Most County offices will be closed to observe Presidents' Day

Tuesday, January 16

- 10:00 a.m. 911 User Board Meeting, at 911

Monday, February 22

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, February 23

- 6:00 p.m. Joint Meeting with Redmond City Council, **Redmond City Hall**
6:30 p.m. Joint Public Hearing with Redmond City Council on Cell Tower Provisions in the UH-10 Zone, **Redmond City Hall**

Wednesday, February 24

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, February 29

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, March 1

3:30 p.m. Regular Meeting of Public Safety Coordinating Council

Wednesday, March 2

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, March 7

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, March 9

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, March 21

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, March 23

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, March 28

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, March 30

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, April 4

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, April 5

3:30 p.m. Regular Meeting of Public Safety Coordinating Council

Wednesday, April 6

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Thursday, April 7

8:00 a.m. Joint Meeting with the Sisters City Council, **at Sisters City Hall**

Wednesday, April 13

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, April 18

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, April 25

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, April 27

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, May 2

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, May 3

- 3:30 p.m. Regular Meeting of Public Safety Coordinating Council

Wednesday, May 4

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, May 11

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)



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