

Peter Gutowsky

From: Nunzie <nunzie@pacifier.com>
Sent: Thursday, September 24, 2015 5:01 PM
To: Nick Lelack; Peter Gutowsky
Subject: for this evening's PC Public Hearing on Overnight Text Amendment Eagle Crest
Attachments: Overnight IA Restated 2015-25589 2015-380.pdf.zip; ATT00001.htm; Destination Resort Housing & acreage Statistics-3.pdf.zip; ATT00002.htm; ECLogoHorizontal.png; ATT00003.htm; Golf-RidgeCourse7-Copy.jpg; ATT00004.htm; facebook-dark.png; ATT00005.htm; diamond.png; ATT00006.htm; twitter-dark.png; ATT00007.htm; diamond.png; ATT00008.htm; forward-dark.png; ATT00009.htm

Greetings Planning Commissioners
RE Eagle Crest Resort Overnight Text Amendment

I trust you have some historic data of Destination Resorts.

Attached will show what is considered a historic resort and what is a Goal 8 resort.

Notice the build dates of Black Butte which would still like to expand, and the build date of Sunriver. Sunriver's latest expansion is Caldera Springs which bonds for overnights.

I trust you are also aware of the June 2015 agreement that Deschutes County just made with Tetherow DR. 2015-380.

See the parking discussions that vacation rentals keys equate to a hotel room key for parking standards (pp47-50)... this is different that how the parking was analyzed for transportation purposes when the resort was granted land use approval. Vacation Rentals need more parking than homes. Don't overlook this important feature.

Have you given any of this thought?

Have you been to Eagle Crest III? a phase that was not a historic resort by any means !!

Policy for Destination Resorts should be simplified not created like a giant cold pot of spaghetti tangle up for the resort, tangled up for the County.

Overnights should be built, not bonded.

The criteria is for overnights to be built in conjunction with housing being built.

Phasing is critical: 2..5:1 is pretty simple.

Resorts are not supposed to be mere housing developments in the rural community.

The overnight standards have been laxed from 45 weeks per year to 38 weeks per year.

The overnight ratio has been laxed from 2:1 to 2.5:1 You do recognize that this ratio change facilitated 25% more homes in Destination Resorts.

Now the resorts claim they don't need to build overnights because VRBO is so popular... dream on.

See this advertisement attached Sept 2015 for 40% off overnights @ Eagle Crest.

See the attached lots for sale @ Eagle Crest, there is land to build overnights...

The resort should not be ducking this one, even the newest owners who bought in back in 2010 shouldn't be unaware of overnight accommodations.

This isn't their first rodeo.

For Heaven's sake overnights are in the County DR code and in state law.

It's never been about accommodations at resort, it's been about selling lots for home building.

So how will the County actually track overnights???

Do you know what revenue the County gets from TRT? I bet you don't. It's not public information
See the new non disclosure language in the proposed Text Amendment... why would you agree to this?

Don't create land use language that you can't enforce. Don't make special rules for resorts....
All of the historic resorts will want these same carve outs...

Rise to the opportunity to enforcing the intent of state law, don't sweep this under the carpet.

I encourage you to let the State legislature devise a tracking system.
VRBO does not show past years histories online for double checking.

So whatever screen shot you might be given from a rental entity gives you no ability to follow-up or double check.

Check it out yourselves, look at a past month for any Eagle Crest VRBO - notice how blank it is, no data is kept.

Perhaps you are all complicit with a County code that facilitates lassitudes and lacks of enforcement. Then I suggest you question your own commitment to serving our community as planner.

How about some transparency and How about some REAL planning?

Our community deserves no less.

Thank you

Nunzie Gould,

541-420-3325

Gould vs Deschutes County re 1st 50 overnights

DESCHUTES COUNTY RESORT HOUSING CHARACTERISTICS

Historic Resorts 2005

P.C. Eagle Creek T.A.

could p1
9-24-15

	Sunriver	Black Butte Ranch	Seventh Mountain/Widgi Creek
Background			
Comprehensive Plan Designation	Urban Unincorporated Community	Resort Community	Resort Community
Year Developed	Late 1960s	Early 1970s	Early 1970s
Acreage for Development ¹	3,310	1,833	310
Individual Lots ¹			
# Developed	3,913	1,215	515
% Developed	93%	95%	93%
# Vacant	249	66	40
% Vacant	7%	5%	7%
# Under construction	32	3	1
% Under construction	0.76%	0.23%	0.18%
Total Lots Platted	4,194	1,284	556
Type of Unit ²			
Hotel/Motel/Inn	233	0	0
Single Family Home	3,221 lots (200 vacant)	1,151	0
Multifamily Home (Condos, townhomes)	1,000	100	230
Use of Unit ²			
Estimated units that are year round homes	20%	16% (200 units)	8.7% (20 units)
Estimated individually-owned units used as overnight lodging	unknown	425	210
Fractional ownership and/or timeshares	Yes - both available but no numbers	Less than 100 fractional ownership - no timeshares	2 timeshares approximately 90 1/6 fractional ownership units

¹ Source: County GIS data

² Source: Resort management interviews

DESCHUTES COUNTY RESORT HOUSING CHARACTERISTICS

Goal 8 Destination Resorts 2005

Could p.2
9-24-15
PC Eagle Crest Tent Annual

	Eagle Crest I, II, III	Pronghorn ³	Tetherow ³	Caldera Springs ³
Background				
Comprehensive Plan Designation	Destination Resort	Destination Resort	Destination Resort	Destination Resort
Acreage for Development	1,772 ¹	640	706	309
Year Approved	1983, 1993, 2001	2002	2004	2005
Type of Unit				
Hotel/Motel/Inn	100 ²	75-100	300	0
Single Family Home	542 ²	420-450	379	350
Multifamily Home (condos, townhomes)	443 ²	160-180	210	150
Use of Unit				
Estimated units that are year round homes	24% ⁴	N/A	N/A	N/A
Estimated individually-owned units used as overnight lodging	Approximately 434 timeshares used as overnight lodging – exact numbers still being compiled ²	To be determined	No individually owned units counted as overnight lodging	To be determined
Fractional ownership and/or timeshares (may or may not be counted as overnight lodging)	“	To be determined	To be determined	To be determined

¹ Source: County GIS data
² Source: Resort management interview 10-05
³ Source: County approvals
⁴ Source: PowerPoint presentation to the League of Women Voters by Linda Swearingen on 11-05

DESCHUTES COUNTY RESORT HOUSING CHARACTERISTICS

Eagle Crest 2006

Good P3
9-24-15
P.C. Eagle Crest T.A.

Eagle Crest I, II, III	
Background	
Comprehensive Plan Designation	Destination Resort
Acreage for Development ¹	1,772
Year Approved	1983, 1993, 2001
Existing Housing Units ²	
Individually owned units used as overnight lodging ³	143
Timeshares	342
Hotel/Motel/Inn	100
Total overnight lodging	585
Individually-owned units not counted as overnight lodging	891
Total housing overnight lodging + individually owned	1,476
Allowed Housing Units Using 2:1 Ratio	
Required overnight lodging based on existing individually owned units	446
Allowed individually owned units based on existing overnight lodging units	1,170
Allowed Housing Units Using 2.5:1 Ratio	
Required overnight lodging based on existing individually owned units	356
Allowed individually owned units based on existing overnight lodging units	1,463

¹ Source: County GIS

² Source: letter from Eagle Crest dated 3-28-06 and management interview regarding number of hotel units 10-05

³ Yearly report required on these units listing the owner, number of weeks available and number of weeks rented

LCDC Meeting - October 2008

Resort Acreage, Single Family Lots Approved and Platted, and Status of Overnight Accommodations and Ratios in Deschutes, Klamath and Crook Counties

Could 84
9-24-15
P.C. Eagle Crest + A.

Destination Resorts						
Approval	Acreage (acres)	Single family Lots	Platted Lots	Overnight Accommodations		Approved and Current Ratio ¹
Deschutes County						
Eagle Crest I, II, III	1983	1,772	1,083	985 ²	396 existing 179-252 available by owners 75-100 hotel units 160-180 condo units approved as final mater plan ³ 48 time-share units built 144 hotel units w/ site plan approval; and other approved units bonded	1.67:1 approved 1.72:1 built
Pronghorn	2001	640	450	380		1.6:1 approved; 7.91:1 built ⁴
Tetherow	2004	706	379	302	198 approved 0 built	1.91:1 approved N/A built
Caldera Springs	2005	390	320	All	163 approved 83 issued permits 50 hotel units approved	2:1 approved N/A built
Thornburg	2006	1,970	950	0	425 residential overnight units approved 0 built	2:1 approved N/A built
Crook County						
Brasada Ranch	2004	1,800	750	453	325 approved 166 constructed 50 bonded 400 approved 0 platted 0 constructed 150 proposed bonded	2:1 approved 2.83:1 built
Remington Ranch	2007	2,000	800	0		2:1 approved N/A built
Hidden Canyon	2007	3,600	2,450	0	1,250 preliminary development approved	2:1 approved N/A built
Crossing Trails	2008	586	pending	0	250 voice motion for preliminary development approval	N/A

LCDC Meeting - October 2008
Resort Acreage, Single Family Lots Approved and Platted, and Status of Overnight
Accommodations and Ratios in Deschutes, Klamath and Crook Counties

Bould PS
9-24-15
P.O. Eagle Creek T.A.

Destination Resorts					
Approval	Acreage (acres)	Single family Lots	Platted Lots	Overnight Accommodations	Approved and Current Ratio ¹
Klamath County					
Running Y Ranch	1996	3,520	900	896	287 approved 230 built 57 pending/to be phased 3.1:1 approved 1.41:1 built
Coos County					
Bandon Dunes ⁵	2,100	600		150	
Lincoln County					
Salishan ⁵	650	500	151		
Inn at Otter Crest ⁵	100	144	130		
Marion County					
Elkhorn ⁵	464	150	40		
TOTAL (ratios averaged)	16,984	3,182	3,016	3,748 approved 1096 built	2.03:1 approved 3.46:1 built

¹ The "approved" ratios of residential lots to overnight accommodations are based on total number of residential lots and overnight accommodation approved. The "built" or current ratios are based on the number of residential lots platted and the number of overnight accommodations built or under construction. When a range of units was provided, the number of approved overnight units is based the higher number, and the number of built overnight units is based on the lower number in that range.

² On March 25, 2008, Eagle Crest reported a higher number of platted residential lots.

³ The approved condo units may or may not be overnight accommodations.

⁴ The high number of existing residential units is based on bonding for the overnight units and approval pre-dating the Gould decision, which requires 50 units built prior to the sale of residential lots. An additional 144 hotel units are anticipated to be built soon.

⁵ Bandon Dunes, Salishan, Inn at Otter Crest and Elkhorn statistics are not included in the total.

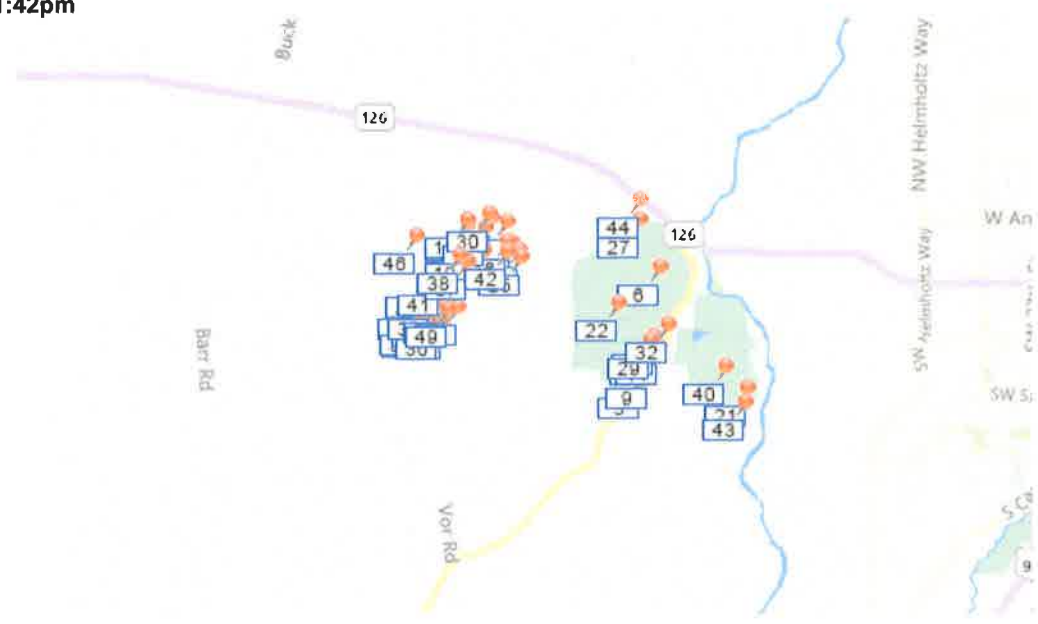
Could be 9-24-15

P.C. Eagle Creek
T/A

Mapped Listings

09/12/15 at 1:42pm

Page: 1



Pin#	Listing#	Property Type	Status	Address	City	Beds	Baths	SqFt.	Price
1	201104781	Land	Active	388 Parks Loop	Redmond	0			\$39,000
2	201200648	Land	Active	368 Parks Loop	Redmond	0			\$39,000
3	201200650	Land	Active	348 Parks Loop	Redmond	0			\$39,000
4	201200651	Land	Active	328 Parks Loop	Redmond	0			\$41,000
5	201304263	Land	Active	2272 Dunlin Ct	Redmond	0			\$73,000
6	201505535	Land	Active	810 Willet Lane	Redmond	0			\$81,500
7	201409732	Land	Active	10064 Juniper Glen Cir	Redmond	0			\$82,000
8	201507535	Land	Active	8211 Sora Ct	Redmond	0			\$89,900
9	201502344	Land	Active	1916 Turnstone Road	Redmond	0			\$93,000
10	201502232	Land	Active	222 Highland Meadow Loop	Redmond	0			\$99,500
11	201309615	Land	Active	Murrelet Drive Lot 22	Redmond	0			\$105,000
12	201503582	Land	Active	10270 Sundance Ridge Loop	Redmond	0			\$110,000
13	201503238	Land	Active	10198 Sundance Ridge Loop	Redmond	0			\$118,900
14	201507997	Land	Active	10535 Bitterbrush Ct	Redmond	0			\$121,900
15	201507256	Land	Active	288 Parks Loop	Redmond	0			\$125,000
16	201402339	Land	Active	10276 Sundance Ridge Loop	Redmond	0			\$127,900
17	201502048	Land	Active	10524 Bitterbrush Ct	Redmond	0			\$129,000
18	201501925	Land	Active	358 Highland Meadow Loop	Redmond	0			\$129,900
19	201502863	Land	Active	598 Highland Meadow Loop	Redmond	0			\$129,900
20	201508863	Land	Active	1767 Turnstone	Redmond	0			\$129,900
21	201400896	Land	Active	2385 Osprey Dr	Redmond	0			\$132,000
22	201508144	Land	Active	Harrier Ct	Redmond	0			\$139,000
23	201505098	Land	Active	11338 Highcrest Ct	Redmond	0			\$143,900
24	201508745	Land	Active	11357 Highcrest Ct	Redmond	0			\$149,000
25	201410544	Land	Active	661 Sundance Ridge Ct	Redmond	0			\$149,000
26	201400392	Land	Active	Lot 61 Highland View Loop	Redmond	0			\$149,900
27	201300174	Land	Active	240 SW 85th St	Redmond	0			\$150,000
28	201501059	Land	Active	1272 Trail Creek Dr	Redmond	0			\$155,000
29	201505158	Land	Active	1787 Turnstone Road	Redmond	0			\$155,000
30	201407563	Land	Active	221 Highland Meadow Loop	Redmond	0			\$159,500
31	201505870	Land	Active	1152 Trail Creek Dr	Redmond	0			\$163,000
32	201503507	Land	Active	1525 Murrelet Dr	Redmond	0			\$164,900

33	201501823	Land	Active	1415 Spring Ridge Ct	Redmond	0	\$169,900
34	201504226	Land	Active	11424 Jubel Ct	Redmond	0	\$173,500
35	201408171	Land	Active	Lot 86 Springridge Court	Redmond	0	\$175,000
36	201503325	Land	Active	1483 Trail Creek Ct	Redmond	0	\$177,500
37	201503528	Land	Active	10745 Rockside Ct	Redmond	0	\$179,900
38	201502580	Land	Active	713 Highland View Loop	Redmond	0	\$190,000
39	201410060	Land	Active	1103 Highland View Loop	Redmond	0	\$199,000
40	201408529	Land	Active	1940 Mountain Quail Dr	Redmond	0	\$199,900
41	201507707	Land	Active	913 Highland View Loop	Redmond	0	\$219,000
42	201508871	Land	Active	10175 Sundance Ridge Loop	Redmond	0	\$219,000
43	201502750	Land	Active	2333 Condor Dr	Redmond	0	\$239,000
44	201507859	Land	Active	8383 W Antler Ave	Redmond	0	\$245,000
45	201406109	Land	Active	Lot 45 Summit Ridge Ct	Redmond	0	\$249,900
46	201507583	Land	Active	455-Lot 2 Scenic Ridge Ct	Redmond	0	\$285,000
47	201506681	Land	Active	1231 Sweeping View Ct	Redmond	0	\$287,500
48	201504124	Land	Active	10920 Summit Ridge Ct	Redmond	0	\$299,000
49	201506892	Land	Active	TBD Summit Ridge Ct	Redmond	0	\$299,900

Could PR
9-24-15
P. Cr Eagle Crest

From: "Eagle Crest Resort" <reservations@eagle-crest.com>
Subject: **Last Chance: Sale Ends Today**
Date: September 10, 2015 10:00:06 AM PDT
To: "nunzie@pacifier.com" <nunzie@pacifier.com>
Reply-To: reservations@eagle-crest.com

Save 40% - Biggest Sale of the Season

No Images? [Click here](#)



40% Off Lodging

Sale Ends Today @ 4pm PDT

Book Now, Enjoy Later!

Enjoy Central Oregon and the Resort Amenities
Golf Courses | Sports Centers | Pools | Horseback Riding

Gould PA
9-24-15

RESERVATIONS 844.860.2417 PC

Eagle Crest T.A.

GO TO THE SALE

This private sale ends Thursday, September 10 @ 4pm PDT.

Available for select dates through 12/30/15.



LIKE



TWEET



FORWARD

Eagle Crest Resort
1522 Cline Falls Road
Redmond, Oregon 97756

You are receiving this email because our records indicate you own real estate within Eagle Crest Resort, and this is an important update for all owners.

Preferences | Unsubscribe

DESCHUTES COUNTY RESORT HOUSING CHARACTERISTICS

Could P10

9-24-2015

Updated info - 2013

Source: Tim Berg, County Planning

P.C. Eagle Crest T.A.

From: Tim Berg <Tim.Berg@deschutes.org>

Date: October 18, 2013 11:29:30 AM PDT

To: 'Nunzie' <nunzie@pacifier.com>

Subject: RE: 1 more thing: DR map current as of today.

Nunzie,

The total acreage of Destination Resort Combining Zone county-wide is right around 22,000 acres.

Eagle Crest - 1,901 acres

Pronghorn - 643 acres

Tetherow - 668 acres

Caldera Springs - 400 acres

Thornburgh/DSL - 2,352 acres

Black Butte Ranch is approximately 1,915 acres. Sunriver is approximately 3,745 acres, and Crosswater is approximately 600 acres.

Note

d. on or after Jan 2001

Note "f. The information ... subject to the non-disclosure provisions in ORS Chapter 192"!

Where is tracking and transparency?



DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2015-25589



\$668.00

01005497201500255891241248

06/25/2015 02:40:01 PM

D-IPPS Cnt=1 Stn=25 CLERK

\$620.00 \$11.00 \$21.00 \$10.00 \$8.00

After Recording Return to:
Deschutes County
Community Development Department
147 NW Lafayette Street
Bend, OR 97701

RESTATED IMPROVEMENT AGREEMENT
(Overnight Lodging)

This Restated Improvement Agreement ("Restated Agreement"), relating to the construction and installation of certain required improvements (the "Overnight Lodging Required Improvements," as defined below in Section 5) for the Cascade Highlands/Tetherow Destination Resort (the "Resort"), as required in the conditions of approval in the Resort Tentative Subdivision Plan approval, File No. TP-07-990 ("Tentative Plan") and Site Plan approval, File No. 247-14-000429-SP (the "Site Plan"), by and between DESCHUTES COUNTY, OREGON, a political subdivision of the State of Oregon ("County") and Weston Investment Co. LLC, ("Developer"), successor in interest to original developer Arrowood Development, LLC.

RECITALS:

- A. Arrowood Development, LLC ("Arrowood") filed an application for a final subdivision plat for Phase 1 of the Resort (the "Tetherow Phase 1 Final Plat"), File No. FPA-07-20, prior to the completion of the Overnight Lodging Required Improvements; and
- B. Deschutes County Code (DCC) Section 19.106.110 provides that a developer may, in lieu of completing Overnight Lodging Required Improvements prior to filing a final subdivision plat, enter into an agreement with the County for the completion of the Overnight Lodging Required Improvements and provide a good and sufficient form of security, to provide for the completion of the Overnight Lodging Required Improvements; and
- C. County and Arrowood entered into that certain Improvement Agreement recorded as Document No. 2007-53411 in the Official Records of Deschutes County, Oregon (including those amendments identified in the following recital, the "Original Improvement Agreement").
- D. The Original Improvement Agreement was amended several times through Document Nos. 2007-53412 (Amendment #1), 2008-43806 (Amendment #2), 2009-42805 (Amendment #3), 2010-37552 (Amendment #4), 2011-29853 (Amendment #5),

DC 2015-380

2012-33642 (Amendment #6), 2014-07620 (Amendment #7), 2014-28351 (Amendment #8), and 2014-35642 (Amendment #9).

- E. The Original Improvement Agreement, as amended, now identifies Developer as the party responsible for constructing the Overnight Lodging Required Improvements and, pursuant to Amendment #8, identifies the improvements approved in SP-14-2 as the Overnight Lodging Required Improvements to be completed.
- F. The Original Improvement Agreement required the construction of 198 separately rentable overnight lodging units on the Real Property (as defined below in Section 3) to comply with the then required ratio of overnight lodging units to residential units for destination resorts;
- G. The required ratio of overnight lodging units to residential units was reduced through County land use approvals MC-13-3 and SP 14-2 thereby requiring construction of 159 separately rentable overnight lodging units on the Real Property;
- H. As of the effective date of this Restated Agreement, Developer has constructed 26 separately rentable overnight lodging units on the Real Property;
- I. Tetherow Vacation Homes, LLC ("TVH") filed for tentative subdivision and site plan approval for Development Tract AA within the Resort in order to construct 133 separately rentable overnight lodging units on the Real Property (247-14-000428-TP; 247-14-000429-SP); and
- J. The Overnight Lodging Required Improvements under this Restated Agreement do not constitute a Public Improvement as the term is defined in ORS 279A.010(1)(cc);
- K. County and Developer desire to restate the Original Improvement Agreement to reflect subsequent events and make other amendments through this Restated Agreement to secure the remainder of the Overnight Lodging Required Improvements.

NOW THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES above mentioned, for and in consideration of the mutual obligations hereinafter stated, as follows:

- 1. **Recitals.** The Recitals to this Restated Agreement set forth above are hereby incorporated herein as if fully set out, shall constitute contractual provisions and are not mere recitals.
- 2. **Original Improvement Agreement.**
 - 2.1 This Restated Agreement supersedes and wholly replaces the Original Improvement Agreement and all amendments thereto.
 - 2.2 Upon recording of this Restated Agreement, Developer is released from any obligation arising from the Original Improvement Agreement.

- 2.3 Upon request of Developer, County shall certify and execute any documents necessary to demonstrate that the Original Improvement Agreement is no longer effective and has been replaced by the Restated Agreement.
3. **Real Property Description.** The real property subject to this Restated Agreement, hereinafter the "Real Property" is described as: approximately 12.2 acres within Tax Lot 100 on Assessor's Map 18-11-11DD and Tax Lot 2100 on Assessor's Map 18-11-12, more particularly described on attached Exhibit A.
4. **Exhibits.** The exhibits listed below and attached to the Agreement are hereby incorporated herein by reference:
- 4.1 Exhibit A -- Legal description of Real Property.
- 4.2 Exhibit B -- List of Overnight Lodging Required Improvements.
- 4.3 Exhibit C -- Deschutes County Site Plan approval, File No. 247-14-000429-SP.
- 4.4 Exhibit D -- Deschutes County Site Plan approval, File No. 14-2.
- 4.5 Exhibit E -- Wells Fargo Irrevocable Letter of Credit No. NZS648008 (the "ILOC").
- 4.6 Exhibit F -- Written verification by Wells Fargo, in a form acceptable to County, that the ILOC remains in full force and effect according to its terms and that this Restated Agreement will not affect the terms or conditions of the ILOC.
5. **Identification of Overnight Lodging Required Improvements.**
- 5.1 Developer shall install and complete, or cause to be installed and completed, the improvements listed in Exhibit B and required by the Site Plan Approval set forth in Exhibit C to the extent that same remain to be completed (the "Overnight Lodging Required Improvements").
- 5.2 As of the effective date of this Restated Agreement, the Overnight Lodging Required Improvements consist of 133 separately rentable units for Overnight Lodgings, as that term is defined in Deschutes County Code ("DCC") 19.04.040, in one or more structures.
- 5.3 This Restated Agreement shall be recorded against and shall encumber the Real Property and every developable unit of land lawfully created from the Real Property (each, a "Lot").
6. **Construction of Overnight Lodging Required Improvements; Status Reports.**

- 6.1 The Overnight Lodging Required Improvements shall be installed and completed in accordance with the plans and construction specifications related thereto and to any additional County and/or State of Oregon specifications or applicable regulations.
- 6.2 Developer shall promptly repair any damage to existing and new roads, water lines, stormwater facilities, and similar facilities within and without the Real Property, which are caused by the installation of the Overnight Lodging Required Improvements.
- 6.3 Developer shall cause the Overnight Lodging Required Improvements to be completed in compliance with the applicable codes, regulations, and laws in effect at the time the applicable building permits were issued, to schedule final inspections and to have the Overnight Lodging Required Improvements in a condition determined by County to be sufficient to receive a final certificate of occupancy not later than December 31, 2018 (the "Completion Date") based on the timeline set out in Section 6.4.
- 6.4 Timeline for construction of Overnight Lodging Required Improvements:

Construction Phase	Deadline
Application for Final Plat of Phase IA/ Recording of AA/AB Lot Line Adjustment Deeds	July 15, 2015
Application for Ultimate* Building Permit for Phase IA	July 15, 2016
Application for Ultimate Certificate of Occupancy for Phase IA	November 30, 2016
Application for Final Plat of Phase II	December 15, 2016
Application for Final Plat of Phase III	July 15, 2017
Application for Final Plat of Phase IB	July 15, 2017
Application for Ultimate Building Permit for Phase II	July 15, 2017
Application for Ultimate Certificate of Occupancy for Phase II	December 15, 2017
Application for Ultimate Building Permit for Phase III	July 31, 2018
Application for Ultimate Building Permit for Phase IB	July 31, 2018
Application for Ultimate Certificate of Occupancy for Phase III	November 15, 2018
Application for Ultimate Certificate of Occupancy for Phase IB	November 15, 2018
Issuance of Certificate of Occupancy for Final Unit of Overnight Lodging Required Improvements	December 31, 2018

*Ultimate means the building permit/approval for the final structure in a particular phase. For example, the ultimate building permit for Phase IA will be the building permit for the seventh structure as there are seven structures in that phase.

- 6.5 Commencing one year from the recording of this Restated Agreement, Developer shall provide County semi-annual updates on the status of the development.
- 6.5.1 Such updates shall be submitted in writing and shall be submitted to the Deschutes County Community Development Department ("CDD") or such other contact as County designates in writing, and may be presented, to the Deschutes County Board of Commissioners ("the Board") by a representative of Developer at a regularly scheduled Board Business Meeting or Work Session.
- 6.5.2 There shall be no application fees for the updates or presentations to the Board.
- 6.5.3 In advance of such meeting or work session, Developer shall permit CDD and CDD's consultant (at County's cost) to enter the Real Property for purposes of verifying information contained in each update.
- 6.5.4 Each update shall, at a minimum, include specific information regarding the following:
- 6.5.4.1 The percentage of the Overnight Lodging Required Improvements completed to date;
- 6.5.4.2 Any changes in the anticipated cost and an updated timeline to complete the Overnight Lodging Required Improvements;
- 6.5.4.3 Date and explanation of any changes in the construction timeline from the date of this Restated Agreement and/or the date of the last update;
- 6.5.4.3 Any other information County may reasonably request.
- 6.6 The parties acknowledge that the timeline depicted in Section 6.4 assumes County's timely processing of applications and inspections, and that the following events, which are deemed to be outside Developer's control, will not impede progress: fire, adverse weather conditions, land use appeals filed by third parties, or acts of God.
- 6.6.1 In the event Developer is delayed at any time in the progress of constructing the Overnight Lodging Required Improvements by an event outside of Developer's control, then Developer may request extension of performance of specific tasks and for specific periods of time proportionate to the extent of the interference.

- 6.6.2 Developer's inability to obtain financing is deemed to be within Developer's control.
- 6.6.3 Unless the County, in its reasonable discretion, determines that the Developer's request is being made in bad faith or is not in strict conformance with the terms of this Restated Agreement, County shall approve an extension request and memorialize the amendment in writing.
- 6.7 If deeds executing the associated Property Line Adjustment approved in 247-15-00432-LL and the Phase IA plat for the Tentative Plan approved in 247-14-000428-TP and are not recorded prior to September 1, 2015, then Exhibit D shall replace Exhibit C for purposes of Section 5.1.

7. License to Enter and Remain on Property.

- 7.1 Developer hereby grants County and County's employees, engineers, consultants, agents, contractors, subcontractors and suppliers license to come onto and remain on the Real Property as necessary to make inspections of the Overnight Lodging Required Improvements.
- 7.2 If County determines that any portion of the Overnight Lodging Required Improvements has not been completed as required under Section 6.3 above by the Completion Date, and after providing notice to Developer and a thirty (30) day period to cure, County or its employees, engineers, consultants, agents, contractors, subcontractors and suppliers may enter onto and remain on the Real Property and may cause the Overnight Lodging Required Improvements to be completed.

8. Right to Draw on Security.

- 8.1 Upon failure of the Developer to complete the Overnight Lodging Required Improvements as required under Section 6.3 above by the Completion Date, County shall notify Developer in writing of such failure (the "Default Notice").
- 8.2. Upon receipt of the Default Notice, Developer shall have thirty (30) days to complete the Overnight Lodging Required Improvements to the condition required under Section 6.3 (the "Default Grace Period").
- 8.3 Should Developer fail to complete the Overnight Lodging Required Improvements within the Default Grace Period, County may, at its sole discretion, cause incomplete or unsatisfactory Overnight Lodging Required Improvements to be completed.
- 8.4 If County causes the Overnight Lodging Required Improvements to be completed, County may draw upon the Security for any and all costs and expenses incurred by County, or reasonably anticipated or projected to be incurred by the County, in

construction and/or completion of the Overnight Lodging Required Improvements.

8.5 If County affirmatively elects (with written documentation of same signed by the Chair of the Board of County Commissioners) not to cause the Overnight Lodging Required Improvements to be completed, County shall cause the Security to be released to Developer.

8.6 For the purposes of this Restated Agreement and access to any security offered and accepted to secure Developer's performance, Developer's failure to complete the Overnight Lodging Required Improvements shall include failure to install or have installed any portion of the Overnight Lodging Required Improvements to the standards required under Section 6.3 above.

9. **No County Guarantee.** County does not guarantee that any of the Overnight Lodging, Required Improvements referred to in this Restated Agreement will be constructed, maintained or operated.

10. **License to Use Permits, Specifications and Plans.**

10.1 If County determines that any portion of the Overnight Lodging Required Improvements have not been completed as required by Section 6.3 above, upon expiration of the Default Grace Period, Developer shall, upon request of the County, license and assign to County all of Developer's, applicable permits, plans, specifications, shop drawings, instruments, permits and approvals, and other documents necessary or useful in the completion of or related in any manner to the applicable Overnight Lodging Required Improvements.

10.2 Developer shall ensure that any contracts for supply of labor and materials used in connection with constructing Overnight Lodging Required Improvements are assignable to the County.

10.3 Upon such request, Developer shall deliver or shall cause to be delivered, physical possession of such permits, plans, specifications, shop drawings, instruments, permits, approvals, and other documents to the County.

10.4 Upon the termination of the Default Grace Period, County may sub-assign or license the rights referred to in this Section 10 for any purpose without further approval from Developer.

11. **No Third Party Beneficiaries.**

11.1 County and Developer are the only parties to this Restated Agreement and are the only parties entitled to enforce its terms.

- 11.2 Nothing in this Restated Agreement gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Restated Agreement and expressly described as intended beneficiaries of this Restated Agreement.
- 12. Restoration of Monuments.** Developer shall restore any monument erected or used for the purpose of designating a survey marker or boundary of any town, tract, plat or parcel of land that is broken, damaged, removed or destroyed, during the course of work provided for or anticipated by this Restated Agreement, whether intentional or otherwise, by the Developer or Developer's agents, employees or independent contractors.
- 13. Costs of Inspection.** Developer shall pay to County the actual costs incurred by County in the inspection of the completed Overnight Lodging Required Improvements plus any fees, such as plan review fees and structural, electrical, plumbing and other specialty codes inspection fees normally associated with the review and inspection of any improvements on the Real Property.
- 14. Security for Overnight Lodging Required Improvements.**
- 14.1 Attached as Exhibit E is the ILOC in the amount of eight million six hundred and ninety thousand dollars (\$8,690,000.00), which the County approved in connection with the Original Improvement Agreement (collectively, the then existing balance of the ILOC and any other security established pursuant to this Restated Agreement is referred to herein as the "Security").
- 14.2 As used herein, the issuer of the Security is referred to as "Surety."
- 14.4 Cost Notice Update
- 14.4.1 Beginning with the second semi-annual update required by Section 6.5 above and each semi-annual update thereafter, the County Commissioners may require the Developer to provide an updated construction cost estimate for the then remaining Overnight Lodging Required Improvements (the "Cost Update Notice").
- 14.4.2 Upon receipt of the Cost Update Notice, the Developer shall have thirty (30) days to provide the updated construction cost estimate (the "Developer's Response").
- 14.4.3 Upon receipt of the Developer's Response, or if no Response is received within the thirty (30) day period, if the County Commissioners determine that the Developer's obligations under this Restated Agreement together with the Security do not provide adequate financial assurance for completion of the Overnight Lodging Required Improvements, the County Commissioners shall have the option to require Developer to increase the

amount of the Security and to memorialize such increase in an amendment to this Restated Agreement (the "Security Amendment").

14.4.4 If the County Commissioners require Developer to increase the amount of the Security, Developer shall also file the application fees and materials to amend this Restated Agreement to memorialize the Security Amendment within thirty (30) days of receipt of the County's notice to increase the Security.

14.4.5 If Developer fails or refuses to increase the amount of Security as directed by the County Commissioners, such failure or refusal shall be considered failure of the Developer to complete the Overnight Lodging Required Improvements as required under Section 6.3 and the County may draw upon the Security pursuant to Section 8.

15. Developer's Obligation for Costs.

15.1 Developer expressly acknowledges, understands, and agrees that this Restated Agreement shall not relieve Developer from the obligation to complete and fully pay for the Overnight Lodging Required Improvements and other costs and fees set forth in this Restated Agreement.

15.2 Should Developer default in its obligation to complete the Overnight Lodging Required Improvements as required by Section 6.3, Developer agrees to compensate County for all costs related to Developer's default.

16. Release of Security or Obligation.

16.1 County shall release the Security within fifteen (15) calendar days of the issuance of the final certificate of occupancy for the Overnight Lodging Required Improvements.

16.2 Upon Developer's completion and County's inspection and approval of the Overnight Lodging Required Improvements located on any particular Lot as shown on the Site Plan (a "Completed Lot"), County may release a proportionate amount of the Security provided County, in its sole discretion and consistent with 16.7 below, determines that adequate security remains in place for Developer to complete the remaining Overnight Lodging Required Improvements in accordance with this Restated Agreement.

16.3 County may, at County's discretion and consistent with applicable law, release such other portions of the Security provided other financial assurances are in place per the DCC.

16.4 County's release of any portion of the Security shall not be construed as a waiver of County's right to require full compliance with this Restated Agreement and

Developer's obligation to satisfy any costs and expenses incurred in completion of the Overnight Lodging Required Improvements.

- 16.5 County may, at the County's discretion and consistent with applicable law, release Developer from any of Developer's obligations under the terms and conditions of this Restated Agreement.
- 16.6 County's release of any of Developer's obligations shall not be construed as a waiver of County's right to require full compliance with the remainder of this Restated Agreement and Developer's obligation to satisfy any costs and expenses incurred in completion of the Overnight Lodging Required Improvements.
- 16.7 Developer is precluded as a term of this Restated Agreement, from requesting release of any portion of the Security until at a minimum, seventy-five percent (75%) of the Overnight Lodging Required Improvements have received a Certificate of Occupancy; any request for a release of Security shall be accompanied by an estimate of all costs to complete the remaining units.

17. Shortfall in Security.

- 17.1 If the amount available to be drawn from the Security is less than the costs and expenses anticipated to be incurred, or actually incurred, by County, County may apply the proceeds of the Security to the anticipated or actual costs and expenses of completion of the Overnight Lodging Required Improvements.
- 17.2 Developer shall be responsible and liable for any shortfall between the actual costs and expenses of completion of the Overnight Lodging Required Improvements and the amount of the Security available to fund such costs and expenses.

- 18. Incidental Costs.** Without limiting the generality of the foregoing, if upon County's written notice to Surety in the form prescribed by the Surety (set forth as Exhibit A-1 to the ILOC is the form prescribed by the ILOC's Surety) of Developer's failure to complete Overnight Lodging Required Improvements, the proceeds of the Security are not remitted to County within the timeframe set forth in the Security, or the Overnight Lodging Required Improvements are not installed within a reasonable time period determined by County after notice to Developer and/or Surety, then County's costs of obtaining the proceeds of the Security or other security and/or completing the Overnight Lodging Required Improvements and all incidental costs to the extent not covered by the Security or other security, shall be added to the amount due to County from Developer, and shall be paid to County by Developer, in addition to and with all other amounts due hereunder.

19. Successors in Interest.

19.1 The original of this Restated Agreement shall be recorded with the Deschutes County Clerk and shall be a condition and covenant that shall run with the Real Property including any Lots.

19.2 It is the intent of the parties that the provisions of this Restated Agreement shall be binding upon the parties to this Restated Agreement, and subject to the terms contained in Section 20, their respective successors, heirs, executors, administrators, and assigns, and any other party deriving any right, title or interest in or to the Real Property or any Lot, including any person who holds such interest as security for the payment of any obligation, including a mortgagee or other secured party in actual possession of said Real Property by foreclosure or otherwise or any person taking title from such security holder.

20. Lot Purchasers.

20.1 Notwithstanding the terms of Section 19, the terms of this Section 20 shall apply to each Completed Lot as defined in Section 16.2 above.

20.2 Each Completed Lot shall be conveyed free of any obligation to pay money or complete any obligation arising from or related to this Restated Agreement.

20.3 The owner of a Completed Lot, other than Developer, is under no obligation or burden to complete the terms and conditions of this Restated Agreement.

20.4 The purpose for the recordation of this Restated Agreement is to place owners and prospective purchasers on notice of the Agreement's terms, that the County has no obligation to construct the Overnight Lodging Required Improvements or any portion of the Overnight Lodging Required Improvements, and the Agreement does not in any way guarantee that any of the Overnight Lodging Required Improvements will be constructed.

20.5 The Agreement conveys no right or right of action by a Completed Lot owner, other than Developer, against the County for any act or omission of the County including, but not limited to, County decisions or acts that required or authorized the Overnight Lodging Required Improvements, or any part of the Overnight Lodging Required Improvements, not being constructed.

21. Binding Authorization. By signing this Restated Agreement, each signatory signing in a representative capacity, certifies that the signer is authorized to sign the Agreement on behalf of and bind the signer's principal.

22. Expiration.

22.1 This Restated Agreement shall expire one (1) year after the Completion Date, or by the County's express written release of Developer from this Restated Agreement.

- 22.2 Upon expiration, County shall provide Developer with a document in recordable form, formally evidencing such expiration and the parties agree to execute such document with fourteen (14) days of receipt of such document by the other party.
23. **Survival.** County's rights under this Restated Agreement, including County's right to draw upon the Security in whole or in part to pay the full costs and expenses of completing the Overnight Lodging Required Improvements and repairs or replacements required herein along with any licenses granted in this Restated Agreement and any costs of enforcement of this Restated Agreement, shall survive the expiration of this Restated Agreement.
24. **No Agency.**
- 24.1 It is agreed by and between the parties that Developer is not carrying out a function on behalf of County, and County does not have the right of direction or control of the manner in which Developer completes performance under this Restated Agreement nor does County have a right to exercise any control over Developer's activities.
- 24.2 Developer is not an officer, employee or agent of County as those terms are used in ORS 30.265.
25. **No Joint Venture or Partnership.** County is not, by virtue of this Restated Agreement, a partner or joint venturer with Developer in connection with the Site Plan, the Overnight Lodging Required Improvements, the Real Property, or any Lot and shall have no obligation with respect to Developer's debts or other liabilities of each and every nature.
26. **Liens.**
- 26.1 Developer shall pay as due all claims for work done on and for services rendered or materials furnished to the Real Property and shall keep the Real Property free from liens.
- 26.2 If Developer fails to pay any such claims or to discharge any lien, County may do so and collect the cost plus ten percent (10%) from the Developer or Surety; provided, however, County may not pay such claims or discharge any lien while Developer is timely disputing the validity of such claims or liens.
- 26.3 Such action by County shall not constitute a waiver of any right or remedy that County may have on account of Developer's failure to complete the Overnight Lodging Required Improvements or failure to observe the terms of this Restated Agreement.
27. **Indemnification.** The County shall not be responsible for any injury to any and all persons or property caused directly or indirectly by reason of any and all activities of

Developer under this Restated Agreement and on the Real Property; Developer further agrees to defend, indemnify and save harmless County, its officers, agents and employees from and against all claims, suits, actions, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected with any such injury.

28. **Limitation of Liability.** County's liability, if any, pursuant to this Restated Agreement is subject to the Oregon Tort Claims Act, ORS 30.260 to 30.300.
29. **Attorney Fees and Costs.** In the event an action or suit or proceeding, including appeal therefrom, is brought by any party arising directly and/or indirectly out of the provisions of this Restated Agreement or the interpretation thereof, for Developer's failure to complete the Overnight Lodging Required Improvements or to observe any of the terms of this Restated Agreement or the interpretation thereof, County shall be entitled to recover, in addition to other sums or performances due under this Restated Agreement, reasonable attorney's fees and costs as the court may adjudge in said action, suit, proceeding or appeal.
30. **Waiver.**
 - 30.1 Waiver of the strict performance of any provision of this Restated Agreement shall not constitute the waiver of any other provision or of the Agreement.
 - 30.2 No waiver may be enforced against the County unless such waiver is in writing and signed by the County.
31. **Compliance with provisions, requirements of Federal and State laws, statutes, rules, regulations, executive orders and policies. Debt Limitation.**
 - 31.1 This Restated Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution.
 - 31.2 Any provisions herein that conflict with applicable law are deemed inoperative to that extent.
 - 31.3 Additionally, Developer shall comply with any requirements, conditions or limitations arising under the any Federal or State law, statute, rule, regulation, executive order and policy applicable to the Overnight Lodging Required Improvements.
 - 31.4 If this Restated Agreement is in any manner construed to constitute the lending of the County's credit or constitute a debt of County in violation of Article XI, Section 10, of the Oregon Constitution, this Restated Agreement shall be void.
32. **No Inducement.** No representations, statements, or warranties have induced the making and execution of this Restated Agreement other than those herein expressed.

33. Governing Law.

- 33.1 This Restated Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.
- 33.2 Any claim, action, suit or proceeding (each a "Claim") between County and Developer that arises from or relates to this Restated Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Deschutes County for the State of Oregon; provided, however, if a Claim shall be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon in Eugene, Oregon.
- 33.3 By signing below, Developer hereby consents to the in personam jurisdiction of the courts identified in Section 33.2.
- 33.4 The parties agree that the UN Convention on International Sales of Goods shall not apply.

34. Severability. If any term or provision of this Restated Agreement is declared by a court of competent jurisdiction to be void, invalid or unenforceable in one respect, the validity of the term or provision in any other respect and that of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced to the extent possible.

35. Counterparts.

- 35.1 This Restated Agreement may be executed in several counterparts, all of which when taken together shall constitute one Agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.
- 35.2 Each copy of this Restated Agreement so executed shall constitute an original.
- 35.3 If this Restated Agreement is signed in counterpart, each counterpart shall be recorded as provided herein for the recording of this Restated Agreement.

36. Notice.

- 36.1 Except as otherwise expressly provided in this Restated Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing to Developer or County at the address or fax number set forth below or to such other addresses or fax numbers as either party may hereafter indicate in writing.
- 36.2 Delivery may be by personal delivery, facsimile, or mailing the same, postage prepaid.

- 36.2.1 Communication or notice by personal delivery shall be deemed delivered when actually given to the designated person or representative.
- 36.2.2 Any communication or notice sent by facsimile shall be deemed delivered when the transmitting machine generates receipt of the transmission.
- 36.2.3 To be effective against County, such facsimile transmission shall be confirmed by telephone notice to County's Director of Administrative Services.
- 36.2.4 Any communication or notice mailed shall be deemed delivered five (5) days after mailing. Any notice under this Restated Agreement shall be mailed by first class mail or delivered as follows:

To Developer:

Weston Investment Co. LLC
2154 NE Broadway, Suite 200
Portland, OR 97232-1590
Fax No. 503-284-5458

To County:

Deschutes County Administration
County Administration
1300 NW Wall Street, Ste 200
Bend, Oregon 97701
Fax No. 541-388-4752

37. Time is of the Essence. Time is of the essence of each and every provision of this Restated Agreement.

38. Captions.

- 38.1 The captions contained in this Restated Agreement were inserted for the convenience of reference only.
- 38.2 Captions do not, in any manner, define, limit, or describe the provisions of this Restated Agreement or the intentions of the parties.

39. Amendment.

- 39.1 The Agreement may only be amended by written instrument signed by both parties and recorded pursuant to Section 5.3 except that an amendment shall not be recorded against any Completed Lot.
- 39.2 For purposes of Section 39.1, the signatures of the County shall be the signatures of the Board.
- 39.3 Developer shall make application and pay the applicable fee to bring a proposed amendment before the Board.

40. **Merger Clause.** This Restated Agreement and the attached exhibits constitute the entire agreement between the parties and supersedes any and all prior or contemporaneous negotiations and/or agreements among the parties, whether written or oral.
41. **Effective Date.** Notwithstanding mutual execution of this Restated Agreement, this Restated Agreement shall not become effective until recorded.
42. **Release.** Upon recording of this Restated Agreement, County hereby releases all parties to the Original Improvement Agreement and current or former owners of Development Tracts AA and AB, other than Developer, from any and all obligations under the Original Improvement Agreement.

Dated this 10th of June, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Anthony DeBone
ANTHONY DEBONE, Chair

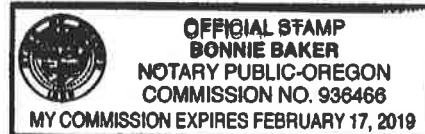
Alan Unger
ALAN UNGER, Vice Chair

ATTEST:

Bonnie Baker
Recording Secretary

Tammy Baney
TAMMY BANEY, Commissioner

STATE OF OREGON)
) ss.
County of Deschutes)



Before me, a Notary Public, personally appeared ANTHONY DEBONE, ALAN UNGER, TAMMY BANEY, the above-named Board of County Commissioners of Deschutes County, Oregon and acknowledged the foregoing instrument on behalf of Deschutes County, Oregon.

DATED this 10th day of June, 2015

Bonnie Baker
Notary Public, State of Oregon
My Commission Expires: Feb. 17, 2019

DATED this ___ day of _____, 20___ **DEVELOPER:**

DATED this 17th day of June, 2015 **DEVELOPER:**

Keith R. Vernon
By: Keith R. Vernon
Its: Senior Vice President

STATE OF OREGON)
) ss.
County of Multnomah)

Before me, a Notary Public, personally appeared Keith R. Vernon, and acknowledged the foregoing instrument as Senior Vice President of Weston Investment Co. LLC.

DATED this 17th day of June, 2015



Tracie A Massey
Notary Public, State of Oregon
My Commission Expires: 3/17/2016

EXHIBIT A
Adjusted Development Tract AA

All those portions of Development Tract 'AA', and Development Tract 'AB' (NORTH) of Tetherow Phase 1, as per the plat thereof recorded in Volume 2007, Page 51564, Official Records, Deschutes County Oregon; located in the Southeast Quarter of Section 11 and the Southwest Quarter of Section 12 Township 18 South, Range 11 East, Willamette Meridian, in Deschutes County, Oregon, more particularly described as follows:

Development Tract 'AA' of said plat of Tetherow Phase 1, Together with the following two parcels (portions) of said Development Tract 'AB' (NORTH):

Transfer Parcel 2:

Commencing at the most Northwesterly corner of Development Tract 'AB' (NORTH) of said Tetherow Phase 1;

Thence along the Westerly line of said Development Tract 'AB' (NORTH) and the Easterly line of said Development Tract 'AA' the following four courses;

Thence South 22°15'52" East 76.73 feet;

Thence South 22°33'28" West 6.62 feet to the **True Point of Beginning**;

Thence South 22°33'28" West 19.38 feet;

Thence Southeasterly along the arc of a 163.00 foot radius curve to the left, through a central angle of 6°25'03", an arc length of 18.26 feet, (the chord of which bears South 70°17'52" East 18.25 feet);

Thence leaving said Westerly and Easterly lines, North 22°03'39" West 25.95 feet to the **True Point of Beginning**.

Transfer Parcel 4:

Commencing at the most Northwesterly corner of Development Tract 'AB' (NORTH) of said Tetherow Phase 1;

Thence along the Westerly line of said Development Tract 'AB' (NORTH) and the Easterly line of said Development Tract 'AA' the following seventeen courses;

Thence South 22°15'52" East 76.73 feet;

Thence South 22°33'28" West 26.00 feet;

Thence Southeasterly along the arc of a 163.00 foot radius curve to the left, through a central angle of 28°06'25", an arc length of 79.96 feet, (the chord of which bears South 81°08'33" East 79.16 feet);

Thence South 4°55'57" East 95.09 feet;

Exhibit A – Tract AA to Tract AA

Page 1 of 4

{17617003-00555059;1}

Thence South 31°43'46" West 32.59 feet to the True Point of Beginning;

Thence South 31°43'46" West 10.68 feet;

Thence South 28°58'02" East 79.54 feet;

Thence North 63°29'42" East 15.99 feet;

Thence South 25°22'31" East 29.00 feet;

Thence Southwesterly along the arc of a 457.00 foot radius curve to the left, through a central angle of 02°35'10", an arc length of 20.63 feet, (the chord of which bears South 63°07'58" West 20.63 feet);

Thence South 28°02'06" East 26.00 feet;

Thence Northeasterly along the arc of a 431.00 foot radius curve to the right, through a central angle of 08°58'03", an arc length of 67.46 feet, (the chord of which bears North 66°18'57" East 67.39 feet);

Thence South 19°04'03" East 20.00 feet;

Thence Northeasterly along the arc of a 411.00 foot radius curve to the right, through a central angle of 06°24'36", an arc length of 45.98 feet, (the chord of which bears North 73°59'53" East 45.96 feet);

Thence Northeasterly along the arc of a 283.00 foot radius curve to the left, through a central angle of 10°05'33", an arc length of 49.85 feet, (the chord of which bears North 72°09'25" East 49.78 feet);

Thence North 22°41'13" West 20.00 feet;

Thence Northeasterly along the arc of a 263.00 foot radius curve to the left, through a central angle of 00°32'42", an arc length of 2.50 feet, (the chord of which bears North 66°49'26" East 2.50 feet);

Thence leaving said Westerly line of Development Tract 'AB' (NORTH) and said Easterly line of Development Tract 'AA', South 81°00'19" West 70.10 feet;

Thence Southwesterly along the arc of a 415.00 foot radius curve to the left, through a central angle of 10°41'54", an arc length of 77.49 feet, (the chord of which bears South 75°39'22" West 77.38 feet);

Thence North 16°38'49" West 102.22 feet;

Thence Southwesterly along the arc of a 1212.00 foot radius curve to the right, through a central angle of 01°23'18", an arc length of 29.37 feet, (the chord of which bears South 69°58'29" West 29.37 feet);

Thence North 22°03'39" West 18.05 feet to the True Point of Beginning.

Excepting therefrom said Development Tract 'AA', the following three Parcels:

Transfer Parcel 1:

Beginning at the most Northwestern corner of Development Tract 'AB' (NORTH) of said Tetherow Phase 1;

Thence along the Westerly line of said Development Tract 'AB' (NORTH) and the Easterly line of said Development Tract 'AA' the following two courses;

Thence South 22°15'52" East 76.73 feet;

Thence South 22°33'28" West 6.62 feet;

Thence leaving said Westerly and Easterly lines, North 22°03'39" West 81.45 feet to the North line of said Development Tract 'AA';

Thence North 67°57'00" East 4.38 feet along said North Line to the **Point of Beginning**.

Transfer Parcel 3:

Commencing at the most Northwestern corner of Development Tract 'AB' (NORTH) of said Tetherow Phase 1;

Thence along the Westerly line of said Development Tract 'AB' (NORTH) and the Easterly line of said Development Tract 'AA' the following six courses;

Thence South 22°15'52" East 76.73 feet;

Thence South 22°33'28" West 26.00 feet;

Thence Southeasterly along the arc of a 163.00 foot radius curve to the left, through a central angle of 6°25'03", an arc length of 18.26 feet, (the chord of which bears South 70°17'52" East 18.25 feet) to the **True Point of Beginning**;

Thence continuing Southeasterly along the arc of a 163.00 foot radius curve to the left, through a central angle of 21°41'22", an arc length of 61.70 feet, (the chord of which bears South 84°21'04" East 61.34 feet);

Thence South 4°55'57" East 95.09 feet;

Thence South 31°43'46" West 32.59 feet;

Thence leaving said Westerly and Easterly lines, North 22°03'39" West 138.64 feet to the **True Point of Beginning**.

Transfer Parcel 5:

Commencing at the intersection of the North Line of Meeks Trail (private road) and the easterly line of said Development Tract 'AA' as per said plat of Tetherow Phase 1;

Thence along said Easterly line of said Development Tract 'AA' the following five courses;

Thence North 2°43'29" West 93.23 feet;

Thence along the arc of a 287.00 foot radius curve to the left, through a central angle of 12°24'01", an arc length of 62.11 feet, (the chord of which bears North 6°34'01" West 61.99 feet) to the **True Point of Beginning**;

Thence continuing along the arc of a 287.00 foot radius curve to the left, through a central angle of 1°58'24", an arc length of 9.88 feet, (the chord of which bears North 13°45'13" West 9.88 feet);

Thence along the arc of a 19.00 foot radius curve to the left, through a central angle of 113°13'10", an arc length of 37.55 feet, (the chord of which bears North 71°21'00" West 31.73 feet);

Thence along the arc of a 263.00 foot radius curve to the right, through a central angle of 14°30'35", an arc length of 66.60 feet, (the chord of which bears South 59°17'43" West 66.43 feet);

Thence leaving said Easterly line, North 81°00'18" East 90.64 feet to the **True Point of Beginning**.

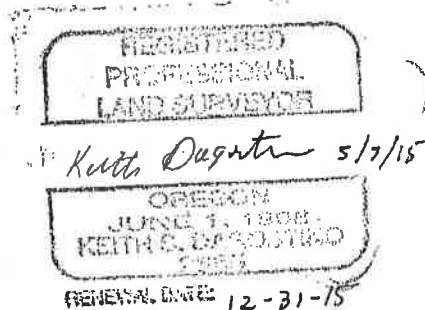


Exhibit B

Deschutes County Code

Title 17 - Subdivisions

Chapter 17.16, Approval of Subdivision Tentative Plans and Master Development Plans
Chapter 17.20, Zero Lot Subdivision
Chapter 17.36, Design Standards
Chapter 17.44, Park Development
Chapter 17.48, Design and Construction Specifications

Title 19 - Bend Urban Grown Boundary Zoning Ordinance

Chapter 19.12, Urban Area Reserve – UAR
Chapter 19.76, Site Plan Review
Chapter 19.80, Off-Street Parking and Loading

Title 22- Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS:

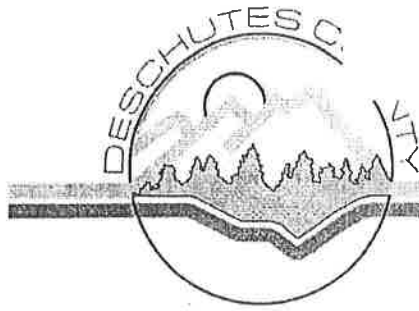
- A. **LOCATION:** The subject property consists of Development Tract AA of the Tetherow Phase 1 subdivision, and is comprised of Tax Lot 100 on Assessor's Map 18-11-11DD and Tax Lot 2100 of Assessor's Map 18-11-12. Staff notes that the proposed subdivision is aligned with the property line adjustment approved under 247-15-000432-LL. As a condition of approval, 247-15-000432-LL shall be finalized prior to recording of any plat under 247-14-000428-TP.
- B. **LOT OF RECORD:** The subject property was legally established as Development Tract AA of the Tetherow Phase 1 subdivision (TP-06-973).
- C. **ZONING:** The subject property is zoned Urban Area Reserve (UAR10), and is within a Destination Resort (DR) overlay zone.
- D. **PROPOSAL:** The Applicant requests Tentative Plan approval for a phased subdivision comprised of 22 lots, 3 development tracts, 11 common area tracts, and 6 private road tracts along with site plan approval for the development of 133 overnight lodging units in 23 structures and conditional use approval for off-site parking.



Specifically, the applicant is proposing 11 2,687 sq. ft. "Mill House" structures with 5 Overnight Lodging Units (OLUs) each, 11 "Cabin" structures with 5 OLU's each (collectively, the Mill Houses and Cabins are referred to as "Lock-Offs"), and the 23,734 sq. ft. "Tetherow Suites North" with 23 OLU's. The individual Lock-Offs may be individually owned.

A Lock-Off is a single structure comprised of 5 separately rentable, but interconnected OLU's. Depending on party size or need, multiple OLU's within a single Lock-Off can be rented together so that party members can move between OLU's as they might in renting a vacation home with multiple bedrooms. In other words, the Lock-Offs allow a party to tailor fit their lodging accommodations to their spacing needs while permitting other parties to utilize the remainder of the structure. Lock-Off style accommodations were previously contemplated in CU-07-11/SP-07-6/TP-07-990 and have been developed in multiple destination resorts across Oregon including Caldera Springs.

Exhibit C



Community Development Department

Planning Division Building Safety Division Environmental Health Division

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

FINDINGS AND DECISION

FILE NUMBERS: 247-14-000430-CU / 429-SP / 428-TP

APPLICANT: Tetherow Vacation Homes, LLC
c/o Bryant, Lovlien & Jarvis, P.C.
591 SW Mill View Way
Bend, OR 97702

PROPERTY OWNER: Weston Investment CO, LLC
2154 NE Broadway #200
Portland, OR 97232-1590

ATTORNEY: Sharon R. Smith
Garrett Chrostek
Bryant, Lovlien & Jarvis, P.C.
591 SW Mill View Way
Bend, OR 97702

PROPOSAL: The Applicant requests Tentative Plan approval for a phased subdivision comprised of 22 lots, 3 development tracts, 11 common area tracts, and 6 private road tracts along with site plan approval for the development of 133 overnight lodging units in 23 structures and conditional use approval for off-site parking.

LOCATION: The subject property consists of Development Tract AA of the Tetherow Phase 1 subdivision, and is comprised of Tax Lot 100 on Assessor's Map 18-11-11DD and Tax Lot 2100 of Assessor's Map 18-11-12.

STAFF CONTACT: Will Groves, Senior Planner

STANDARDS AND APPLICABLE CRITERIA

Tetherow (formerly known as Cascade Highlands) Destination Resort Master Plans, as outlined in County File Nos.: CU-04-94 and M-05-2.

Deschutes County Code

Title 17 - Subdivisions

- Chapter 17.16, Approval of Subdivision Tentative Plans and Master Development Plans
- Chapter 17.20, Zero Lot Subdivision
- Chapter 17.36, Design Standards
- Chapter 17.44, Park Development
- Chapter 17.48, Design and Construction Specifications

Title 19 - Bend Urban Grown Boundary Zoning Ordinance

- Chapter 19.12, Urban Area Reserve – UAR
- Chapter 19.76, Site Plan Review
- Chapter 19.80, Off-Street Parking and Loading

Title 22- Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS:

- A. **LOCATION:** The subject property consists of Development Tract AA of the Tetherow Phase 1 subdivision, and is comprised of Tax Lot 100 on Assessor's Map 18-11-11DD and Tax Lot 2100 of Assessor's Map 18-11-12. Staff notes that the proposed subdivision is aligned with the property line adjustment approved under 247-15-000432-LL. As a condition of approval, 247-15-000432-LL shall be finalized prior to recording of any plat under 247-14-000428-TP.
- B. **LOT OF RECORD:** The subject property was legally established as Development Tract AA of the Tetherow Phase 1 subdivision (TP-06-973).
- C. **ZONING:** The subject property is zoned Urban Area Reserve (UAR10), and is within a Destination Resort (DR) overlay zone.
- D. **PROPOSAL:** The Applicant requests Tentative Plan approval for a phased subdivision comprised of 22 lots, 3 development tracts, 11 common area tracts, and 6 private road tracts along with site plan approval for the development of 133 overnight lodging units in 23 structures and conditional use approval for off-site parking.

Specifically, the applicant is proposing 11 2,687 sq. ft. "Mill House" structures with 5 Overnight Lodging Units (OLUs) each, 11 "Cabin" structures with 5 OLU's each (collectively, the Mill Houses and Cabins are referred to as "Lock-Offs"), and the 23,734 sq. ft. "Tetherow Suites North" with 23 OLU's. The individual Lock-Offs may be individually owned.

A Lock-Off is a single structure comprised of 5 separately rentable, but interconnected OLU's. Depending on party size or need, multiple OLU's within a single Lock-Off can be rented together so that party members can move between OLU's as they might in renting a vacation home with multiple bedrooms. In other words, the Lock-Offs allow a party to tailor fit their lodging accommodations to their spacing needs while permitting other parties to utilize the remainder of the structure. Lock-Off style accommodations were previously contemplated in CU-07-11/SP-07-6/TP-07-990 and have been developed in multiple destination resorts across Oregon including Caldera Springs.

- E. **SITE DESCRIPTION:** The subject property is located on the plateau in the south-central portion of the Tetherow Destination Resort and north of Skyline Ranch Road and Meeks Trail, which form the southern boundary of the subject property. Tract AA is 12.19 acres with 3.23 acres in Tax Lot 100 and 8.96 acres in Tax Lot 2100. The subject property is irregularly shaped.

Tax Lot 100 is currently developed with a 26-room lodge, a guest services building, event space, and landscaping. Tax Lot 2100 is presently vacant and is naturally vegetated with shrubs and grasses except for a gravel parking area. There are only a handful of Ponderosa Pines on tax lot 2100. Both tax lots were in the area that burned as part of the Awbrey Hall Fire in 1990. The subject property has gentle topography, with a mild slope trending in the easterly direction.

- F. **SURROUNDING LAND USES:** The surrounding parcels are all part of the Tetherow Destination Resort. The subject property is bordered to the east by the clubhouse and dining facilities on Lot 2 of Partition Plat 2013-04 and to the north by the golf course. Development Tract AB is located to the east and is presently vacant. Across Skyline Ranch Road to the southwest and across Meeks Trail to the southeast are Common Area Tracts L and DB respectively. These parcels lie below the plateau and border Century Drive/Cascade Lakes Highway to the south. Century Drive/Cascade Lakes Highway is the southern boundary of the Tetherow Destination Resort.

- G. **PUBLIC COMMENTS:** Notice of this application and the modification was provided to all property owners within the Tetherow Phase I subdivision and all owners within 250 feet of the exterior boundaries of the subdivision. No public comments were received.

- H. **REVIEW PERIOD:** These applications were submitted on December 10, 2014. The full application was deemed complete by the Planning Division on January 10, 2015. The applicant submitted the affidavit for the land use action sign indicating it was posted on the property on January 2, 2015.

- I. **PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice to several agencies and received the following comments:

Deschutes County Road Department: The applicant is to meet the following conditions if this land use application is approved:

1. Road design shall be in accordance with DCC #17.48.180, "Private Roads" and Table "A", DCC, private roads.
2. Construction plans for all required road improvements shall be approved by the County Road Department prior to commencement of any construction in accordance with DCC 17.48.060.
3. Roads and bike paths shall be surveyed and staked in accordance with DCC 17.48.200
4. The applicant shall construct all improvements under the inspection and approval of the Deschutes County Road Department Director. The Director

may accept certification of improvements by a professional engineer consistent with ORS 92.097

5. All easements of record or existing right-of-ways shall be shown on the final plat.

Deschutes County Transportation Planner: I have reviewed the transmittal materials for 247-14-000428-TP/429-SP/430-CU/431-MC to 133 overnight units in 22 structures in a phased subdivision in Tetherow Resort subdivision; the proposal is consistent with the amended ratio of overnight to permanent units.

Deschutes County Code (DCC) at 17.16.115(C)(4)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The proposed land use is consistent with the approved traffic impact analysis (TIA) done for Tetherow and thus no further traffic analysis is required.

Board Resolution 2013-020 sets an SDC rate of \$3,758 per p.m. peak hour trip. BOCC 2013-020 also reduces the SDC for any development that is subject to payment of City of Bend Water and Sewer Agreement between the City and Cascade Highlands Limited Partnership (recorded agreement #2005-73584) shall pay 50% of the SDC. Tetherow fits this criterion. BOCC 2013-020 sets an SDC rate of \$1,578 per room for Resort Hotel, which is the closest analogous use. The resulting SDC would be \$104,937 ($[\$1,578 \times 133]/2$).

Deschutes County Address Coordinator: Addresses will be assigned after the plat is recorded and new account numbers are established.

Bend Fire Department: The Bend Fire Department submitted a comment letter dated January 8, 2015. It is incorporated herein by reference. As a condition of approval, the applicant shall submit a letter from the Bend Fire Department confirming the platted configuration of the subdivision will conform to applicable Fire Code, prior to final plat approval.

The following agencies did not respond or had no comments: City of Bend Engineering, City of Bend Planning, Deschutes County Surveyor, Deschutes County Building Division, Bend/La Pine School District, ODOT, and City of Bend Public Works.

- J. **LAND USE HISTORY:** Tetherow was approved as a destination resort comprised of 379 single-family residential units, 210 multi-family residential units, 300 OLUs and a golf course under CU-04-94 (the "Conceptual Master Plan" or "CMP"), as modified in February 2005, and finalized under M-05-2 (the "Final Master Plan" or "FMP"), as modified in October 2005. Tentative Plan TP-06-973 ("Phase 1 Tentative Plan") was subsequently approved on October 11, 2006, allowing creation of 379 single-family dwelling lots, 10 resort core area tracts (including the subject Tracts), common area tracts, golf tracts, and 1 park tract. The subject property was created and platted on September 24, 2007.

The approval of the CMP and FMP mandated that a sufficient number of OLUs be constructed or financially assured to maintain a 2:1 ratio between residential units and overnight lodging units. Tract AB received Site Plan approval for 198 overnight lodging units per CU-07-11, SP-07-6, TP-07-990, and MC-08-6, which were financially assured.

Under SP-12-11, Site Plan approval was granted to move the 198 overnight lodging units approved under SP-07-6 on Development Tract AB onto to Development Tract AA. The 198 units proposed for Tract AA were configured as two hotel buildings with 94 and 74 overnight units respectively and four "cottages" containing 30 units between the four "cottages."

Through MC-12-4, the applicant obtained a Modification of the Conceptual Master Plan (CMP) and Final Master Plan (FMP) to allow Development Tracts Y, Z, AA and AB as set forth in the Tetherow Phase 1 Final Plat (2007-51564) to be developed with a mix of visitor-oriented overnight accommodations (for lodging, meals and meetings), commercial uses ancillary thereto and other residential uses without adding any new or additional uses to those contemplated by the original Tetherow approvals.

Through SP-12-22, the County granted another Site Plan approval for the same 198 overnight lodging units, an outdoor conference/meeting tent area, and a 1,990 square foot guest services building on Development Tract AA. The proposed OLUs were to be configured as a 26-unit lodge building; a 94-unit hotel; and a 78-unit hotel. This proposal superseded all previous site plans on the subject property. The 26-unit lodge building and guest service building, as indicated above, received building permits and certificates of occupancy, and are presently in use.

County File No. SP-14-2 approved a reduction of overnight units from 198 to 159 on Tract AA. However, under condition of approval #12 of that decision, the applicant is required to record a new or amended improvement agreement bonding units as approved under SP-14-2, prior to issuance of building permits under SP-14-2.

Through MC-13-3, the CMP and FMP were amended to apply the 2.5:1 ratio set forth in DCC 19.04.040 and DCC 19.106.060(D), which followed a change in state law. Consequently, the County approved a modification to the SP-12-22 site plan in SP-14-2 to replace the 78-unit hotel with a 39-unit hotel building thus reducing the number of approved overnight lodging units on Tract AA to 159.

Through MC-13-8, the applicant obtained a Modification of the Conceptual Master Plan (CMP) and Final Master Plan (FMP) maps to allow Development Tracts AC, AG, and AH as set forth in the Tetherow Phase 1 Final Plat (2007-51564) to be developed with a mix of residential housing types known as Other Residential Uses (ORUs) without adding any new or additional uses to those contemplated by the original Tetherow approvals.

In MC 14-1, applicant VRE obtained approval to modify the CMP/FMP to convert the 29 townhome units on Development Tract AC to detached single family dwellings thus changing the overall mix of residential development to 408 single family lots and 181 townhomes. MC 14-1 also approved a Tentative Subdivision Plan to establish the 29 single family lots.

Through 247-14-000141-TP, 247-14-000142-SP, 247-14-000143-MC, and 247-14-000196-MA, the Applicant obtained Modification of Approval to amend the Conceptual Master Plan and Final Master Plan to allow for 6 single family houses on Development Tract AD. Also approved was a Tentative Plan for a phased subdivision comprised of 24 lots and three common area tracts as well as Site Plan Approval for 18 zero lot line duplex townhome units.

Through 247-14-000431-MC, the applicant obtained a Modification of Approval to amend the Conceptual Master Plan ("CMP") and Final Master Plan ("FMP") to reduce the required availability of individually owned overnight lodging units to the general public from 45 to 38 weeks per calendar year, as allowed under DCC 19.106 and state law, and to amend the Vehicle and Pedestrian Access Plan for Commercial/Recreational Development.

A table showing the current general status of the resort development under the CMP/FMP as modified, prior to the present application, is set out below:

Overnight and Residential Units Summary for Tetherow Resort

	OLUs	Multi-Family Res. Units	Single Family Res. Units
CMP/FMP Approved (as Modified)	300 (CMP/FMP)	175 (CMP/FMP)	414 (CMP/FMP)
Site Plan/ Subdivision Approved	24 (SP-12-10) 159 (SP-14-2) Total = 183	56 (TP-09-1010) 18 (247-14-141-TP) Total = 74	379 (TP-06-973) 29 (TP-14-1023) 6 (247-14-141-TP) Total = 414
Constructed/ Platted/ Financially Assured	24 (P1 of PP2013-04) 26 (Tract AA) 133 Assured Total = 183	56 (TP-09-1010) Total = 56	311 (TP-06-973) 29 (TP-14-1023) Total = 340
Remaining	117 Remaining	119 Remaining	74 Remaining (Unplatted)

III. CONCLUSIONARY FINDING:

Compliance with Conceptual and Final Master Plan

This application is subject to the conditions of approval included in the Conceptual Master Plan approval (CU-04-94), and the Final Master Plan approval (M-05-2), modified as described is the "Land Use History" section above. The following Conditions of Approval from the CMP and FMP that are applicable to the proposal are addressed as follows:

CMP #1/FMP #2. *All development in the resort shall require tentative plat approval through Title 17 of the County Code, the County Subdivision/Partition Ordinance, and/or Site Plan Review through Title 19 of the County Code, the Bend Urban Growth Boundary Ordinance.*

FINDING: The Applicant has requested Tentative Plan approval under Title 17 and Site Plan Review under Title 19. This condition is met by the submittal of this application.

CMP #3/FMP #3. *As specified by the County Road Department:*

- a. Road improvement plans shall be approved by the Road Department prior to construction.*
- b. Lots within the resort shall not have direct access from Skyline Ranch Road or Metolius Drive.*

...

- e. ***The internal road system, driveways, and parking facilities shall be improved to standards consistent with the approved Vehicle and Pedestrian Access Plan.***

FINDING: As shown on the Tentative Plat, none of the proposed lots have direct access to Skyline Ranch Road or Metolius Drive. The proposed internal private roads are in conformance with the requirements for, and are consistent with, the approved Vehicle and Pedestrian Access Plan ("VPAP") for the resort. As a condition of approval, road improvement plans shall be approved by the Road Department prior to construction.

CMP #6/FMP #4. ***All portions of the proposed resort must be managed and operated in an integrated manner. Failure to comply with this standard will void resort approval.***

FINDING: The proposal is consistent with the location of OLUs as set forth in the CMP and FMP. As proposed, the internal road system and pedestrian paths are consistent with existing and proposed access points on adjoining Resort properties and ensure adequate circulation within the subject property and with the remainder of the Resort. Accordingly, the proposed Tentative Plan and Site Plan, discussed in greater detail below, allow for management and operation of the Resort in an integrated manner.

CMP #7/FMP #5. ***During all phases of the development, the developer and/or its successors in interest shall ensure that individually-owned residential units shall not exceed two and one-half such units for each unit of visitor-oriented overnight lodging. 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 system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.***

FINDING: The current status of individually owned residential units and completed and accepted visitor-oriented lodging units, for the entire resort at the time of this decision is as follows:

Visitor Oriented Lodging: 24 units approved under SP-12-10 have been constructed on Tract Z. Through SP-14-2, the number of OLUs on Tract AA was reduced from 198 to 159. Twenty-six of these units have been constructed and 133 are financially assured. Thus, there a total of 183 constructed or financially assured overnight units as of the writing of this decision.

Residential Units (lots): 396 total residential units (lots) have been created by final plat in the form of 340 single-family lots and 56 multi-family units.

The current ratio of residential to overnight units is 396:183, which is a 2.2:1 ratio.

Overnight and Residential Units Summary for Tetherow Resort

	OLUs	Multi-Family Res. Units	Single Family Res. Units
CMP/FMP Approved (as Modified)	300 (CMP/FMP)	175 (CMP/FMP)	414 (CMP/FMP)

Site Plan/ Subdivision Approved	24 (SP-12-10) 159 (SP-14-2) Total = 183	56 (TP-09-1010) 18 (247-14-141-TP) Total = 74	379 (TP-06-973) 29 (TP-14-1023) 6 (247-14-141-TP) Total = 414
Constructed/ Platted/ Financially Assured	24 (P1 of PP2013-04) 26 (Tract AA) 133 Assured Total = 183	56 (TP-09-1010) Total = 56	311 (TP-06-973) 29 (TP-14-1023) Total = 340
Remaining	117 Remaining	119 Remaining	74 Remaining (Unplatted)

Twenty-four units (6 single-family and 18 multi-family) are currently in Final Plat review as approved under 247-14-000141-TP. If these units were platted, the ratio of to residential to overnight units would be 420:183, which is a 2.3:1 ratio.

The Applicant's proposal will not impact the ratio of OLUs to residential lots as the Applicant is not proposing to create any additional residential lots. Rather, Applicant is proposing to reconfigure and construct OLUs that are presently financially secured, but not yet constructed.

Staff notes that, for an overnight unit to count toward the 2.5:1 required ratio it must be constructed or financially assured, in addition to meeting other requirements described in detail below. Because the OLUs approved under SP-14-2 are on the same property as this subject application, platting of lots under this proposal will preclude development of the overnight units approved under SP-14-2. To ensure continuity of the required overnight units (which are to be reconfigured under this proposal), staff imposes the following condition of approval: No plat shall be recorded under 247-14-428-TP which does not result in ongoing compliance with the required minimum ratio of one overnight unit for every 2.5 residential units. This may be accomplished by recording an improvement agreement financially assuring the overnight units and infrastructure approved under 247-14-000429-SP concurrently with recording of the plat.

Staff also includes a condition of approval specifying that 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 system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.

CMP #8/FMP #6. *Commercial, cultural, entertainment or accessory uses provided as part of the destination resort shall comply with the requirements and limitations of Section 19. 106.070(Q). Specific determination of compliance with this condition shall be made initially at the time of FMP approval and finally at the time of site plan approval for each individual commercial component of the FMP.*

FINDING: Compliance with this requirement was confirmed in the FMP approval. DCC 19.106.070(Q) reads as follows:

"The commercial uses developed as part of the resort will be contained within the project and not oriented to public highways adjacent to the property. The commercial uses permitted in the destination resort will be limited in type and levels of use necessary to meet the needs of resort visitors. A commercial use is necessary to serve the needs of visitors if:

1. Its primary purpose is to provide goods or services that are typically provided to overnight or other short-term visitors to resorts, or the use is necessary for operation, maintenance or promotion of the destination resort; and
2. The use is oriented to the resort and is located away from or screened from highways or other major through roadways."

The proposal seeks to create overnight lodging units, which are a required component of the resort approval. While the term "commercial use" in DCC 19.106.070(Q) appears to be aimed at commercial retail type use, the language of this criterion is sufficiently ambiguous that it likely encompasses OLU's. The CMP approval anticipated that the hotel accommodations would be located within this area of the Resort, the area was generally designated for commercial uses, and "overnight lodging units" are necessary for the operation, maintenance, and promotion of the Resort.

The site of the proposed project is located behind the ridge that rises from Century Drive. The ridge and the height of the structures will screen the uses from Century Drive and other exterior roadways. This criterion is satisfied.

CMP #9/FMP #7. *Commercial, cultural, entertainment or accessory uses provided as part of the destination resort shall be contained within the development and shall not be oriented to public roadways. Commercial, cultural and entertainment uses allowed within the destination resort shall be incidental to the resort itself. As such, these ancillary uses shall be permitted only at a scale suited to serve visitors to the resort. Compliance with this requirement shall also be included as a condition of FMP approval. The maximum building height for commercial, cultural and entertainment uses shall be 40 feet.*

FINDING: As discussed above the "commercial" features of the proposal are not oriented towards public roadways. The commercial uses are incidental to the Resort and are an appropriate scale in terms of number of units as state law and county code determine the required number of OLU's. None of the proposed structures exceed 40 feet, as is discussed in greater detail below.

CMP #10/FMP #8. *The applicant and its successors shall guarantee that all open space used to meet the 50% open space requirement of Section 19.106.030(E) and 19.106.060(D). In addition, all trails currently depicted on the conceptual plan map as being "public trails" shall remain open and available to the public.*

FINDING: Presently, 51% of the resort is dedicated to open space. Open spaces, common area, and golf tracts used to comply with this Condition are platted as distinct tracts on the Tetherow recorded plats. The proposed Tentative Plan will increase the amount of dedicated open space by creating additional common area tracts. The recorded master CCRs include provisions to ensure protection and management of the open spaces as required. Compliance with DCC 19.106.030(E) and 19.106.060(D) are addressed below. The proposal does not preclude use by the public of any trails depicted on the conceptual plan map as "public trails."

CMP #11/FMP #9. *The applicant and its successors in interest shall guarantee that all development would comply with the financial commitment and minimum development requirements set out in DCC 19.106.060(A). Guarantees shall be in the form satisfactory to the county to ensure that the development would be completed consistent with this approval, and may include bonds, certificates of participation, and deed restrictions to ensure compliance with open space and developed recreation standards. Failure to comply with these requirements would void the resort approval.*

FINDING: Tetherow entities have executed Improvement Agreement(s) with the County consistent with County policy to financially secure the resort obligations set out in DCC 19.106.06(A). Through 247-14-000237-1A, the improvement agreements for the OLU's have been amended to reflect the reduction in OLU's required on Tract AA as approved in SP-14-2 and extended until August 28, 2015.

Staff notes that, for an overnight unit to count toward the 2.5:1 required ratio it must be constructed or financially assured, in addition to meeting other requirements described in detail below. Platting of lots under this proposal will preclude development of the overnight units currently approved under SP-14-2 and financially assured. To ensure continuity of the required overnight units (which are to be reconfigured under this proposal), staff imposes the following condition of approval: No plat shall be recorded under 247-14-428-TP which does not result in ongoing compliance with the required minimum ratio of one overnight unit for every 2.5 residential units. This may be accomplished by recording an improvement agreement financially assuring the overnight units and infrastructure approved under 247-14-000429-SP concurrently with recording of the plat.

FMP #10. *All single-family dwellings, multi-family units, commercial structures, and other resort facilities are exempted from the requirements of meeting the solar setback standards.*

FINDING: The proposed development is exempted from the requirements of meeting the solar setback standards.

CMP #16/FMP #12. *All development within the proposed resort shall meet all fire protection requirements of the Bend Fire Department.*

FINDING: The Bend Fire Department submitted a comment letter dated January 8, 2015. It is incorporated herein by reference. As a condition of approval, the applicant shall submit a letter from the Bend Fire Department confirming the platted configuration of the subdivision will conform to applicable Fire Code, prior to final plat approval.

CMP #17/FMP #13. *No development shall be allowed on slopes of 25% or more on the site.*

FINDING: The subject property is generally flat and as demonstrated on the submitted Tentative Subdivision Plan, no development is proposed on slopes of more than 25%.

CMP #21/FMP #15. *Proposed drywells shall be approved by the Department of Environmental Quality (DEQ).*

FINDING: No drywells are proposed with this development. The applicant proposes to control, retain, and dissipate storm water and drainage via surface infiltration basins and vegetated swales as shown on the submitted Preliminary Grading, Drainage, and Site Plans.

CMP #22/FMP #16. *Building heights and setbacks shall conform to the limits set forth in this decision and shall be incorporated into the Design Guidelines for the resort.*

FINDING: Applicable building setbacks and heights are addressed in the approved Tetherow Resort Dimensional Standards and the Height Restrictions Area Map, included as Exhibits E to the approved FMP. This proposal falls under the Commercial and Recreational provisions, which provides as follows:

- A. Height Regulations.** *No building or structure shall be hereinafter erected, enlarged, or structurally altered to exceed 40 feet in height, except within the height restriction area depicted on the attached Exhibit "C" where no buildings or structures in excess of 30 feet above the existing grade shall be constructed, and except within certain areas indicated on the attached Exhibit A-6, where height restriction to 35 feet, and 39 feet apply.*
- B. Lot Area.** *No requirements*
- C. Lot Width.** *No requirements.*
- D. Lot Depth.** *No requirements.*
- E. Front Yard.** *The front yard shall be a minimum of ten feet.*
- F. Side Yard.** *None, except for a side lot line adjoining a residential lot, and then the side yard shall be a minimum of ten feet.*
- G. Rear Yard.** *None, except for a rear lot line adjoining a residential lot, and then the rear yard shall be a minimum of 20 feet.*

There are no special height limitations on Development Tract AA. The proposal complies with these dimensional requirements as the proposed structures are less than 40 feet tall. As proposed, the Lock-Offs would have a maximum height of 22 feet, 6 inches for Cabin #1, 24 feet, 6 inches for Cabin #2, and a maximum height of 30 feet, 7 inches for the Mill Houses. Tetherow Suites North would be less than 40 feet in height. While the height measured from the bottom of the slope is 42 feet, the height when measure at the top of the slope is only 30 feet. DCC Chapter 19.04 defines "height, building" as the "vertical distance from the average contact ground level of the building to the highest point of the building." This definition results in a building height of less than 40 feet. Substantially the same design was approved in SP-12-10.

All front yard setbacks are in excess of 10 feet. The subject property does not adjoin a residential lot. The adjoining Development Tract AB, which is presently vacant, is a development tract and not a residential lot. Although residential development could occur on Development Tract AB, it is designated for commercial and recreational development. Thus, it may never be subdivided to create residential lots and may never include any form of residential development. In any event, the only proposed residential boundaries adjoining Development Tract AB are the eastern boundaries of proposed Development Tract CB and proposed Lot 11. The side yard setbacks for those units of land exceed 10 feet.

247-14-000431-MC Conditions

- 8. CU-04-94 and M-05-2 are amended to update the definition of "overnight lodging as follows:**

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

FINDING: As a condition of approval, the proposed OLU's shall only be counted toward overnight lodging requirements if they are available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.

- 9. CU-04-94 and M-05-2 are amended to reflect code changes under Ordinance No. 2014-016 and future applications at Tetherow resort are subject to:**

***19.106.060(B)(21)(a),
19.106.060(D)(3), and
19.106.090(J), as amended by Ordinance No. 2014-016; and***

19.106.060(J)(1-6), which replaced 19.106.070(U) under Ordinance No. 2014-016.

FINDING: These sections are addressed below.

- 10. The applicant shall submit a report containing the list described under 19.106.060(J)(2)(a) and identifying the responsible entity under 19.106.060(J)(2)(b) prior to approval of any additional land use permits at the resort.**

FINDING: As a condition of approval, the applicant shall submit a report containing the list described under 19.106.060(J)(2)(a) and identifying the responsible entity under 19.106.060(J)(2)(b) prior to final plat approval.

- 11. The applicant shall submit a report documenting the telephone reservation system required under DCC 19.106.060(J)(6), prior to approval of any additional land use permits at the resort.**

FINDING: As a condition of approval, the applicant shall submit a report documenting the telephone reservation system required under DCC 19.106.060(J)(6), prior to final plat approval.

- 12. Failure of the approved destination resort to comply with the requirements in DCC 19.106.060(J)(2) through (6) will result in the County declining to accept or process any further land use actions associated with any part of the resort and the County shall not issue any permits associated with any lots or site plans on any part of the resort until proof is provided to the County of compliance with those conditions.**

FINDING: As a condition of approval, failure of the approved destination resort to comply with the requirements in DCC 19.106.060(J)(2) through (6) will result in the County declining to accept or process any further land use actions associated with any part of the resort and the County shall not issue any permits associated with any lots or site plans on any part of the resort until proof is provided to the County of compliance with those conditions.

- 17. Before approval of each final plat, the applicant shall document compliance with all provisions of 19.106.060(J)(6).**

FINDING: As a condition of approval, the applicant shall document compliance with all provisions of 19.106.060(J)(6), prior to final plat approval.

Title 19 Of The Deschutes County Code, Urban Area Reserve.

A. Chapter 19.12, Urban Area Reserve – UAR 10

1. Section 19.12.030. Conditional Uses.

- O. Destination resort, where mapped in the Bend Area General Plan destination resort map, subject to DCC 19.106.**

FINDING: The subject property is within the Tetherow Destination Resort (CU-04-94, M-05-2). The subject property is mapped as destination resort on the Bend Area General Plan destination resort map.

2. Section 19.12.040. Height Regulations.

- No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height.**

FINDING: The Dimensional Guidelines, adopted as part of the CMP/FMP approval process, govern the height of structures within the Resort. The Dimensional Guidelines provide for 40 feet for commercial and recreational structures, except where special height restrictions apply. None of the proposed structures exceed 40 feet in height.

3. Section 19.12.050. Lot Requirements.

FINDING: Lot size requirements are established by the CMP/FMP and were addressed above.

4. Section 19.12.060. Off-street Parking.

- Off-street parking shall be provided as required in DCC 19.80.**

FINDING: Off-street parking requirements in DCC 19.80 are addressed below.

5. Section 19.12.070. Other Required Conditions.

- See DCC 19.88 applying to special uses where applicable.**

FINDING: None of the standards in DCC 19.88 are applicable to this Application.

B. Chapter 19.76, Site Plan Review

1. Section 19.76.020, Site Plan Requirements.

In all zones, except for a single-family, duplex or triplex unit on one lot, all new uses, buildings, outdoor storage or sales areas and parking lots or alterations thereof shall be subject to the provisions of DCC 19.76.020. Site plan approval shall not be required where a proposed alteration of an existing building does not exceed 25 percent of the size of the original structure unless the Planning Director finds the original structure or proposed alteration does not meet the requirements of DCC Title 19 or other ordinances of the County.

FINDING: This site plan application is for 22 Lock-Off structures and the Hotel totaling 133 OLUs on the subject property. The proposed new uses are subject to the provisions of DCC 19.76.020. Site plan approval is required.

2. Section 19.76.060, Agreement and Security.

The developer and owner shall, as a condition of approval, execute a development agreement for any improvements required on a form approved by the County Counsel and may be required to file with the County a performance bond or other security as approved by the County Counsel to assure full performance of the required improvements. The bond shall be for the cost of the improvements plus 10 percent.

FINDING: Financial assurance of the remaining 133 overnight units on Tract AA (approved under SP-14-2) is provided under Improvement Agreement, Deschutes County Document No. 2007-380, recorded in the Deschutes County Official records at 2007-53411, as amended.

Under the current proposal, the 133 site plan approved overnight units on Tract AA would be reconfigured. Specifically, applicant is proposing 11 2,687 sq. ft. "Mill House" structures with 5 OLUs each, 11 "Cabin" structures with 5 OLUs each (collectively, the Mill Houses and Cabins are referred to as "Lock-Offs"), and the 23, 734 sq. ft. "Tetherow Suites North" with 23 OLUs. The individual Lock-Offs may be individually owned.

The current amendment of the financial assurance bonds development of overnight units as permitted and described in SP-14-2. As a condition of approval, any "Development Agreement" subject to 19.106.110 and 19.76.060 for the overnights units shall be guaranteed through surety bonding or substantial financial assurances approved by the County, prior to final plat recording. The surety bonding or substantial financial assurances shall be for the cost of the improvements plus 10 percent. The applicant shall provide a current cost estimate for the required improvements and written verification from the Deschutes County Engineer that the cost estimate is reasonable and accurate.

3. Section 19.76.070, Site plan criteria.

Approval of a site plan shall be based on the following criteria:

A. Safety and Privacy. Residential site plans shall be designed to provide a safe living environment while offering appropriate

opportunities for privacy and transitions from public to private spaces.

FINDING: The proposed walkways would provide safe circulation for pedestrians within the subdivision when adjacent to parking areas. Each Lock-Off structure would be separated from adjacent structures by garages and landscaped areas, which allow for privacy. Each structure would have its own driveway providing for adequate transition from public to private spaces.

- B. *Special Needs of Handicapped. When deemed appropriate, the site plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs, drop curbs and handicapped parking stalls.***

FINDING: Conformance with ADA standards will be confirmed in the building permit review.

- C. *Preservation of Natural Landscape. The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve the applicant's functions. Preserved trees and shrubs shall be protected during construction.***

FINDING: The majority of the site is generally level, with a slight down slope from west to east and south to north. Flat site conditions will reduce the need for grading and filling and thus preserve vegetation. The subject property lies within an area that was burned in the Awbrey Hall fire of 1990. The site is almost completely devoid of mature trees. Those existing trees are depicted on the Site Plan. Existing vegetation on-site includes Manzanita, bitterbrush, sagebrush, and grasses. Vegetation within the building pads, pathways, and roadways would be removed.

There is some exposed basaltic/volcanic rock along the southerly boundary of Tract AA. However, the exposed rock would not be impacted by the proposed development because the Lock-Offs in that area are set back from the southern boundary by the intervening Common Area Tracts B and D.

- D. *Pedestrian and Vehicular Circulation and Parking. The location and number of points of access to the site, the interior circulation patterns, designs of parking areas and the separation between pedestrians and moving and parked vehicles shall be designed to promote safety and avoid congestion on adjacent streets.***

FINDING: The proposed development is accessed from an existing roadway on Development Tract Z and from the proposed Meeks Rim Drive. These accesses connect to Skyline Ranch Road and Meeks Trail respectively. The Suites Drive, East Drive, West Drive, and Lodge Drive roadways will provide convenient access to all of the proposed lots and development tracts. Lodge Drive and Meeks Rim Drive will establish connections to future development to the east.

The Site Plan shows each Lock-Off will have its own driveway and a garage for parking. Parking will be stacked with parking spaces in garage/carports and additional spaces in the driveway. Additional parking is also available off-site in Common Area Tracts. The location of driveways and off-site parking will not create conflict points on the internal roads/drives.

Pedestrian walkways are proposed along the south sides of Lodge Drive, Suites Drive, and the Existing Access Drive. These walkways would also provide access to Resort amenities on proposed Development Tract CA and Development Tract Z.

- E. *Buffering and Screening. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires and the like), loading and parking and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts to the site and neighboring properties.***

FINDING: No areas, structure, or facilities for storage, machinery, and equipment are proposed. As noted previously, parking for each unit would be provided with attached garages, within driveways, and within parking areas internal to the site. Additional parking is available on Common Area Tracts. The internal location of parking spaces as well as landscaping would minimize impacts to the site and neighboring properties.

- F. *Utilities. All utility installations above ground, if such are allowed, shall be located so as to minimize adverse impacts on the site and neighboring properties.***

FINDING: With the exception of standard power transformers, pedestals, and similar franchise utility facilities/appurtenances, all utilities will be underground. Landscaping will be used to minimize adverse impacts from above ground utility facilities.

- G. *Public Facilities. The proposed use shall not be an undue burden on public facilities, such as the street, sewer or water system.***

FINDING: The Applicant has entered into a License and Sewer and Water Agreement with the City of Bend. As conditioned below, the Applicant will construct all sewer and water lines necessary to support the subdivision to City of Bend standards prior to final plat approval.

Street improvements and traffic circulation patterns for the overall resort were approved as part of the CMP/FMP decisions. No additional road improvements beyond improvements within the proposed subdivision are required.

4. Section 19.76.080, Required Minimum Standards..

- A. *Minimum Landscaping Standards. All developments subject to site plan approval shall meet the following minimum standards for landscaping:***

- 1. *A minimum of 15 percent of the area of a project shall be landscaped for multifamily, commercial and industrial developments, subject to site plan approval and the following requirements:***

FINDING: The Site Plan for this commercial development demonstrates that approximately 54% of the subject property will be landscaped, and provides the information required in this criterion, including proposed plant and non-plant materials.

- a. *Landscape Plan. The applicant shall submit a complete landscape plan showing all live plant materials and non-***

plant materials to be installed on the site in order to meet the landscape requirement. The landscape plan shall also include written documentation of how the site will be prepared for plant material installation with an emphasis on soil quality and available depth.

FINDING: The applicant has included a compliant Landscape Plan, which was submitted as Exhibit 6 to the application.

- b. Irrigation. All plant materials, except existing native plants not damaged during construction, shall be irrigated by underground sprinkler systems set on a timer in order to obtain proper water duration and ease of maintenance.*

FINDING: The applicant has stated that the Tetherow owners have sought to maintain a natural aesthetic within the Resort and thus preserve and utilize natural vegetation to the maximum extent practical. The majority of the landscaping, whether preserved or restored, will be climate appropriate natural vegetation that does not require irrigation. For lawns and landscaping adjoining the OLU's, the applicant proposes to install underground automatic irrigation systems to ensure proper irrigation and maintenance of all plant materials.

- c. Non-Plant Materials. The use of certain non-plant materials as part of the landscape plan is highly encouraged. These materials may include the following: large landscape quality boulders, wood or concrete soil retaining devices, gravels, concrete garden amenities, approved mulch materials, stepping stones and water features. Borders for landscape beds abutting parking areas shall be constructed with extruded or poured-in-place concrete, retaining walls, sidewalks and/or other features acceptable to the County.*

FINDING: The applicant has not proposed any introduced, non-plant landscaping materials.

- d. Plant Materials. Minimum plant material sizes and placement: (Note: Annual type plants will not be counted as part of the landscaping requirement unless permanent architectural or other non-movable features are specifically created for these type of plants.)*
 - i. Trees. A variety of tree species is encouraged as a way to provide visual interest and to protect against same species die out or disease. Acceptable tree species shall be those trees which are listed in DCC 19.76.080(A)(2)(g), readily available from local nurseries, tolerant of Central Oregon climate, disease resistant, and do not create unusual maintenance problems. All deciduous trees shall be a minimum of two inches in diameter at breast height. Larger*

diameter trees are encouraged if soil conditions allow.

FINDING: The Landscape Plan indicates that a variety of evergreen (Ponderosa Pine, Austrian Pine, Scots Pine, and Subalpine Fir) and deciduous trees (Quaking Aspen, Pin Oak, Flam Amur Maple) are proposed. Pin Oaks and Amur Maples are listed in DCC 19.76.080(A)(2)(g), but the list is not exclusive and includes other tree species that achieve the purposes DCC 19.76.080. The identified tree species meet the purpose of DCC 19.76.080 because they enhance the aesthetic of the Subject property, are readily available, are climate appropriate, are disease resistant, and do not present maintenance issues. All deciduous trees will be a minimum of two inches in diameter at breast height.

- ii. Ponderosa Pine. There shall be one native Ponderosa species of pine planted for every four deciduous trees required to be planted on the site. Pine trees may require larger planting beds due to their size at maturity. All coniferous trees, except Ponderosa, shall be a minimum of six feet in height. Ponderosa trees shall be a minimum of three feet in height. Larger Ponderosa trees are encouraged if readily available.***

FINDING: The Landscape Plan indicates that approximately 150 deciduous trees and 40 Ponderosa Pines are proposed, which exceeds the one to four requirement. As indicated on the Landscape Plan, all of the proposed plantings meet the minimum height requirements.

- iii. Shrubs. All shrubs shall be a minimum of three gallons in size. Shrubs adjacent to parking areas with car overhang shall be planted at least three feet from the parking surface. Shrubs shall not be placed closer to other materials than the plant spread at maturity. At least 40 percent of the shrubs in the landscape plan shall include evergreens. The use of a variety of shrub types is encouraged.***

FINDING: The Landscape Plan shows that all proposed shrubs shall be planted from three gallon containers. Shrubs will not be placed closer to other materials than the plant spread at maturity. At least 40 percent of the shrubs proposed are evergreens.

- iv. Ground covers. All ground covers shall be of sufficient size and quantity to provide for maximum coverage in five years based upon the species and growth pattern.***

FINDING: The Landscape Plan indicates that all ground covers shall be planted at a spacing that allows for maximum coverage in five years based on species and growth pattern.

- v. Planting beds. Planting beds shall be of sufficient width to accommodate the plants at maturity. The planting beds along the perimeter***

of a building shall incorporate a mix of trees, shrubs and ground covers to buffer the building and reduce the apparent mass of the building as viewed from the street. The plant materials within the planting bed shall not create hiding areas or other security concerns.

FINDING: Proposed planting beds are sufficient to accommodate a mix of plants and will allow for proper growth and buffering of the proposed Lock-Offs. The proposed plantings will not create hiding areas or other security concerns.

2. Street Trees. *The placement, spacing and pruning of street trees shall be as follows, although the Planning Director or Hearings Body may adjust the placement standard for special site conditions:*

- a. Street trees shall be located a minimum of five feet from the face of a curb.*
- b. Street Trees shall be placed a maximum of 30 feet apart. Reduced separation may be required for smaller species of trees. Variety in tree placement using clusters of trees and uneven spacing is encouraged.*
- c. An approved tree grate or other surface treatment shall be used for street trees planted in paved or concrete area.*
- d. As street trees grow, they shall be pruned to provide a minimum clearance of eight feet above sidewalk and 14 feet above street, alley or roadway surfaces.*
- e. Existing trees may be used as street trees if they are not killed or damaged from any new development. Sidewalks of variable width and elevation may be utilized to save existing street trees.*
- f. Existing street trees removed by development projects shall be replaced by the developer with those from the approved street tree list.*
- g. Street trees shall be those species suitable for the location in which they are placed. Approved tree species include:
Trees with low mature tree height (25 feet or less) for use in areas under power lines or in small planting areas:*

Amur Maple/Acer ginnala

Canada Red Cherry/Prunus Virginiana 'Shubert'

Eastern Redbud/Cercis canadensis

Flowering Crabapple/Malus 'variety'

Hawthorn/Crataegus 'variety'

Japanese Lilac Tree/Syringa reticulata

Serviceberry/Amelanchier

Medium mature tree height (30 to 45 feet):

American Hornbeam/ Carpinus caroliniana

Callery Pear/Pyrus calleryana

Hedge Maple/Acer campestre

Mountain Ash/Sorbus acuparia 'variety'

Tall mature tree height (50 feet or larger):

Birch/Betula pendula 'variety'

Green Ash/Fraxinus pennsylvanica

Honey Locust/Gleditsia tricanthos 'variety'

Littleleaf Linden/Tilia cordata

Norway Maple/Acer platanoides 'variety'

Pin Oak/Quercus palustris

Red Maple/Acer rubrum 'variety'

Red Oak/Quercus rubra

Other tree species: *The Planning Director or Hearings Body may approve other tree species as necessary to achieve the purposes of DCC 19.76.080.*

FINDING: Street tree requirements for all streets abutting the Tetherow golf course were addressed under SP-06-37. A landscape plan that included clustered street tree plantings along all Golf course, Skyline Ranch Road and Metolius Drive frontages per the above criterion was approved and has been implemented. Moreover, subsequent site plans for lodging facilities (SP-12-10) allowed for clustered as opposed to evenly spaced street trees. Development Tract AA has streets abutting the Golf Course and is proposed for the development of OLUs. Applicant is proposing a similar landscaping plan for internal roadways that meets comparable standards for the number of trees, but allows for a similar aesthetic to carry through Development Tract AA. The proposed trees include a mix of species suitable for the location.

3. Areas of commercial and industrial zones used for vehicle maneuvering, parking, loading or storage shall be landscaped and screened as follows:

- a. **Landscape coverage of the landscape area shall be 50 percent at the time of installation and 90 percent at five years.**
- b. **Parking lot landscaping shall consist of a minimum of seven percent of the total parking area plus a ratio of one tree per eight parking spaces to create a canopy effect.**
- c. **Landscape buffers between parking areas, parking pods and internal streets shall have a minimum width of five feet with no car overhang and 10 feet with a car overhang.**
- d. **Landscape buffers between parking and an abutting property line shall have a minimum width of 10 feet.**
- e. **Front or exterior yard landscaping may not be substituted for the interior landscaping required for interior parking stalls.**
- f. **There shall be a landscaped and/or screened buffer area a minimum distance of five feet between commercial uses.**
- g. **There shall be a minimum width of 10 feet for landscape buffers between buildings adjacent to streets.**
- h. **Landscape buffers shall consist of evergreen ground cover and shrubs mixed with a variety of flowering and deciduous species of trees and shrubs.**
 - i. **Landscaping in a parking or loading area shall have a width of not less than five feet. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.**

FINDING: Staff believes these criteria do not apply, as the lodging units are not located in a commercial or industrial zone.

4. Required landscaping shall be continuously maintained.

FINDING: The applicant has acknowledged this requirement. As a condition of approval, required landscaping shall be continuously maintained.

5. Vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir or assignee. Plants or trees that die or are damaged shall be replaced and maintained.

FINDING: The applicant has acknowledged this requirement. As a condition of approval, vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir or assignee. Plants or trees that die or are damaged shall be replaced and maintained.

B. Shared Areas. Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development as follows:

- 1. Units with one or two bedrooms: 200 square feet of lawn per unit.**
- 2. Units with three or more bedrooms: 300 square feet of lawn per unit.**

FINDING: This proposal does not include any apartment residential development.

C. Storage. Areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc.

FINDING: No residential development is proposed.

D. Drainage. Surface drainage shall be contained on site.

FINDING: As discussed previously, surface drainage will be contained on-site. The applicant is proposing drainage swales and catch basins designed to County standards.

E. Bicycle Parking. The development shall provide the number and type of bicycle parking facility as required in DCC 19.80.080 and 19.80.090. The location and design of bicycle parking facilities shall be shown on the site plan.

FINDING: DCC 19.80.080 and .090 do not require bicycle parking for overnight lodging. Nonetheless, the Lock-Offs feature garages that could provide secure covered bicycle parking and it is anticipated that bicycle parking can be accommodated in internal storage rooms within Tetherow Suites North.

F. Internal Pedestrian Circulation. Internal pedestrian circulation shall be provided in new office parks and commercial developments through the clustering of buildings, construction of hard surface pedestrian walkway, and similar techniques. Walkways shall connect building entrances to one another and from building entrances to public street and existing or planned transit

stops. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connection on adjacent properties planned or used for commercial, multifamily, institutional or park use.

FINDING: This proposal does not include new office parks or commercial developments. This criterion does not apply.

G. Public Transit Orientation. *New retail, office and institutional buildings on parcels within 600 feet of existing or planned transit routes shall provide preferential access to transit through the following measures:*

- 1. Orienting building entrances to a transit facility; or**
- 2. Locating buildings as close as possible to the transit route street.**

FINDING: This proposal does not include any new retail, office, or institutional buildings.

C. Chapter 19.80, Off Street Parking and Loading

1. Section 19.80.020, Off-Street Loading.

A. Commercial, industrial and public utility uses which have a gross floor area of 5,000 square feet or more shall provide truck loading or unloading berths in accordance with the following table. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space, and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:

Square Feet of Floor Area	No. of Berths Required
Less than 5,000	0
5,000-30,000	1
30,000-100,000	2
100,000 and Over	3

FINDING: This proposal proposed use falls under subsection (B), below. This criterion does not apply.

B. Restaurants, office buildings, hotels, motels, hospitals and institutions, schools and colleges, public buildings, recreation or entertainment facilities and any similar use which has a gross floor space of 30,000 square feet or more shall provide off-street truck loading or unloading berths in accordance with the following table:

Square Feet of Floor Area	No. of Berths Required
Less than 30,000	0

30,000-100,000	1
100,000 and Over	2

- C. ***A loading berth shall contain space 10 feet wide, 35 feet long and have a height clearance of 14 feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required length of these berths shall be increased.***
- D. ***If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.***
- E. ***Off-street parking areas used to fulfill the requirements of DCC Title 19 shall not be used for loading and unloading operations, except during periods of the day when not required to take care of parking needs.***

FINDING: Staff finds that the proposed use is hotel/motel and would generally require a loading berth based on the total square footage of OLU's served by the combined parking area. However, the applicant has stated that no deliveries will be made by a vehicle larger than a van and no loading berth is needed for the proposed use. Staff concurs and finds that all deliveries can be accommodated in the proposed parking areas during periods of the day when not required to take care of other parking needs.

2. Section 19.80.030, Off-Street Parking.

Off-street parking space shall be provided and maintained as set forth in DCC 19.80.030 for all uses in all zones, except for the CB zone. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 19 is changed. Improved off-street parking shall mean paved with two inches of paving.

FINDING: As a condition of approval, all improved off street parking depicted on the site plan shall include a minimum of two inches of paving.

3. Section 19.80.040, Number of Spaces Required.

Off-street parking shall be provided as follows:

B. Commercial Residential.

C.

Hotel	1 space per guest room plus 1 space per 2 employees
Motel	1 space per guest room or suite plus 1 additional space for the owner or manager.
Club or Lodge	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
Fraternity, Sorority or Dormitory	1 space for each 6 student beds

- H. Other uses not specifically listed above shall furnish parking as required by the Planning Commission. The Planning Commission shall use the above list as a guide for determining requirements for said other uses.**

FINDING: Under SP-14-2, the total hotel parking demand for Tract AA included 172 spaces required for guests (159 spaces) and employee parking (13 spaces for 26 employees). The applicant proposed 257 paved parking spaces to meet this demand.

This proposal will significantly reconfigure the overnight development on Tract AA. All required parking demand on the subject property must be met. Staff finds that the "cabins" and "mill houses" function similarly to motels and require one space per guest room, for a total of 110 spaces, plus one space for the owner/manager. This creates a parking demand of 111 spaces. No parking is required at the existing "guest services building", as it is used by employees already accounted for.

The existing 26 unit "Tetherow Suites East" and proposed 23 unit "Tetherow Suites North" function as hotels, requiring 49 spaces, plus one space for two employees. Staff relies on industry estimates for hotels that indicate 0.1 employees per hotel room, for a total of 5 employees and, thus requiring 3 spaces. This creates a parking demand of 52 spaces.

As a condition of approval, the applicant shall submit a parking plan clearly showing a minimum of 163 parking spaces on Tract AA, prior to final plat approval. Spaces in garages may be counted toward this total, provided they are independently accessible and will not be obstructed by other required parking spaces. Where portions of the development are platted in phases, each phase shall provide parking spaces sufficient to accommodate cumulative development at the site.

4. Section 19.80.050, General Provisions-Off-Street Parking.

- A. More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of the requirements of the several uses computed separately.**

FINDING: As a result of the proposed partition, the only parcel with more than one use will be Development Tract CA with "Tetherow Suites East" and the guest services building. As described above, the total requirement for off-street parking was calculated as the sum of the requirements of the several uses computed separately.

- B. *Joint Use of Facilities.*** *The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.*

FINDING: Parking spaces within the Lodge Drive Tracts A and B are unassigned parking spaces available to all of the structures within the proposed subdivision. The total number of spaces is sufficient for the total number of OLUs proposed. The shared spaces are located on the Common Area Tracts PA, PB, PC and PD and will be available to all of the proposed structures by virtue of their membership in the contemplated homeowners association or sub-association.

- C. *Location of Parking Facilities.*** *Off-street parking spaces for dwellings shall be located on the same lot with the dwellings. All other off-street parking shall be located on the lot with the use or, if not located on the same lot, shall be first approved as a conditional use. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the use. The burden of proving the existence of such off-premises parking arrangements rests upon the person who has the responsibility of providing parking.*

FINDING: No dwellings are proposed. Most of the shared parking will be located on Common Area Tracts PA, PB, PC and PD and therefore conditional use approval is required. The conditional use criteria are addressed below. The shared parking spaces are located within 100 feet of the structures and thus are the functional equivalent of on-site parking. Lodge Drive and the proposed walkway along the northern boundary of Lots 12-22 provide safe and efficient access to parking facilities.

- D. *Use of Parking Facilities.*** *Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.*

FINDING: The applicant has acknowledged this requirement. As a condition of approval, required parking space shall be available for the parking of operable passenger automobiles of residents only, and shall not be used for the storage of vehicles or materials.

- E. *Parking, Front Yard.*** *Unless otherwise provided, required parking and loading spaces for multifamily dwellings, commercial and industrial*

use shall not be located in a required front yard, but such space may be located within a required side or rear yard.

FINDING: None of the proposed parking is within a required front yard setback.

5. Section 19.80.060, Development and Maintenance Standards for Off-Street Parking Areas.

Every parcel of land hereafter used as a public or private area, including commercial parking lots, shall be developed as follows:

- A. ***An off-street parking area for more than five vehicles shall be effectively screened by a site-obscuring fence, hedge or planting on each side which adjoins a residential use or property situated in a residential zone or the premises of any school or like institution.***

FINDING: Parking area for more than five vehicles are proposed and the Development Tract to the east is master planned to allow for residential development. As a condition of approval, off-street parking areas for more than five vehicles shall be effectively screened by a site-obscuring fence, hedge or planting on each side which adjoins a residential use.

- B. ***Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in an R zone.***

FINDING: There is no adjoining property in an R zone.

- C. ***Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street or right of way other than an alley.***

FINDING: Under 247-14-0000431-MC the applicant modified the Vehicle and Pedestrian Access Plan (VPAP) for the subject property to allow groups of more than two parking spaces to be located such that their use will require backing movements or other maneuvering within a street or right of way. This criterion does not apply

- D. ***Areas used for standing and maneuvering of vehicles shall be paved surfaces maintained adequately for all weather use and so drained as to contain any flow of water on the site.***

FINDING: All driveways will be paved to allow for all weather use. All stormwater will be adequately contained on site as described below.

- E. ***Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.***

FINDING: The parking facilities are located internally within the site and are grouped in small clusters to prevent disturbing adjoining properties.

- F. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.**

FINDING: Most vehicular travel will be handled by private roads in this development. The access aisle at Tetherow Suites North is of sufficient width for all vehicular turning and maneuvering, as proposed.

- G. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined throughout by the use of rails, fences, walls or other barriers or markers. Service drives to drive-in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.**

FINDING: The proposed service drives comply with this criterion.

- H. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points 30 feet from their intersection.**

FINDING: The proposed service drives comply with this criterion.

- I. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail so placed to prevent a motor vehicle from extending over an adjacent property line, pedestrian walkway, bikeway, or a street right-of-way.**

FINDING: The proposed curbs are provided to prevent vehicular encroachment. The parking spaces that require backing into a right of way include mountable curbs to inhibit encroachment. In any event, the amended VPAP clarifies that no curbs or bumper rails are required for parking spaces that back into a right of way.

- 6. Section 19.80.070, Off-Street Parking Lot Design.**
All off-street parking lots shall be designed in accordance with county standards for stalls and aisles set forth in the following drawings and table:

SEE TABLE AT END OF CHAPTER 19.80

- A. For one row of stalls, use C plus D as minimum bay width.**
B. Public alley width may be included as part of dimension D, but all parking stalls must be on private property, off the public right of way.
C. For estimating available parking area, use 300-325 sq. ft. per vehicle for stall, aisle and access areas.
D. For narrow lots, equivalent size stalls and aisles may be approved by the Public Works Director.
E. For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls not exceed

30 percent of the total required stalls. A compact stall shall be eight feet in width and 17 feet in length with appropriate aisle width.

FINDING: The applicant has confirmed that all parking spaces will be a minimum of 9 feet by 20 feet, in accordance with these requirements. Parking access will be provided by private roads (minimum 20-foot wide) or access aisles that meet these 12-foot one-way or 24-foot-wide two-way requirements. As a condition of approval, the applicant shall submit a parking plan showing all parking space dimensions and access aisle widths, prior to final plat approval.

7. Section 19.80.080, Required Bicycle Parking.

- A. ***On-site bicycle parking shall be provided as listed below. Fractional spaces shall be rounded to the next highest number. Bicycle parking for multiple uses or large commercial developments may be provided in one or more locations.***

FINDING: The table provided in the DCC does not include hotels or motels. As discussed above, prior decisions have not imposed bicycle parking requirements. However, bicycle parking can be accommodated within the garages of the Lock-Off units and within internal storage rooms within Tetherow Suites North.

C. **Chapter 19.106, Destination Resorts**

1. Section 19.106.060, Standards for Destination Resorts.

The following standards shall govern consideration of destination resorts:

- A. ***The destination resort shall, in the first phase, provide for and include as part of the CMP the following minimum requirements:***
1. ***At least 150 separate rentable units for visitor-oriented lodging;***

FINDING: The resort met the requirements of this criterion via SP-07-6 and TP-07-990, which approved 150 separately rentable units for visitor-oriented lodging. Additionally MC-08-6 modified those approvals to include a total of 198 separately rentable units for visitor-oriented lodging.

These approvals have been superseded, first by SP-12-11, which transferred the approved 198 OLU's from Development Tract AS to Development Tract AA, and subsequently by SP-12-22 and SP-14-2, which approved a reconfiguration on Development Tract AA of the proposed OLU's approved in SP-12-11 and reduced the number of OLU's on Development Tract AA to 159. The current status of overnight units at the resort is discussed in detail below.

Staff notes that, for an overnight unit to count toward the 2.5:1 required ratio it must be constructed or financially assured, in addition to meeting other requirements described in detail below. Platting of lots under this proposal will preclude development of the overnight units currently approved under SP-14-2 and financially assured. To ensure continuity of the required overnight units (which are to be reconfigured under this proposal), staff imposes the following condition of approval: No plat shall be recorded under 247-14-428-TP which does not result in ongoing compliance with the required minimum ratio of one overnight unit for every 2.5 residential units. This may be accomplished by recording an improvement agreement financially assuring the overnight units and infrastructure approved under 247-14-000429-SP concurrently with recording of the plat.

2. ***Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide eating for at least 100 persons;***

FINDING: These requirements have been met and no changes are proposed to the previously approved and constructed visitor-oriented eating establishments.

3. ***At least \$7 million shall 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. Not less than one-third of this amount shall be spent on developed recreational facilities. The spending minimums provided for are stated in 1993 dollars; and***

FINDING: No reduction in the amount spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations is proposed. This criterion has already been met.

4. ***The facilities and accommodations required by this DCC 19.106.060 must be physically provided or financially assured pursuant to DCC 19.106.110 prior to closure of sales, rental or lease of any residential dwellings or lots.***

FINDING: Staff notes that, for an overnight unit to count toward the 2.5:1 required ratio it must be physically provided or financially assured, in addition to meeting other requirements described in detail below. Platting of lots under this proposal will preclude development of the overnight units currently approved under SP-14-2 and financially assured. To ensure continuity of the required overnight units (which are to be reconfigured under this proposal), staff imposes the following condition of approval: No plat shall be recorded under 247-14-428-TP which does not result in ongoing compliance with the required minimum ratio of one overnight unit for every 2.5 residential units. This may be accomplished by recording an improvement agreement financially assuring the overnight units and infrastructure approved under 247-14-000429-SP concurrently with recording of the plat.

This will ensure that accommodations required by DCC 19.106.060 will continue to be physically provided or financially assured pursuant to DCC 19.106.110 prior to closure of sales, rental or lease of any residential dwellings or lots.

- B. ***All destination resorts shall have a minimum of 160 contiguous acres of land. Acreage split by public roads or rivers or streams shall count toward the acreage limit, provided that the CMP demonstrates that the isolated acreage will be operated or managed in a manner that will be integral to the remainder of the resort.***

FINDING: No changes are proposed to the previously approved contiguous acreage of the resort. This criterion has been met.

- C. ***All destination resorts shall have direct access onto a state, county, or city arterial or collector roadway, as designated by the Bend Urban Area General Plan.***

FINDING: No changes are proposed to the previously approved accesses for the resort. This criterion has been met.

D. A destination resort shall, cumulatively and for each phase, meet the following minimum requirements:

1. **The resort shall have a minimum of 50 percent of the total acreage of the development dedicated to permanent open space, excluding yards, streets and parking areas. Portions of individual residential lots and landscape area requirements for developed recreational facilities, visitor-oriented accommodations or multi-family or commercial uses established by DCC 19.76.080 shall not be considered open space; and**

FINDING: Currently, 51% of the total acreage of the resort has been dedicated to permanent open space in compliance with this criterion. This proposal does not increase or reduce the acreage dedicated to open space.

2. **Individually-owned residential units that do not meet the definition of overnight lodging in DCC 19.04.040 shall not exceed two and one-half such units for each unit of visitor-oriented overnight lodging constructed or financially assured within the resort.**
3. **Individually-owned units shall be considered visitor-oriented 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 system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.**

FINDING: The definition of overnight lodging in DCC 19.04.040 is:

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

The current status of individually owned residential units and completed and accepted visitor-oriented lodging units, is summarized under findings for "CMP #7/FMP #5" above, and incorporated herein by reference.

The Applicant's proposal will not impact the ratio of OLUs to residential lots as the Applicant is not proposing to create any additional residential lots. Rather, Applicant is proposing to reconfigure and construct OLUs that are presently financially secured, but not yet constructed.

Staff notes that, for an overnight unit to count toward the 2.5:1 required ratio it must be physically provided or financially assured, in addition to meeting other requirements described in detail below. Platting of lots under this proposal will preclude development of the overnight units currently approved under SP-14-2 and financially assured. To ensure continuity of the required overnight units (which are to be reconfigured under this proposal), staff imposes the following condition of approval: No plat shall be recorded under 247-14-428-TP which does not result in ongoing compliance with the required minimum ratio of one overnight unit for every 2.5 residential units. This may be accomplished by recording an improvement agreement financially assuring the overnight units and infrastructure approved under 247-14-000429-SP concurrently with recording of the plat.

Staff finds that the definition of "Overnight Lodging" in DCC 19.04.040 includes additional requirements for overnight lodgings if they are individually owned. The applicant has stated that the proposed OLU's may be sold to individual owners. As a condition of approval, the OLU's created under this approval will only 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 system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.

- E. *Phasing. A destination resort authorized pursuant to DCC 19.106.060 may be developed in phases. If a proposed resort is to be developed in phases, each phase shall be as described in the CMP. Each individual phase shall meet the following requirements:***
- 1. *Each phase, together with previously completed phases, if any, shall be capable of operating in a manner consistent with the intent and purpose of DCC 19.106 and Goal 8;***
 - 2. *The first phase and each subsequent phase of the destination resort shall cumulatively meet the minimum requirements of DCC 19.106.060 and DCC 19.76.070, and;***
 - 3. *Each phase may include two or more distinct non-contiguous areas within the destination resort.***

FINDING: No resort phasing is included in this proposal. Staff notes that phased platting is proposed within this subdivision.

- F. *Dimensional standards:***
- 1. *The minimum lot area, width, lot coverage, frontage and yard requirements and building heights otherwise applying to structures in underlying zones and the provisions of DCC 19.88.210 relating to solar access shall not apply within a destination resort. These standards shall be determined by the Planning Director or Hearings Body at the time of the CMP. In determining these standards, the Planning Director or Hearings Body shall find that the minimum specified in the CMP are adequate to satisfy the intent of the Bend Urban Area General Plan relating to solar access, fire protection, vehicle access, and to protect resources identified by LCDC Goal 5 which are identified in the Bend Urban Area General Plan. At a minimum, a 100 foot setback shall be maintained from all streams and rivers. No lot for a single-family residence shall exceed an overall project average of 22,000 square feet in size.***

FINDING: The Dimensional Standards approved with the CMP & FMP established the following limits for the commercial and recreational elements of the resort:

1. **Maximum building height of 40 feet**
2. **Front yard setback of 10 feet**
3. **Rear yard setback of 0 feet (unless abutting a residential lot, where the minimum setback shall be 20 feet)**
4. **Side yard setbacks of 0 feet (unless abutting a residential lot, where the minimum setback shall be 10 feet).**

The proposed Site Plan demonstrates compliance with these setback requirements. The subject site does not abut residential lots, thus there are no rear and side yard setbacks. The submitted plans demonstrate that no structure will exceed 40 feet in height.

2. Exterior setbacks and buffers.

- a. **A destination resort shall provide for 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.**
- b. **Exterior setbacks shall also be provided to ensure that improvements and activities are located to minimize adverse effects of the resort on uses on surrounding lands.**

FINDING: This application does not impact exterior resort setbacks and buffers, as the development tract is located internal to the resort.

G. Floodplain requirements. The Flood Plain Zone (FP) requirements of DCC 19.72 shall apply to all developed portions of a destination resort in an FP Zone in addition to any applicable criteria of DCC 19.106. Except for flood plain areas which have been granted an exception to LCDC goals 3 and 4, Flood Plain Zones shall not be considered part of a destination resort when determining compliance with the following standards;

1. **One hundred sixty acre minimum site;**
2. **Open space requirements.**

A conservation easement as described in DCC Title 19 shall be conveyed to the County for all areas within a flood plain which are part of a destination resort.

FINDING: The subject property does not include any areas zoned Flood Plain.

H. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland shall be a separate conditional use subject to all pertinent requirements of DCC Title 19.

FINDING: No excavation, grading or fill and removal within the bed and banks of a stream or river or in a wetland are included in this proposal.

- I. Time share units not included in the overnight lodging calculations shall be subject to approval under the conditional use criteria set forth in DCC 19.100. Time share units identified as part of the destination resort's overnight lodging units shall not be subject to the time share conditional use criteria of DCC 19.100.*

FINDING: No time share units are included in this proposal.

- J. The overnight lodging criteria shall be met, including the 150-unit minimum and the 2-1/2 to 1 ratio set forth in DCC 19.106.060(D)(2).*
 - 1. Failure of the approved destination resort to comply with the requirements in DCC 19.106.060(J)(2) through (6) will result in the County declining to accept or process any further land use actions associated with any part of the resort and the County shall not issue any permits associated with any lots or site plans on any part of the resort until proof is provided to the County of compliance with those conditions.*

FINDING: Staff includes this requirement as a condition of approval.

- 2. Each resort shall compile, and maintain, in perpetuity, a list of all overnight lodging units.*
 - a. The list shall identify each individually-owned unit that is counted as overnight lodging.*
 - b. At all times, at least one entity shall be responsible for maintaining the registry and fulfilling the reporting requirements of DCC 19.106.060(J)(2) through (6).*
 - c. Initially, the resort management shall be responsible for compiling and maintaining the registry.*
 - d. As a resort develops, the developer shall transfer responsibility for maintaining the registry to the homeowner association(s). The terms and timing of this transfer shall be specified in the Conditions, Covenants & Restrictions (CC&Rs).*
 - e. Resort management shall notify the County prior to assigning the registry to a homeowner association.*
 - f. Each resort shall maintain records documenting its rental program related to overnight lodging units at a convenient location in Deschutes County, with those records accessible to the County upon 72 hour notice from the County.*
 - g. As used in this section, "resort management" includes, but is not limited to, the applicant and the applicant's heirs, successors in interest, assignees other than a home owners association.*

FINDING: Staff notes that under 247-14-000431-MC, the applicant is required to submit a report containing the list described under 19.106.060(J)(2)(a) and identifying the responsible entity under 19.106.060(J)(2)(b), prior to final plat approval.

3. *An annual report shall be submitted to the Planning Division by the resort management or home owners association(s) each February 1, documenting all of the following as of December 31 of the previous year:*
 - a. *The minimum of 150 permanent units of overnight lodging have been constructed or that the resort is not yet required to have constructed the 150 units;*
 - b. *The number of individually-owned residential platted lots and the number of overnight-lodging units;*
 - c. *The ratio between the individually-owned residential platted lots and the overnight lodging units;*
 - d. *The following information on each individually-owned residential unit counted as overnight lodging.*
 - i. *Who the owner or owners have been over the last year;*
 - ii. *How many nights out of the year the unit was available for rent;*
 - iii. *How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 19.106;*
 - iv. *Documentation showing that these units were available for rental as required.*
 - e. *This information shall be public record subject to ORS 192.502(17).*

FINDING: This decision does not change reporting requirements established under 247-14-000431-MC.

4. *To facilitate rental to the general public of the overnight lodging units, each resort shall set up and maintain in perpetuity a telephone reservation system.*

FINDING: Staff notes that under 247-14-000431-MC, the applicant is required to submit a report documenting the telephone reservation system required under DCC 19.106.060(J)(6), prior to final plat approval.

5. *Any outside property managers renting required overnight lodging units shall be required to cooperate with the provisions of this code and to annually provide rental information on any required overnight lodging units they represent to the person or entity responsible for maintaining the registry described in DCC 19.106.060(J)(2).*

FINDING: This decision does not change requirements established under 247-14-000431-MC for this criterion.

6. *Before approval of each final plat, all the following shall be provided:*
 - a. *Documentation demonstrating compliance with the 2-1/2 to 1 ratio as defined in DCC 19.106.060(D)(2);*

- b. Documentation on all individually-owned residential units counted as overnight lodging, including all of the following:**
- i. Deed restrictions, that may be in the form of, but is not limited to, conditions of approval agreements, requiring the individually-owned residential units designated as overnight lodging units to be available for rental at least 38 weeks each year through a central reservation service operated by the resort or by a real estate property manager, as defined in ORS 696.010;**
 - a. A modification of approval application approval shall be required to remove the overnight lodging unit designation.**
 - b. The modification of approval application approval must be obtained prior to County releasing any deed restrictions requiring minimum rental availability for an individually-owned residential unit counted as overnight lodging.**
 - ii. An irrevocable provision in the resort Conditions, Covenants and Restrictions ("CC&Rs) requiring the individually-owned residential units designated as overnight lodging units to be available for rental at least 38 weeks each year through a central reservation service operated by the resort or by a real estate property manager, as defined in ORS 696.010;**
 - iii. A provision in the resort CC&R's that all property owners within the resort recognize that failure to meet the conditions in DCC 19.106.060(J)(6)(b)(ii) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County;**
 - iv. Inclusion of language in any rental management contract between the owner of an individually-owned residential unit designated as an overnight lodging unit and any central reservation service or real estate property manager requiring that such unit be available for rental at least 38 weeks each year through a central reservation service operated by the resort or by a real estate property manager, as defined in ORS 696.010, and that failure to meet the conditions in DCC 19.106.060(J)(6)(b)(iv) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County.**

FINDING: As a condition of approval, the applicant shall document compliance with all provisions of 19.106.060(J)(6), prior to final plat approval.

1. Section 19.106.070, Approval Criteria.

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

A. The subject proposal is a destination resort as defined in DCC 19.04.040.

FINDING: Staff finds that, under this proposal, the resort will continue to comply with the DCC 19.04.040 definition.

B. All standards established by DCC 19.106.060 are or will be met.

FINDING: Findings of compliance with DCC 19.106.060 are made above.

C. The economic analysis demonstrates that:

- 1. The necessary financial resources are available for the applicant to undertake the development consistent with the minimum investment requirements established by DCC 19.106;***
- 2. Appropriate assurance has been submitted by lending institutions or other financial entities that the developer has or can reasonably obtain adequate financial support for the proposal once approved;***
- 3. The destination resort will provide a substantial financial contribution which positively benefits the local economy throughout the life of the entire project, considering changes in employment, demands for new or increased levels of public service, housing for employees and the effects of loss of resource land, and;***
- 4. The natural amenities of the site considered together with the identified developed recreation facilities to be provided with the resort will constitute a primary attraction to visitors, based on the economic feasibility analysis.***

FINDING: The economic analysis was approved as part of the initial CMP approval. Reconfiguration of where already-approved uses may occur within a portion of the Resort does not affect the prior findings of fact made in the CMP and FMP for this approval criterion.

D. The destination resort incorporates design components, setbacks, and buffers to protect designated wildlife areas.

FINDING: The proposal does not reduce or otherwise affect the buffers already approved under the existing CMP and FMP approvals.

E. Important natural features, including but not limited to, significant wetlands, riparian habitat and landscape management corridors will be maintained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands will be maintained. Alterations to important natural features, including placement of structures, is allowed so long as the overall values of the feature are maintained.

FINDING: The existing CMP and FMP approvals identify no important natural features on any of the subject properties.

- F. *The development will not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.***

FINDING: The proposal does not reduce the buffers already approved under the existing CMP and FMP approvals. The tracts that are the subject of this application are insulated from any forest practices occurring on the lands west of Tetherow by the intervening Tetherow development tracts.

- G. *Destination resort developments that significantly affect a transportation facility shall assure that the development is consistent with the identified function, capacity and level of service of the facility. This shall be accomplished by either:***
- 1. Limiting the development to be consistent with the planned function, capacity and level of service of the transportation facility;***
 - 2. Providing transportation facilities adequate to support the proposed development consistent with OAR Chapter 660, Division 12; or***
 - 3. Altering land use densities, design requirements or using other methods to reduce demand for automobile travel and to meet travel needs through other modes.***

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

 - a. Where the option of providing transportation facilities is chosen, the applicant shall be required to improve impacted roads to the full standards of the affected authority as a condition of approval. Timing of such improvements shall be based upon the timing of the impacts created by the development as determined by the traffic study or the recommendations of the affected road authority.***
 - b. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.***

FINDING: Reconfiguration of the previous approved OLUs will not adversely impact traffic at the resort, as confirmed by the comments provided by the Deschutes County Transportation Planner and Deschutes County Road Department.

- H. *The development will not create the potential for natural hazards identified in the Bend Urban Area General Plan. No structure will be located on slopes exceeding 25 percent. A wildfire management plan***

will be implemented to ensure that wildfire hazards are minimized to the greatest extent practical and allow for safe evacuation.

FINDING: The subject property has already been approved for development with structures under this criterion. This proposal does not affect the buffers between adjacent wildlands and the Resort. In addition, this proposal does not change the Firewise development standards adopted as part of the FMP approval. No structure will be located on slopes exceeding 25 percent.

- I. Adequate public safety protection will be available through existing fire districts or will be provided on-site according to the specification of the state fire marshal. If the resort is located outside of an existing fire district, the developer will provide for staffed structural fire protection services or contract with or annex to the existing district. Adequate public facilities to provide for necessary safety services such as police and fire will be available to serve the proposed development.***

FINDING: Adequate public facilities to provide for necessary safety services are available to serve the proposed development. The City of Bend will continue to provide sewer and water service. Fire protection will continue to be provided by the Bend Fire Department and conformance with applicable fire code is required to be confirmed by the Bend Fire Department, prior to final plat approval. Notice of this application was provided to the City of Bend, Deschutes County Road Department, and the Deschutes County Transportation Planner. No infrastructure deficiencies were identified.

- J. Streams and drainage. Unless otherwise agreed to in writing by the adjoining property owner(s), existing natural drainages on the site will not be changed in any manner which interferes with drainage patterns on adjoining property. All surface water drainage changes created by the development will be contained on-site in a manner which meets all standards of the Oregon State Department of Environmental Quality (DEQ). The erosion control plan for the subject development will meet all standards of ORS Chapter 468B.***

FINDING: This proposal will not result in any development on terrain that is not contemplated for development under the initial approvals. The details of site drainage are resolved under the land division standards, discussed in detail below.

- K. Adequate water will be available for all proposed uses at the destination resort, based upon the water study, a water service agreement with the city of Bend or a proposed water conservation plan as required by DCC 19.106.050. Water use will not reduce the availability of water in the water impact areas identified in the water study considering existing uses and potential development previously approved in the affected area. Water sources identified in the water plan shall not include any perched water table. Water shall only be taken from the regional aquifer. Where a perched water table is pierced to access the regional aquifer, the well must be sealed off from the perched water table.***

FINDING: This proposal does not materially affect the previous determination of compliance with this criterion. Water service is provided by the City of Bend. The City of Bend did not identify any adverse impacts to water resources or the provision of water to the resort.

- L. *Unless a sewer service agreement exists, the waste water disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on applicant's making application to DEQ for a Water Pollution Control Facility (WPCF) permit consistent with such an approved waste water disposal plan. Approval shall also be conditioned upon applicant's compliance with applicable Oregon Administrative Rules regarding beneficial use of waste water, as determined by DEQ. Applicant shall receive approval of a WPCF permit consistent with this provision prior to applying for approval for its final master plan under DCC 19.106.***

FINDING: This proposal does not materially affect the previous determination of compliance with this criterion. Sewer service is provided by the City of Bend. The City of Bend did not identify any adverse impacts to the provision of sewer service to the resort.

- M. *The resort will mitigate any demands it creates on publicly owned recreational facilities on public lands in the surrounding area.***

FINDING: This proposal does not materially affect the previous determination of compliance with this criterion.

- N. *Site improvements will be located and designed to avoid or minimize adverse effects of the resort on the surrounding land uses. Measures to accomplish this may include establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and appropriate fences, berms, landscaped areas and similar types of buffers, and setback of structures and other developments from adjacent land uses.***

FINDING: The subject tract is buffered from surrounding residential development to the north, east and south of Tetherow by open space lands (to the east and north) and a combination of open space lands, public roads, and differences in elevation (with respect to lands to the south). Accordingly, the proposal will have no significant impacts on such properties.

- O. *The resort will be served by an on-site sewage system approved by DEQ and a water system approved by the Oregon State Health Division, or by municipal sewer and water as allowed by the Bend Urban Area General Plan.***

FINDING: Water and sewer utilities are provided to the resort by the City of Bend. The City of Bend did not identify any adverse impacts to the provision of sewer or water service to the resort.

- P. *The destination resort will not alter the character of the surrounding area in a manner that substantially limits, impairs or prevents permitted or conditional uses of surrounding properties.***

FINDING: Staff finds that this proposal will result in no new off-site impacts, as discussed in subsection (N), above.

- Q. *The commercial uses developed as part of the resort will be contained within the project and not oriented to public highways adjacent to the property. The commercial uses permitted in the destination resort will be limited in type and levels of use necessary to meet the needs of resort visitors. A commercial use is necessary to serve the needs of visitors if:***
- 1. *Its primary purpose is to provide goods or services that are typically provided to overnight or other short-term visitors to resorts, or the use is necessary for operation, maintenance or promotion of the destination resort; and***
 - 2. *The use is oriented to the resort and is located away from or screened from highways or other major through roadways.***

FINDING: As discussed above, the "commercial" features of the proposal are not oriented towards public roadways. The commercial uses are incidental to the Resort and are an appropriate scale in terms of number of units as state law and county code determine the required number of OLU's.

- R. *A plan exists to ensure a transfer of common areas, facilities such as sewer, water, streets and responsibility for police and fire protection to owners' associations or similar groups if contemplated. If such transfer is not contemplated, the owner or responsible party shall be clearly designated. Adequate open space, facility maintenance and police and fire protection shall be ensured in perpetuity in a manner acceptable to the County.***

FINDING: The use of the CC&Rs, as contemplated in the CMP and FMP for transfer of such areas to a homeowner's association, would, where applicable, not change under this proposal.

- S. *Temporary structures will not be allowed unless approved as part of the CMP. Temporary structures will not be allowed for more than 18 months and will be subject to all use and site plan standards of DCC Title 19.***

FINDING: No temporary structures are included in this proposal.

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

FINDING: The uses that are the subject of this proposal occur only in areas designated for development and, accordingly, do not impact designated open space.

- 1. Section 19.106.080, Procedure for Modification of A Conceptual Master Plan**

Any substantial change, as determined by the Planning Director, proposed to an approved CMP shall be reviewed in the same manner as the original CMP. An insubstantial change may be approved by the Planning Director. Substantial change to an approved CMP, as used in DCC 19.106.080, means

an alteration in the type, scale, location, phasing or other characteristic of the proposed development such that findings of fact on which the original approval was based would be materially affected.

FINDING: No modification of the CMP is included in this proposal.

2. Section 19.106.110, Provision of Streets, Utilities, Developed Recreational Facilities and Visitor-Oriented Accommodations.

- A. ***The Planning Director or Hearings Body shall find that all streets, utilities, developed recreational facilities and visitor-oriented accommodations required by the FMP are physically provided or are guaranteed through surety bonding or substantial financial assurances approved by the County prior to closure of sale of individual lots or units.***

FINDING: Platting of lots under this proposal will preclude development of the overnight units currently approved under SP-14-2 and financially assured. To ensure continuity of the required overnight units (which are to be reconfigured under this proposal), staff imposes the following condition of approval: No plat shall be recorded under 247-14-428-TP which does not result in ongoing compliance with the required minimum ratio of one overnight unit for every 2.5 residential units. This may be accomplished by recording an improvement agreement financially assuring the overnight units and infrastructure approved under 247-14-000429-SP concurrently with recording of the plat.

- B. ***Financial assurance or bonding to assure completion of streets and utilities, developed recreational facilities and visitor-oriented accommodations in the FMP shall be required pursuant to the security requirements for site plan review and subdivision review established by the Deschutes County Code.***

FINDING: Financial assurance or bonding is proposed for this subdivision for both required overnight units ("visitor-oriented accommodations") and infrastructure. Compliance with site plan requirements for bonding is discussed under DCC 19.76.060, above. Improvement agreements for subdivision are discussed under DCC 17.24.120, below.

TITLE 17 OF THE DESCHUTES COUNTY CODE, SUBDIVISIONS:

A. **Chapter 17.16, Approval of Subdivision Tentative Plans**

1. Section 17.16.080. Tentative Plan as a Master Plan.

- A. ***As an alternative to the filing of a master plan for phased development, the applicant may file a tentative plan for the entire development. The plan must comply with the provisions of DCC Title 17 for tentative plans.***
- B. ***If the applicant proposed to phase development, he shall provide sufficient information regarding the overall development plan and phasing sequence when submitting the tentative plan.***

- C. ***If the tentative plan is approved with phasing, the final plat for each phase shall be filed in accordance with DCC 17.24.020 through 17.24.110.***

FINDING: The applicant has provided a Tentative Plan for the entire development of Development Tract AA. This tract will be subdivided into 22 lots, 3 development tracts, 11 common area tracts, and 6 private road tracts, in three phases. The subdivision platting and the construction pursuant to the Site Plan may be completed out of order as the market and construction planning dictate. Common area tracts and private roads and drives are depicted on the Tentative Plan. Applicant will file the final plat for each phase in accordance with DCC 17.24.020 through 17.24.110. The proposed phasing of the lots is as follows:

Phase	Lots/Tracts
IA	Lots 3-6 Lots 19-21 Drive Tract Z Lodge Drive Tract XA Common Area Tract B, C, and PA Development Tract CA
IB	Lots 1, 2 and 22 Common Area Tract A, G, and PD Lodge Drive Tract XB Development Tract CC
II	Lots 7-18 Common Area Tracts D, E, F, PB, and PC Drive Tracts W and V
III	Development Tract CB Drive Tract Y

2. Section 17.16.100. Required findings for approval.

A tentative plan for a proposed subdivision shall not be approved unless the Planning Director or Hearings Body finds that the subdivision as proposed or modified would meet the requirements of this title and Titles 18 through 21 of this code and is in compliance with the comprehensive plan. Such findings shall include, but not be limited to, the following:

- A. ***The subdivision contributes to the orderly development and land use patterns in the area, and provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, agricultural and forest lands and other natural resources.***

FINDING: Compliance with DCC Titles 17 and 19 of the Deschutes County Code is addressed in findings herein. The requirements of the Comprehensive Plan are codified within the Zoning Ordinance. Conformance with Chapters 17 and 19 establishes conformance with the Comprehensive Plan. In addition, the proposed subdivision is in conformance with the CMP and FMP approvals for the Tetherow resort, as discussed above.

Previous CMP, FMP, SP, and TP approvals for the Cascade Highlands (Tetherow) Destination Resort (including TP-06-973, which established the subject property) demonstrated compliance with the criteria for orderly development and land use patterns of the area. The resort has been

designed and approved in accordance with County criteria for destination resorts. The provisions for access, transportation, water, sewer, and utilities infrastructure were analyzed and addressed through prior CMP, FMP, and TP decisions, which ensures compliance with this criterion.

Preservation of natural features and resources were addressed in the CMP and FMP approvals. As noted therein there are no such features on the subject property. Natural vegetation will be retained where practical, subject to normal and common construction practices to construct the infrastructure and structures proposed by this Application.

B. The subdivision would not create excessive demand on public facilities, services and utilities required to serve the development.

FINDING: The impacts from the entire proposed Tetherow resort were contemplated, analyzed, and reviewed at the time of the CMP and FMP approvals with respect to demand on public facilities, services, and utilities. Subsequent development within the Resort in compliance with those Master Plan approvals confirms that resort development will not create excessive demand on public facilities.

This Application is for the subdivision and creation of 22 lots and 3 development tracts for the purpose of constructing OLU's. The proposal will not increase the total number of OLU's beyond that approved for the Resort in the CMP and FMP. As the CMP/FMP approvals evaluated demand on public facilities for the entire Resort, and the proposed OLU's were contemplated by those approvals, the proposed subdivision will not create excessive demand for public services or strain public facilities.

Public transportation improvements specified in the CMP and FMP approvals to mitigate demands on public transportation facilities have been completed and accepted by the County. These improvements include extending Skyline Ranch Road and Metolius Drive through the Resort, constructing the roundabout at the Skyline Ranch Road and Metolius Drive intersection, and installing master trails and paths pursuant to the Resort's Master Trails Plan.

The Resort entered into a Water and Sewer Service Agreement with the City of Bend for public water and sanitary sewer service to the Resort. The initial agreement is recorded in Volume 2005, Page 73584 Deschutes County, OR, and three subsequent addenda are recorded in Volume 2007, Page 34409, Volume 2009, Page 31387, and Volume 2010, Page 34390, Deschutes County, OR, respectively. Development in accordance with those agreements confirms that excessive demand is not created on those public facilities.

The City's Fee Schedule Resolution addresses water impacts via a water System Development Charge ("SDC") in Section 2. 11.01. Water system impacts are based on the size of each water meter service. Likewise, sections 2.11.02 and 5.2.07c of the Fee Schedule Resolution address public sanitary sewer impacts and sewer SDC's.

This proposed subdivision is accessed from existing private roadway (the "Existing Access Drive") that connects to Development Tract Z and Skyline Ranch Rd and from Meeks Trail. The Existing Access Drive already contains water, sewer, and other utility services as shown on the submitted Preliminary Utility Plan. That existing infrastructure was sized and constructed to serve the subject property as well as other remaining undeveloped Development Tracts within Tetherow. The Applicant will extend these services down the extension of the Existing Access Dr. ("Suites Drive") as well as down the Lodge Drive and Meeks Rim Drive, which accesses the Lock-Offs as shown on the Preliminary Utility Plan.

C. The tentative plan for the proposed subdivision meets the requirements of Oregon Revised Statutes Section 92.090.

FINDING: The relevant provisions of ORS 92.090 and the proposal's compliance with those provisions are addressed in the findings below.

(1) Subdivision plat names shall be subject to the approval of the county surveyor or, in the case where there is no county surveyor, the county assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.

As a condition of approval, the subdivision plat names shall be subject to the approval of the County Surveyor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name.

(2) No tentative plan for a proposed subdivision and not tentative plan for a proposed partition shall be approved unless:

(a) The streets and roads are laid out so as to conform to the plats of subdivisions and partitions already approved for adjoining property as to width, general direction and in all other aspects unless the city or county determines it is in the public interest to modify the street or road pattern.

With each phase, the Applicant will extend the proposed roadways to the boundaries of the particular phase. Accordingly, Lodge Drive and Meeks Rim Drive will eventually reach the eastern boundary of the subject property to allow for connections to adjoining Development Tract AB.

(b) Streets and roads held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth thereon.

All proposed roadways are private roads. As a condition of approval, streets and roads held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth thereon.

(c) The tentative plan complies with the applicable zoning ordinances and regulations and the ordinances and regulations adopted under ORS 92.044

that are then in effect for the city or county within which the land described in the plan is situated.

This decision identifies applicable zoning ordinances and evaluates compliance with those ordinances. Staff finds that the tentative plan, as conditioned, complies with the applicable zoning ordinances and regulations and the ordinances and regulations adopted under ORS 92.044.

- (3) ***No plat of a proposed subdivision or partition shall be approved unless:***
- (a) ***Streets and roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public or private utilities.***
 - (b) ***Streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the city or county.***
 - (c) ***The subdivision or partition plat complies with any applicable zoning ordinances and regulations and any ordinance or regulation adopted under ORS 92.044 that are then in effect for the city or county within which the land described in the subdivision or partition plat is situated.***
 - (d) ***The subdivision or partition plat is in substantial conformity with the provisions of the tentative plan for the subdivision or partition, as approved.***
 - (e) ***The subdivision or partition plat contains a donation to the public of all sewage disposal and water supply systems, the donation of which was made a condition of the approval of the tentative plan for the subdivision or partition plat.***
 - (f) ***Explanations for all common improvements required as conditions of approval of the tentative plan of the subdivision or partition have been recorded and referenced on the subdivision or partition plat.***

FINDING: All proposed roadways are private roads. Compliance with the zoning ordinance is addressed in the findings above. Paragraphs (d), (e) and (f) of this section establish requirements for final plat review and therefore are not applicable to the applicant's proposed tentative plan.

- (4) ***Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:***
- (a) ***A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat;***

FINDING: As a condition of approval, prior to final plat approval the applicant shall provide a certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat.

- (5) ***Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:***
(a) ***A certification by a city-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat;***

FINDING: The applicant submitted as Exhibit "C" to its burden of proof a copy of an amended license and sewer service agreement between the Applicant and the City of Bend. As a condition of approval, the applicant shall submit to the Planning Division written verification from the city that sewer service will be available to the lot line of each lot in the proposed subdivision, prior to final plat approval.

- (6) ***Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company shall be approved by a city or county unless the city or county has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.***

FINDING: This criterion is not applicable because the record indicates the subject property is not located within any irrigation district, drainage district, water control district, water improvement district or district improvement company.

D. *For subdivision or portions thereof proposed within a Surface Mining Impact Area...*

FINDING: The subject property is not within a surface mining impact area. This criterion is not applicable.

E. *The subdivision name has been approved by the County Surveyor*

FINDING: A condition of approval has been added to ensure subdivision name approval by the County Surveyor prior to final plat approval.

2. Section 17.16.105. Access to Subdivisions.

No proposed subdivision shall be approved unless it would be accessed by roads constructed to County standards and by roads accepted for maintenance responsibility by a unit of local or state government. This standard is met if the subdivision would have direct access to an improved collector or arterial, or in cases where the subdivision has no direct access to such a collector or arterial, by demonstrating that the road accessing the

subdivision from a collector or arterial meets relevant County standards and has been accepted for maintenance purposes.

FINDING: Proposed road design including the locations, width, and grades for all roads within the proposed subdivision are shown on the submitted Tentative Plan, and Preliminary Grading and Drainage Plan. All proposed roadways are private roads. The subdivision is accessed via the Development Z access road, an existing Tetherow resort private road and the proposed Meeks Rim Drive. Applicant is also proposing to construct Lodge Drive, Suites Drive, East Drive, and West Drive to provide internal circulation, all of which will be private. The proposed roadway widths and cross sections are in accordance with the approved VPAP, which governs road design.

The proposed roadways feature at least 20 feet of paved surface as shown on the submitted plans. Approximate street grades are indicated on the submitted Preliminary Grading and Drainage Plan. Generally mild street grades of less than 5% are anticipated.

All of the proposed roadways are private, and will be maintained by a Tetherow Resort Owner's association or a sub-association formed for this subdivision.

3. Section 17.16.115. Traffic Impact Studies.

FINDING: As identified above, a compliant traffic study covering the entire Resort was submitted and approved as part of the CMP/FMP approval process. Based on the traffic study and the conditions of approval contained in the CMP/FMP decisions, Applicant has paid for or completed substantial traffic improvements to mitigate impacts from the Resort. The traffic letter submitted with the application demonstrates that the proposal is compliant with the original traffic study. Therefore prior traffic mitigation measures accounted for the subject proposal and no additional mitigation measures are required. This is confirmed by comments (quoted above) by the Deschutes County Transportation and Deschutes County Road Department.

B. **Chapter 17.24, Final Plat**

1. Section 17.24.120, Improvement Agreement.

A. ***The subdivider may, in lieu of completion of the required repairs to existing streets and facilities, and improvements as specified in the tentative plan, request the County to approve an agreement between himself and the County specifying the schedule by which the required improvements and repairs shall be completed; provided, however, any schedule of improvements and repairs agreed to shall not exceed one year from the date the final plat is recorded, except as otherwise allowed by DCC 17.24.120(F) below. The agreement shall also provide the following:***

1. ***A list of all the contractors who will construct or complete the improvements and repairs;***
2. ***The cost of the improvements and repairs;***
3. ***That the County may call upon the security for the construction or completion of the improvements and repairs, upon failure of the subdivider to adhere to the schedule for improvements and repairs;***

4. *That the County shall recover the full cost and expense of any work performed by or on behalf of the County to complete construction of the improvements and repairs, including, but not limited to, attorneys and engineering fees;*
5. *That a one-year warranty bond shall be deposited with the County following acceptance of the improvements and repairs. The bond shall be in the amount of 10 percent of the value of the improvements.*

FINDING: The applicant has proposed to financially assure the proposed subdivision roads and infrastructure. As a condition of approval, any "Improvement Agreement" under 17.24.120(A) for subdivision infrastructure shall comply with DCC 17.24.120(A, D, and E) and 17.24.130.

- B. *Except as provided for in DCC 17.24.120(C), no building permit shall be issued for any lot or parcel of a platted subdivision or partition until the required improvements are completed and accepted by the County. One building permit for a dwelling may be allowed for the entire parent parcel of a subdivision or partition prior to final plat approval, provided there are no other dwellings on the subject property, all land use approvals have been obtained and the siting of the dwelling is not inconsistent with the tentative plat approval.*
- C. *The restrictions of DCC 17.24.120(B) shall not apply to a destination resort approved under DCC 18.113, provided that the required fire protection facilities have been constructed in compliance with the master plan or tentative plat approval and approved access roads have been completed to minimal fire code standards. Issuance of building permits under DCC 17.24.120 shall not preclude the County from calling upon the security at a later date if the roads are not later completed to the standards required by the approval.*

FINDING: Staff notes that, under these criterion, normally the developer could obtain building permits prior to final plat approval, provided required fire protection facilities have been constructed in compliance with the master plan or tentative plat approval and approved access roads have been completed to minimal fire code standards. However, issuance of building permits under the current application, prior to final plat approval, would preclude development of financially assured overnight units under SP-14-2. Therefore, no issuance of building permits under the current application, prior to final plat approval will be allowed.

- D. *The County may reject an agreement authorized by DCC 17.24.120 for any sufficient reason.*
- E. *The applicant shall file with any agreement specified in DCC 17.24.120 a bond or other form of security provided for in DCC 17.24.130.*

FINDING: Staff notes that any "Improvement Agreement" for subdivision infrastructure must comply with these provisions.

2. Section 117.24.130, Security.

- A. *Where a bond is required by any provision of DCC 17.24, an applicant may submit:*

1. *A surety bond executed by a surety company authorized to transact business in the state in a form approved by the county legal Counsel;*
2. *Cash deposit with the County; or*
3. *An unconditional, irrevocable standby letter of credit.*
- B. *Such assurance of full and faithful performance shall be for 120 percent of the cost of performing the work as determined by the County.*
- C. *If the subdivider fails to carry out the provisions of any agreement secured by any security provided for in DCC 17.24.130(A), the County shall call upon the bond or cash deposit to finance any cost and expenses resulting from such failure. If the amount called upon and realized by the County from the cash deposit or bond exceeds the cost and expense incurred in completing the improvements and repairs, the County shall release the remainder. If the amount called upon and realized by the county from the cash deposit and bond is less than the cost and expense incurred by the County in completing the improvements and repairs, the subdivider shall be liable to the County for the difference.*

FINDING: Staff notes that any "Improvement Agreement" for subdivision infrastructure must comply with these provisions.

C. Chapter 17.36, Design Standards.

1. Section 17.36.020. Streets.

- A. *The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system for all modes of transportation, including pedestrians, bicycles and automobiles, with intersection angles, grades, tangents and curves appropriate for the traffic to be carried, considering the terrain. The subdivision or partition shall provide for the continuation of the principal streets existing in the adjoining subdivision or partition or of their property projection when adjoining property which is not subdivided, and such streets shall be of a width not less than the minimum requirements for streets set forth in DCC 17.36.*

FINDING: The proposed road design including the locations, width, and grades for all roads within the proposed subdivision are shown on the submitted Tentative Plan, and Preliminary Grading and Drainage Plan. All proposed roadways are private roads. The subdivision is accessed via the Development Z access road, an existing Tetherow resort private road and the proposed Meeks Rim Drive. The Applicant is also proposing to construct Lodge Drive, Suites Drive, East Drive, and West Drive to provide internal circulation, all of which will be private. The proposed roadway widths and cross sections are in accordance with the approved VPAP, which governs road design.

The proposed roadways feature at least 20 feet of paved surface as shown on the submitted plans. Approximate street grades are indicated on the submitted Preliminary Grading and Drainage Plan. Generally mild street grades of less than 5% are anticipated.

- B. *Streets in subdivisions shall be dedicated to the public, unless located in a destination resort, planned community or planned or cluster development, where roads can be privately owned. Planned developments shall include public streets where necessary to accommodate present and future through traffic.***

FINDING: As allowed by this criterion, all roads constructed within a destination resort can be privately owned. All internal subdivision roads would be private. This criterion would be met.

2. Section 17.36.030. Division of Land.

Any proposal for a condominium conversion which results in a division of real property shall comply with the provisions of DCC Title 17 and ORS 92.

FINDING: No proposal for a condominium conversion is included in this application.

2. Section 17.36.040. Existing Streets.

Whenever existing streets, adjacent to or within a tract, are of inadequate width to accommodate the increase in traffic expected from the subdivision or partition or by the County roadway network plan, additional rights of way shall be provided at the time of the land division by the applicant. During consideration of the tentative plan for the subdivision or partition, the Planning Director or Hearings Body, together with the Road Department Director, shall determine whether improvements to existing streets adjacent to or within the tract, are required. If so determined, such improvements shall be required as a condition of approval for the tentative plan. Improvements to adjacent streets shall be required where traffic on such streets will be directly affected by the proposed subdivision or partition.

FINDING: Skyline Ranch Road and Meeks Trail are fully improved and feature 10 foot wide paved multi-use paths. Those facilities are adequate to accommodate the traffic from the proposed subdivision, as well as full build-out of Tetherow, as demonstrated in the initial traffic study accepted as part of the CMP/FMP approval process.

The County Road Department, County Transportation Planner, and City of Bend did not identify the need for improvements to existing streets. Staff finds that none is required.

4. Section 17.36.050. Continuation of Streets.

Subdivision or partition streets which constitute the continuation of streets in contiguous territory shall be aligned so that their centerlines coincide.

FINDING: Applicant has designed Lodge Drive and Meeks Rim Drive such that they will align on an appropriate course through the adjoining tract AB.

5. Section 17.36.060. Minimum Right of Way and Roadway Width.

The street right of way and roadway surfacing widths shall be in conformance with standards and specifications set forth in DCC 17.48. Where DCC refers to street standards found in a zoning ordinance, the standards in the zoning ordinance shall prevail.

FINDING: The Deschutes County Road Department requested, and Staff has included, the following conditions of approval, which will ensure compliance with this criterion:

1. Road design shall be in accordance with DCC #17.48.180, "Private Roads" and Table "A", DCC, private roads.
2. Construction plans for all required road improvements shall be approved by the County Road Department prior to commencement of any construction in accordance with DCC 17.48.060.
3. Roads and bike paths shall be surveyed and staked in accordance with DCC 17.48.200
4. The applicant shall construct all improvements under the inspection and approval of the Deschutes County Road Department Director. The Director may accept certification of improvements by a professional engineer consistent with ORS 92.097
5. All easements of record or existing right-of-ways shall be shown on the final plat.
6. Section 17.36.070. Future Resubdivision.

Where a tract of land is divided into lots or parcels of an acre or more, the Hearings Body may require an arrangement of lots or parcels and streets such as to permit future re-subdivision in conformity to the street requirements and other requirements contained in DCC Title 17.

FINDING: The resulting Development Tracts CA, CB, and CC are proposed to be larger than an acre. However, the Applicant's proposed configuration is appropriate for existing and proposed roadways given existing development and topographical restraints. No alteration to the proposed arrangement is required.

7. Section 17.36.080. Future extension of streets.

When necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition.

FINDING: With each phase, Applicant will extend the proposed roadways to the boundaries of the particular phase. Accordingly, Lodge Drive and Meeks Rim Drive will eventually reach the eastern boundary of the subject property to allow for connections to adjoining Development Tract AB.

8. Section 17.36.100. Frontage Roads.

If a land division abuts or contains an existing or proposed collector or arterial street, the Planning Director or Hearings Body may require frontage roads, reverse frontage lots or parcels with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic. All frontage roads shall comply with the applicable standards of Table A of DCC Title 17, unless specifications included in a particular zone provide other standards applicable to frontage roads.

FINDING: The proposed subdivision abuts Skyline Ranch Road, a rural collector, but the Applicant does not propose any additional access from Skyline Ranch Road. Only Common Area Tracts directly abut Skyline Ranch Road and Meeks Trail. The Common Area tracts provide substantial buffer between the proposed lots and Skyline Ranch Road and Meeks Trail. As identified above, the proposed subdivision takes access from an existing road on Development Tract Z, which is a more suitable point of access.

9. Section 17.36.110. Streets adjacent to railroads, freeways and parkways.

When the area to be divided adjoins or contains a railroad, freeway or parkway, provision may be required for a street approximately parallel to and on each side of such right of way at a distance suitable for use of the land between the street and railroad, freeway or parkway. In the case of a railroad, there shall be a land strip of not less than 25 feet in width adjacent and along the railroad right of way and residential property. If the intervening property between such parallel streets and a freeway or a parkway is less than 80 feet in width, such intervening property shall be dedicated to park or thoroughfare use. The intersections of such parallel streets, where they intersect with streets that cross a railroad, shall be determined with due consideration at cross streets of a minimum distance required for approach grades to a future grade separation and right-of-way widths of the cross street.

FINDING: The subject property is not adjacent to a railroad, freeway, or parkway. This criterion is not applicable to the proposed subdivision.

10. Section 17.36.120. Street names.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street in a nearby city or in the County. Street names and numbers shall conform to the established pattern in the County and shall require approval from the County Property Address Coordinator.

FINDING: The names depicted on the exhibits are placeholders. A condition of approval has been added to ensure compliance with this criterion.

11. Section 17.36.130. Sidewalks.

A. *Within an urban growth boundary, sidewalks shall be installed on both sides of a public road or street and in any special pedestrian*

- way within the subdivision or partition, and along any collectors and arterials improved in accordance with the subdivision or partition.
- B. *Within an urban area, sidewalks shall be required along frontage roads only on the side of the frontage road abutting the development.*
 - C. *Sidewalk requirements for areas outside of urban area are set forth in section 17.48.175. In the absence of a special requirement set forth by the Road Department Director under DCC 17.48.030, sidewalks and curbs are never required in rural areas outside unincorporated communities as that term is defined in Title 18.*

FINDING: These criteria are not applicable to the proposed development because the subject property is located outside of an acknowledged Urban Growth Boundary. DCC 17.48.175 is addressed below.

12. Section 17.36.140. Bicycle, pedestrian and transit requirements.

A. *Pedestrian and Bicycle Circulation within Subdivision.*

- 1. *The tentative plan for a proposed subdivision shall provide for bicycle and pedestrian routes, facilities and improvements within the subdivision and to nearby existing or planned neighborhood activity centers, such as schools, shopping areas and parks in a manner that will:*
 - a. *Minimize such interference from automobile traffic that would discourage pedestrian or cycle travel for short trips;*
 - b. *Provide a direct route of travel between destinations within the subdivision and existing or planned neighborhood activity centers, and*
 - c. *Otherwise meet the needs of cyclists and pedestrians, considering the destination and length of trip.*

FINDING: Connectivity to nearby areas outside of the Tetherow Destination Resort was addressed in the FMP approval (M-05-2), and the approved Master Trails Plan in that decision depicts bicycle and pedestrian routes that accomplish that objective. A 10' wide multi-use paved path has been constructed along the southern/easterly side of Meeks Trail and along Skyline Ranch Road

Pedestrian and bicycle facilities within the subdivision are governed by the Resort Vehicle and Pedestrian Access Plan (Exhibit V, CMP CU-04-94), which notes the importance of a design that is sensitive to the Resort environment. Internal walkways within the proposed subdivision provide connectivity to Master Trails Plan paths and other resort amenities.

- 2. *Subdivision Layout.*
 - a. *Cul-de-sacs or dead-end streets shall be allowed only where, due to topographical or environmental constraints, the size and shape of the parcel, or a lack of through-street connections in the area, a street connection is determined by the Planning Director or Hearings Body to be infeasible or inappropriate. In such instances, where applicable and feasible, there shall be*

a bicycle and pedestrian connection connecting the ends of cul-de-sacs to streets or neighborhood activity centers on the opposite side of the block.

FINDING: The VPAP governs private street layouts and specifications within the resort, and does not prohibit the use of cul-de-sacs or dead-end streets. Nonetheless, the proposed subdivision does not include any cul-de-sacs.

- b. Bicycle and pedestrian connections between streets shall be provided at mid block where the addition of a connection would reduce the walking or cycling distance to an existing or planned neighborhood activity center by 400 feet and by at least 50 percent over other available routes.***

FINDING: This criterion requires a bicycle and pedestrian connection between streets if the connection would reduce travel distance by 400 feet and by 50 percent over other routes. No such connections would reduce cycling and walking distance to the golf course, clubhouse, and recreation center by over 400 feet or reduce the route by at least 50 percent. For this reason, staff finds that no bicycle or pedestrian connection between streets will be required.

- c. Local roads shall align and connect with themselves across collectors and arterials. Connections to existing or planned streets and undeveloped properties shall be provided at no greater than 400-foot intervals.***
- d. Connections shall not be more than 400 feet long and shall be as straight as possible.***

FINDING: In the decision for TP-06-973 (page 24), the Hearings Officer found that criterion (c) and (d) did not apply to Tetherow Resort subdivisions. Similarly, staff finds that these criteria do not apply here.

- 3. *Facilities and Improvements.***
 - a. Bikeways may be provided by either a separate paved path or an on-street bike lane, consistent with the requirements of DCC Title 17.***

FINDING: All of the proposed roads within the subdivision are private "local" roads, with very low anticipated traffic volumes, due to the project location within the resort. Separate bikeways or bike lanes are not warranted, nor required for local, private roads.

- b. Pedestrian access may be provided by sidewalks or a separate paved path, consistent with the requirements of DCC Title 17.***

FINDING: As shown on the submitted Tentative Plan, paved walkways are proposed along one side of the Existing Access Drive and Suites Drive as well as along the northern boundary of Lots 12-22.

5. Section 17.36.150. Blocks.

- A. **General.** *The length, width and shape of blocks shall accommodate the need for adequate building site size, street width and direct travel routes for pedestrians and cyclists through the subdivision and to nearby neighborhood activity centers, and shall be compatible with the limitations of the topography.*
- B. **Size.** *Within an urban growth boundary, no block shall be longer than 1,200 feet between street centerlines. In blocks over 800 feet in length, there shall be a cross connection consistent with the provisions of DCC 17.36.140.*

FINDING: The proposed length, width, and shape of the blocks in the Tentative Plan accommodate the need for adequate building site sizes based on the Applicant's building plans, street widths, and direct travel routes. As noted earlier herein the proposed walkways within the subdivision provide connectivity routes to nearby amenities. The subject property is not within an urban growth boundary, subsection B does not apply.

6. Section 17.36.160. Easements.

- A. **Utility Easements.** *Easements shall be provided along property lines when necessary for the placement of overhead or underground utilities, and to provide the subdivision or partition with electric power, communication facilities, street lighting, sewer lines, water lines, gas lines or drainage. Such easements shall be labeled "Public Utility Easement" on the tentative and final plat; they shall be at least 12 feet in width and centered on lot lines where possible, except utility pole guyline easements along the rear of lots or parcels adjacent to unsubdivided land may be reduced to 10 feet in width.*
- B. **Drainage.** *If a tract is traversed by a watercourse such as a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right of way conforming substantially with the lines of the watercourse, or in such further width as will be adequate for the purpose. Streets or parkways parallel to major watercourses or drainageways may be required.*

FINDING: The applicant agrees to show and provide all required utility easements on the final plat. A condition of approval has been added to ensure compliance with criterion (A).

The subject property is not traversed by a named watercourse. Criterion (B) does not apply.

7. Section 17.36.170. Lots, size and shape.

J.

The size, width and orientation of lots or parcels shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the lot or parcel size provisions of Titles 18 through 21....

FINDING: The size, width, and orientation of the lots are appropriate to the proposed residential use. Lot size and shape criteria are governed by the Resort Dimensional Standards (Exhibit E of the approved FMP (M-05-2)). This proposal can comply with the required setbacks, as discussed in detail above. Staff finds that the proposed lots are configured as to allow development on the proposed lots that can comply with these setbacks.

8. Section 17.36.180. Frontage.

- A. *Each lot or parcel shall abut upon a public road, or when located in a planned development or cluster development, a private road, for at least 50 feet, except for lots or parcels fronting on the bulb of a cul de sac, then the minimum frontage shall be 30 feet, and except for partitions off of U.S. Forest Service or Bureau of Land Management roads. In the La Pine Neighborhood Planning Area Residential Center District, lot widths may be less than 50 feet in width, as specified in DCC 18.61, Table 2: La Pine Neighborhood Planning Area Zoning Standards. Road frontage standards in destination resorts shall be subject to review in the conceptual master plan.*

FINDING: The CMP/FMP decisions require that all future subdivision plats within the resort comply with the minimum dimensional and setbacks standards set forth in the resort Dimensional Standards, FMP Exhibit E. As noted above, all proposed lots meet the applicable frontage criteria of the resort Dimensional Standards.

- B. *All side lot lines shall be at right angles to street lines or radial to curved streets wherever practical.*

FINDING: As designed, all side lot lines would, to the maximum extent practicable, be at right angles to street lines or radial to curved portions of the private streets. This criterion would be met.

9. Section 17.36.190. Through lots.

- Lots or parcels with double frontage should be avoided except where they are essential to provide separation of residential development from major street or adjacent nonresidential activities to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet in width and across which there shall be no right of access may be required along the lines of lots or parcels abutting such a traffic artery or other incompatible use.*

FINDING: Double frontage lots are necessary to fully utilize the subject property. Lots 1-9 have frontage on both the Existing Access Drive/Suites Drive and Lodge Drive, although these lots only have vehicular access from Lodge Drive. A separated walkway and intervening green space provide sufficient screening/separation between these lots and the Existing Access Drive/Suites Drive.

10. Section 17.36.200. Corner lots.

- Within an urban growth boundary, corner lots or parcels shall be a minimum of five feet more in width than other lots or parcels, and also shall have sufficient extra width to meet the additional side yard requirements of the zoning district in which they are located.*

FINDING: The proposed development is not within an urban growth boundary. This provision does not apply.

11. Section 17.36.210. Solar access performance.

FINDING: Pursuant to condition of approval #10 in the FMP decision (M-05-2), all single-family dwellings, multi-family units, commercial structures and resort facilities are exempted from solar setback standards.

12. Section 17.36.220. Underground facilities.

Within an urban growth boundary, all permanent utility services...

FINDING: The proposed development is not within an urban growth boundary. This criterion does not apply.

13. 17.36.230. Grading of building sites.

Grading of building sites shall conform to the following standards, unless physical conditions demonstrate the property of other standards:

- A. Cut slope ratios shall not exceed one foot vertically to one and one half feet horizontally.***
- B. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.***
- C. The composition of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.***
- D. When filling or grading is contemplated by the subdivider, he shall submit plans showing existing and finished grades for the approval of the Community Development Director. In reviewing these plans, the Community Development Director shall consider the need for drainage and effect of filling on adjacent property. Grading shall be finished in such a manner as not to create steep banks or unsightly areas to adjacent property.***

FINDING: The submitted Preliminary Grading and Drainage Plan of the Tentative Plan, shows existing and proposed grades and elevations for all of the lots, building sites, and roads. All proposed cut and fill slopes do not exceed the specified ratios, and are in compliance with this criterion. The proposed plan includes drainage facilities for the management, conveyance and disposal of developed drainage runoff within the project site. The Tentative Plan also indicates that all finished slopes will be landscaped to inhibit erosion and avoid unsightly areas to adjacent properties.

14. Section 17.36.250. Lighting.

Within an urban growth boundary, the subdivider shall provide underground wiring to the County standards, and a base for any proposed ornamental street lights at locations approved by the affected utility company.

FINDING: The proposed development is not within an urban growth boundary. This provision does not apply.

15. Section 17.36.260. Fire Hazards.

Whenever possible, a minimum of two points of access to the subdivision or partition shall be provided to provide assured access for emergency vehicles and ease resident evacuation.

FINDING: The proposed subdivision is accessible from Development Tract Z. The proposed Meeks Rim Drive and Existing Access drives already meet specifications for emergency vehicles and proposed roadways will meet emergency vehicle specifications. An easement (Document No. 2012-033640) exists across Development Tract AB to allow for construction of Meeks Rim Drive as well as provide a temporary access point until Meeks Rim Drive is constructed.

16. Section 17.36.270. Street tree planting.

Street tree planting plans, if proposed, for a subdivision or partition, shall be submitted to the Planning Director and receive his approval before the planting is begun.

FINDING: Street trees are addressed in the Site Plan portion of the decision above.

17. Section 17.36.280. Water and sewer lines.

Where required by the applicable zoning ordinance, water and sewer lines shall be constructed to County and City standards and specifications. Required water mains and service lines shall be installed prior to the curbing and paving of new streets in all new subdivisions or partitions.

FINDING: As documented in the CMP and FMP approval decisions, Tetherow has executed a Water/Sewer Service Agreement with the City of Bend to provide water and sanitary sewer service to the entire resort. The Preliminary Water and Sewer Plans provided in the Tentative Plan application depicts the preliminary design for the extension of the water and sewer systems to serve this Tentative Plan. Applicant will work with the City of Bend on final designs in accordance with the existing City Service Agreement.

A condition of approval has been added requiring the applicant to extend water and sewer lines to the boundary of each lot prior to final plat approval. Water and sewer lines shall be installed pursuant to City specifications.

18. Section 17.36.300. Public water system.

In any subdivision or partition where a public water system is required or proposed, plans for the water system shall be submitted and approved by the appropriate state or federal agency. A community water system shall be required where lot or parcel sizes are less than one acre or where potable water sources are at depths greater than 500 feet, excepting land partitions. Except as provided for in sections 17.24.120 and 17.24.130, a required water system shall be constructed and operational, with lines extended to the lot line of each and every lot depicted in the proposed subdivision or partition plat, prior to final approval.

FINDING: No new public water system is proposed. This criterion is not applicable.

C. Chapter 17.44, Park Development

FINDING: The Tetherow Resort land owners entered into an agreement with Bend Metro Park and Recreation District (BMPRD) regarding Park Development requirements, prior to completion of the CMP and FMP. The Agreement included a land conveyance of the 14-acre parcel currently owned by BMPRD adjacent to the eastern boundary of the Tetherow Resort for use as park and natural open space. The Resort developers also donated \$75,000 to BMPRD to defray the costs of constructing and installing park improvements. Additionally, the Resort developers agreed through that Agreement and subsequent CMP and FMP approval process to reserve a 10-acre area within Tetherow for the creation of a "park area" accessible to the public. The "park area" has been platted as Common Area Tract "X" of the Tetherow Phase 1 plat, and is preserved as open space for the Resort.

The requirements of this chapter have been met.

D. Chapter 17.48, Design and Construction Specifications

1. Section 17.48.100. Minimum Right of Way Width.

The minimum right of way width is 60 feet unless specified otherwise in Table A (or in any right of way specifications set forth for a particular zone in a zoning ordinance). (See Table A set out at the end of DCC Title 17.)

FINDING: All of the proposed roads in the submitted Tentative Plan are private. Minimum right of way width for private roads is governed by the VPAP, which allows right of way widths to be between 20 and 60 feet. As indicated on the submitted Tentative Plan, proposed private road right of way widths are at least 20 feet, in compliance with the VPAP.

2. Section 17.48.110. Turn Lanes.

When a turn lane is required, it shall be a minimum of 14 feet in width, except where road specifications in a zoning ordinance provide for travel lanes of lesser width. Additional right of way may be required.

FINDING: No turn lane is proposed or required.

3. Section 17.48.120. Partial Width Roads.

Partial width roads or half streets shall not be allowed.

FINDING: No partial width road or half streets are proposed. All proposed roads meet minimum widths and right of way requirements.

4. Section 17.48.130. Road Names.

All roads shall be named in conformance with the provisions of the Deschutes County uniform road naming system set forth in DCC Title 16.

FINDING: The names featured in the exhibits are placeholders. Private roadways will be named at a later time and will conform to County road naming standards. A condition of approval requires the final names to be confirmed by the County Surveyor.

5. Section 17.48.140. Bikeways.

A. General Design Criteria.

1. *Bikeways shall be designed in accordance with the current standards and guidelines of the Oregon (ODOT) Bicycle and Pedestrian Plan, the American Association of State Highway Transportation Officials (AASHTO) Guide for Development of New Bicycle Facilities, and the Deschutes County Bicycle Master Plan. See DCC 17.48 Table B.*
2. *All collectors and arterials shown on the County Transportation Plan map shall be constructed to include bikeways as defined by the Deschutes County Bicycle Master Plan.*
3. *If interim road standards are used, interim bikeways and/or walkways shall be provided. These interim facilities shall be adequate to serve bicyclists and pedestrians until the time of road upgrade.*

B. Multi-use Paths.

1. *Multi-use paths shall be used where aesthetic, recreation and safety concerns are primary and a direct route with few intersections can be established. If private roads are constructed to a width of less than 28 feet, multi-use paths shall be provided.*
2. *Multi-use paths are two-way facilities with a standard width of 10 feet, but with a 12-foot width if they are subjected to high use by multiple users. These paths shall meet County multi-use path standards and shall connect with bike facilities on public roads.*

C. Bike Lanes. Six-foot bike lanes shall be used on new construction of curbed arterials and collectors.

D. Shoulder Bikeways.

1. *Shoulder bikeways shall be used on new construction of uncurbed arterials and collectors.*
2. *Shoulder bikeways shall be at least four feet wide. Where the travel lane on an existing arterial or collector is not greater than eleven feet, the bikeway shall be a minimum of four feet wide.*

E. Mountain Bike Trails.

1. *Mountain bike (dirt or other unpaved surface) trails may be used as recreational or interim transportation facilities.*
2. *Trails used for transportation shall have a two-foot minimum tread width and a six-foot minimum clearing width centered over the trail, and a minimum overhead clearance of seven feet. Trails used solely for recreational use may be narrower with less clearing of vegetation.*

FINDING: Meeks Trail and Skyline Ranch Road already feature a compliant 10 foot wide multi-use path, which is available to bikers. The private road and drives are not required to have bike lanes as they are not collector or arterial roads, but do feature separated walkways to provide connections within the subdivision and to other resort amenities.

6. Section 17.48.150. Structures.

All structures that carry a road or cross over a road shall be designed to have a 50-year life span. All designs must be approved by the Road Department Director and other affected public or private agencies.

FINDING: No structures to carry or cross over a road are proposed.

2. Section 17.48.160. Road Development Requirements – Standards.

A. *Subdivision Standards. All roads in new subdivisions shall either be constructed to a standard acceptable for inclusion in the county maintained system or the subdivision shall be part of a special road district or a homeowners association in a planned unit development.*

FINDING: All of the proposed roadways are private, and will be maintained by a Tetherow Resort Owner's association or a sub-association formed for this subdivision.

B. *Improvements of Public Rights-of-Way.*

- 1. *The developer of a subdivision or partition will be required to improve all public ways that are adjacent or within the land development.***
- 2. *All improvements within public rights of way shall conform to the improvement standards designated in DCC Title 17 for the applicable road classification, except where a zoning ordinance sets forth different standards for a particular zone.***

C. *Primary Access Roads.*

- 1. *The primary access road for any new subdivision shall be improved to the applicable standard set forth in Table A.***
- 2. *The applicable standard shall be determined with reference to the road's classification under the relevant transportation plan.***
- 3. *For the purposes of DCC 17.48.160 a primary access road is a road leading to the subdivision from an existing paved county, city or state maintained road that provides the primary access to the subdivision from such a road.***

FINDING: Skyline Ranch Road, the Development Z access road, Meeks Trail, and the proposed Meeks Rim Drive serve as the primary access routes to the proposed subdivision. Existing roads are already fully improved to VPAP standards and proposed roads will meet VPAP standards. Applicant will extend Lodge Drive to the boundary of Development Tract AA incrementally as each phase of the subdivision is platted. Meeks Rim Drive will be constructed as part of Phase II.

D. *Secondary Access Roads. When deemed necessary by the County Road Department or Community Development Department, a secondary access road shall be constructed to the subdivision. Construction shall be to the same standard used for roads within the subdivision.*

FINDING: As identified above, there are two access points provided in existing roadway on Development Tract Z and the proposed Meeks Rim Drive. Until Meeks Rim Drive is constructed,

the Applicant has secured an easement across Development Tract AB that will allow for emergency vehicles to have a second access to the subdivision.

- E. *Stubbed Roads. Any proposed road that terminates at a development boundary shall be constructed with a paved cul-de-sac bulb.***

FINDING: Lodge Drive terminates at the boundary with proposed Development Tract CC. It is anticipated that an extension of Lodge Drive will be constructed on Development Tract CC when that parcel is developed. Given that West Drive is less than 150 feet, no cul-de-sac or hammerhead is required per the fire code.

F. *Cul-de-sacs.*

- 1. *Cul-de-sacs shall have a length of less than 600 feet, unless a longer length is approved by the applicable fire protection district, and more than 100 feet from the center of the bulb to the intersection with the main road.***
- 2. *The maximum grade on the bulb shall be four percent.***

FINDING: No cul-de-sacs are proposed as part of this Application.

- G. *Frontage Roads. Right of way widths shall be 40 feet when immediately adjacent to a main highway/arterial; 60 feet when the frontage road is separated from the highway or arterial by private land or as set forth for a particular zone in the zoning ordinance.***

FINDING: No frontage roads are proposed as part of this Application.

3. Section 17.48.180. Private Roads.

The following minimum road standards shall apply for private roads:

- A. *The minimum paved roadway width shall be twenty-four feet in planned unit developments and cluster developments containing twenty or more residential units when separate paved bicycle/pedestrian ways are provided in such developments, the minimum paved roadway width shall be twenty-eight feet, including four-foot wide bike lanes, and two-foot wide gravel shoulders;***

FINDING: As noted earlier, road standards for resort private roads are governed by the VPAP. The VPAP allows for private roads with a minimum paved width of 20 feet. As indicated on the submitted Tentative Plan, all roads feature 12 foot travel lanes in conformance with VPAP.

- B. *Minimum Radius of curvature, fifty feet;***
C. *Maximum grade, 12 percent;*

FINDING: As indicated in the submitted plans, all proposed private roads would meet these criteria.

- D. *At least one road name sign would be provided at each intersection for each road.***

FINDING: The applicant agrees to provide signage as required by this criterion. A condition of approval has been added to ensure compliance.

E. A method for continuing road maintenance acceptable to the County;

FINDING: The Tetherow Owners Association has been created, which will provide private road maintenance within the Resort. A subdivision specific sub-association may be created at the Applicant's discretion for private road maintenance within this particular subdivision.

F. Private road systems shall include provisions for bicycle and pedestrian traffic. Shoulder bike lanes shall be a minimum of 4 feet wide, paved and striped, with no on-street parking allowed within the bikeway. When private roads are developed to a width of less than 28 feet, bike paths constructed to County standards shall be required.

FINDING: The project would comply with the approved Vehicle and Pedestrian Access Plan, and the approved Master Trails Plan. Those documents include a resort wide multi-use trail system along the major roadways, and soft surface trails through select open space areas. This criterion would be met.

3. Section 17.48.190. Drainage.

A. Minimum Requirements.

- 1. Drainage facilities shall be designed and constructed to receive and/or transport at least a design storm as defined in the current Central Oregon Stormwater Manual created by Central Oregon Intergovernmental Council and all surface drainage water coming to and/or passing through the development or roadway.**

FINDING: The proposed drainage facilities, which include drainage swales and drainage infiltration basins, comply with the Central Oregon Stormwater Manual design and storm criteria. As proposed, the drainage management facilities are sufficient to contain all stormwater on-site.

- 2. The system shall be designed for maximum allowable development.**

FINDING: The CMP/FMP and Tetherow's design guidelines substantially limit the amount of additional development that could occur on the subject property beyond that proposed by the Applicant. As the proposed facilities are sufficient to support the proposed development, and because little if any additional development could occur, the proposed design is sufficient to handle all likely development on the subject property.

B. Curbed Sections.

- 1. Storm drains within curbed streets shall be designed per the requirements of the current Central Oregon Stormwater Manual created by the Central Oregon Intergovernmental Council.**

FINDING: The application proposes curbed private streets. Storm drains within curbed streets shall be designed in accordance with Section 2.2.5, "Storm Drain Systems and Inlets" of the Central Oregon Storm Manual, dated August 2010.

2. ***Catchbasins shall be constructed in accordance with drawing Nos. 3-1, 3-2 and 3-3. (See drawings 3-1, 3-2 and 3-3 set out at the end of DCC Title 17 and by this reference incorporated herein.) Chapter 17.48 8 (10/2011).***

FINDING: As a condition of approval, catchbasins shall be constructed in accordance with drawing Nos. 3-1, 3-2 and 3-3 (See drawings 3-1, 3-2 and 3-3 set out at the end of DCC Title 17 and by this reference incorporated herein.) referenced in Chapter 17.48.460 (10/2011).

C. *Noncurbed Sections.*

1. ***Road culverts shall be concrete or metal with a minimum design life of 50 years.***
2. ***All cross culverts shall be 18 inches in diameter or larger.***
3. ***Culverts shall be placed in natural drainage areas and shall provide positive drainage.***

FINDING: No noncurbed sections are proposed.

D. *Drainage Swales. The Design Engineer is responsible to design a drainage swale adequate to control a design storm as defined in the Central Oregon Stormwater Manual created by Central Oregon Intergovernmental Council.*

FINDING: The application proposes drainage swales and drainage infiltration basins to address stormwater. The applicant has indicated that drainage facilities will be designed and constructed in accordance with Section 2.2.4 "Design Criteria" of the COSM, dated August 2010.

E. *Drainage Plans. A complete set of drainage plans including hydraulic and hydrologic calculations shall be incorporated in all road improvement plans.*

FINDING: As a condition of approval, a complete set of drainage plans including hydraulic and hydrologic calculations shall be incorporated in all road improvement plans.

F. *Drill Holes. Drill holes are prohibited.*

FINDING: No drill holes are proposed.

G. *Injection wells (drywells) are prohibited in the public right-of-way.*

FINDING: There is no adjacent public right-of-way.

V. CONCLUSION:

Based on the foregoing Basic and Conclusionary Findings, Staff concludes that the proposed project can meet all applicable criteria for approval. **Other permits may be required.**

The applicant is responsible for obtaining any necessary permits from the Deschutes County Building Division, the Deschutes County Environmental Soils Division and the Deschutes County Road Department, as well as any required state and federal permits.

VI. DECISION:

APPROVAL, subject to the following conditions of approval

VII. CONDITIONS OF APPROVAL:

1. This approval is based upon the information submitted by the applicant. Any substantial change will require a new application.
2. All conditions of approval from prior land use approvals in the Tetherow Destination Resort remain in effect.

PRIOR TO EACH FINAL PLAT APPROVAL

3. The applicant shall demonstrate that individually-owned residential units do not exceed two and one-half such units for each unit of visitor-oriented overnight lodging, prior to recording a final plat.
4. The applicant shall have the subdivision name approved by the County Surveyor prior to recording a final plat. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name.
5. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street in a nearby city or in the County. Street names and numbers shall conform to the established pattern in the County and shall require approval from the County Property Address Coordinator, prior to recording a final plat.
6. All required utility easements shall be shown on the final plat.
7. The applicant shall extend water and sewer lines to the boundary of each lot prior to final plat approval. Documentation that water and sewer lines have been installed pursuant to City of Bend specifications shall be submitted prior to final plat approval.
8. A complete set of drainage plans including hydraulic and hydrologic calculations shall be incorporated in all road improvement plans.
9. Road design shall be in accordance with DCC #17.48.180, "Private Roads" and Table "A", DCC, private roads.

10. Construction plans for all required road improvements shall be approved by the County Road Department prior to commencement of any construction in accordance with DCC 17.48.060.
11. Roads and bike paths shall be surveyed and staked in accordance with DCC 17.48.200
12. The applicant shall construct all improvements under the inspection and approval of the Deschutes County Road Department Director. The Director may accept certification of improvements by a professional engineer consistent with ORS 92.097
13. All easements of record or existing right-of-ways shall be shown on the final plat.
14. The applicant shall document that the proposed subdivision meets all fire protection requirements of the Bend Fire Department, prior to final plat approval.
15. Streets and roads held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth thereon.
16. The applicant shall submit a report containing the list described under 19.106.060(J)(2)(a) and identifying the responsible entity under 19.106.060(J)(2)(b) prior to final plat approval.
17. The applicant shall document compliance with all provisions of 19.106.060(J)(6), prior to final plat approval.
18. The applicant shall submit a parking plan clearly showing all parking space dimensions, access aisle widths, and a minimum of 163 parking spaces on Tract AA, prior to final plat approval. Spaces in garages may be counted toward this total, provided they are independently accessible and will not be obstructed by other required parking spaces.
19. 247-15-000432-LL shall be finalized prior to recording of any plat under 247-14-000428-TP.
20. The applicant shall submit a letter from the Bend Fire Department confirming the platted configuration of the subdivision will conform to applicable Fire Code, prior to final plat approval.
21. Where portions of the development are platted in phases, each phase shall provide parking spaces sufficient to accommodate cumulative development at the site.
22. No plat shall be recorded under 247-14-428-TP which does not result in ongoing compliance with the required minimum ratio of one overnight unit for every 2.5 residential units. This may be accomplished by recording an improvement agreement financially assuring the overnight units and infrastructure approved under 247-14-000429-SP concurrently with recording of the plat.
23. Any "Development Agreement" subject to 19.106.110 and 19.76.060 for the overnights units shall be guaranteed through surety bonding or substantial financial assurances approved by the County, prior to final plat recording. The surety bonding or substantial financial assurances shall be for the cost of the improvements plus 10 percent. The applicant shall provide a current cost estimate for the required improvements and written verification from the Deschutes County Engineer that the cost estimate is reasonable and accurate.

24. Any "Improvement Agreement" 17.24.120(A) for subdivision infrastructure shall comply with DCC 17.24.120(A, D, and E) and 17.24.130.

WITH CONSTRUCTION

25. At least one road name sign shall be provided at each intersection for each road.
26. Any proposed drywells shall be approved by the Department of Environmental Quality (DEQ).
27. All improved off street parking depicted on the site plan shall include a minimum of two inches of paving.
28. Required parking space shall be available for the parking of operable passenger automobiles of residents only, and shall not be used for the storage of vehicles or materials.
29. Off-street parking areas for more than five vehicles shall be effectively screened by a site-obscuring fence, hedge or planting on each side which adjoins a residential use.

AT ALL TIMES

30. 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 system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.
31. Failure of the approved destination resort to comply with the requirements in DCC 19.106.060(J)(2) through (6) will result in the County declining to accept or process any further land use actions associated with any part of the resort and the County shall not issue any permits associated with any lots or site plans on any part of the resort until proof is provided to the County of compliance with those conditions.
32. Vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir or assignee. Plants or trees that die or are damaged shall be replaced and maintained.
33. Required parking space shall be available for the parking of operable passenger automobiles of residents only, and shall not be used for the storage of vehicles or materials.

VIII. DURATION OF APPROVAL:

Site Plan and Conditional Use: All conditions of approval and submission of an application for a building permit for the structures must occur within two (2) years from the date this decision becomes final, or an extension of time pursuant to Section 22.36.010 of the County Code obtained, or this approval shall be void.

Tentative Plat: This tentative plan approval shall be void after two years from the date this decision becomes final, unless the final plat has been submitted to the Planning Division for final approval within that time period, an extension is sought under DCC 22.36.010 or the preliminary

plat approval has been initiated as defined in DCC 22.36.020. In accordance with DCC 22.36.010(B)(3), each phase final plat must be submitted to the Planning Division within two years of completion of the prior phase.

This decision becomes final twelve (12) days after the date of mailing, unless appealed by a party of interest.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Will Groves, Senior Planner

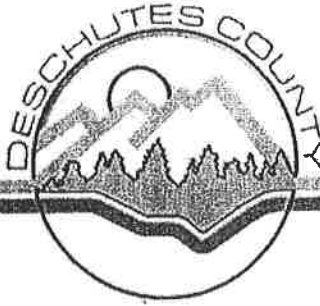


Reviewed by: Peter Gutowsky, Planning Manager

Dated this 6th day of May, 2015

Mailed this 6th day of May, 2015

Exhibit D



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

FINDINGS AND DECISION

FILE NUMBERS: SP-14-2

LOCATION: The subject property is identified on Deschutes County Assessor's Maps as Tax Lot Nos. 18-11-11DD-100 and 18-11-12-2100.

PROPOSAL: The Applicant is requesting Site Plan approval for a 39 unit hotel building (replacing the 78 unit hotel building approved in SP-12-22) and an associated reduction in parking on Tetherow Development Tract AA.

APPLICANT'S REPRESENTATIVE: Radler White Parks & Alexander LLP
P.O. Box 2007
Bend, OR 97709
Attn: Steven Hultberg

APPLICANT/OWNER: Weston Investment Co., LLC
Attn.: Joe Weston
2154 NE Broadway St.
Portland, OR 97232

PLANNING/ENGINEERING: D'Agostino Parker, LLC
Attn.: Keith D'Agostino, PE
231 Scalehouse Loop, Suite 203
Bend, OR 97702

STAFF CONTACT: Will Groves, Senior Planner

STANDARDS AND APPLICABLE CRITERIA

Cascade Highlands (Tetherow) Destination Resort Conceptual and Final Master Plans, County File Nos. CU-04-94 and M-05-2.
Title 19 of the Deschutes County Code, Bend Urban Growth Boundary Zoning Ordinance
Chapter 19.76, Site Plan Review
Sections 19.76.010, .040, .070, .080
Chapter 19.80, Off-Street Parking and Loading
Sections 19.80.040

Quality Services Performed with Pride

Chapter 19.106, Destination Resorts
Sections 19.106.040, .060

II. **BASIC FINDINGS:**

- A. **LOCATION:** The subject property is Development Tract AA of the plat of Tetherow Phase I of Tetherow destination resort, and is also identified on Deschutes County Assessor map as tax lots 18-11-11DD-100 and 18-11-12-2100.
- B. **LOT OF RECORD:** The subject property is Development Tract AA of the plat of Tetherow Phase I of Tetherow destination resort.
- C. **ZONING:** The subject property is zoned Urban Area Reserve (UAR10) with a Destination Resort (DR) overlay.
- D. **PROPOSAL:** The Applicant is requesting Site Plan approval for a 39 unit hotel building. This hotel building replaces the 78 unit hotel building approved under SP-12-22. Other structures and landscaping approved under SP-12-22 will remain unchanged, with the exception of an associated reduction in parking due to the reduction in the size of the subject hotel.

The purpose of this reduction in hotel units is to take advantage of a reduction in the required number of overnight units at the Tetherow resort approved under MC-13-3, which allows a ratio of 2.5 residential units for each overnight unit.

- E. **SITE DESCRIPTION:** The subject property (Development Tract AA, Tetherow Phase 1 Plat) is a 12.2 acre tract located on the plateau in the southerly portion of the Tetherow resort. The subject property lies within an area that was burned in the Awbrey Hall fire of 1990, and as a result the site is generally devoid of mature or significant trees. The site has re-vegetated with native shrubs, grasses, small trees, and indigenous vegetation; primarily bitterbrush, manzanita, sagebrush, and other native species, subsequent to the fire. Portions of the subject tract have been graded along the adjacent Skyline Ranch Road and Meeks Trail (Private road), to accommodate prior resort road construction. A 26 unit lodge and guest services building, approved under SP-12-22, are presently under construction on the subject property.
- F. **SURROUNDING LAND USES:** The subject tract is bordered on the south by Skyline Ranch Road and Meeks Trail Road, and on the north by Golf Tract A. Tract AA is bordered on the east by Tract AB, and on the west by Development Tract Z (which houses the existing golf course clubhouse). Tract AB is bordered on the east by undeveloped Tract AC.
- G. **PUBLIC COMMENTS:** Notice of this decision will be provided to all property owners within 250 feet of the subject property.
- H. **REVIEW PERIOD:** This application was submitted on January 31, 2014. The Planning Division deemed this application complete and accepted it for review on March 2, 2014.
- I. **LAND USE HISTORY:** The Tetherow destination resort is located in an area approved for resort development. The County approved the Conceptual Master Plan ("CMP") (CU-

04-94) and the Final Master Plan ("FMP") (M-05-2) in 2005. The County subsequently approved a Tentative Plan (TP-06-973) in October, 2006, to authorize the platting of some of the residential, commercial, and recreational facility parcels in Tetherow, including the subject Development Tract AA.

The CMP and FMP authorized a variety of uses within the resort, including a total of 300 overnight lodging units. In addition, the approvals mandated that sufficient overnight lodging units be constructed or financially assured to maintain a 2:1 ratio between residential units and overnight lodging units. Tract AB had received Site Plan approval for 198 overnight lodging units per County File Nos. CU-07-11, SP-07-6, TP-07-990 and MC-08-6, but these units have not been developed.

Under SP-12-11, Site Plan approval was granted for 198 overnight lodging units on Development Tract AA. It was the intention of SP-12-11 to "transfer" the overnight units approved under SP-07-6 from Development Tract AB to Development Tract AA through that application. The 198 units proposed for Tract AA were configured as two hotel buildings with 94 and 74 overnight units and four "cottages" containing 30 units between the four "cottages". A future hotel/conference development site was shown on the site plan on Tract AA but was not part of that land use application.

Under SP-12-22, the County granted another Site Plan approval for the same 198 overnight lodging units, an outdoor conference/meeting tent area, and a 1,990 square foot guest services building on Development Tract AA. The proposed overnight units were to be configured as a 26-unit lodge building; a 94-unit, 3-story hotel; and a 78-unit, 3-story hotel. This proposal superseded all previous site plans on the subject property. The 26-unit lodge building and guest services building have received building permits and are presently under construction.

Overnight Unit Bonding Background

The applicant financially assured construction of 198 overnight units for the resort under improvement agreement IA-07-6, as amended seven times. The current amendment bonds development of overnight units as permitted and described in SP-12-22. As a condition of approval, the applicant shall record a new or amended improvement agreement prior to issuance of building permits under this land use approval.

III. CONCLUSIONARY FINDINGS:

1. Conformance with the Approved Conceptual and Final Master Plans

FINDING: The proposed Site Plan is located in an area approved for overnight lodging unit development in the Conceptual and Final Master Plan (CU-04-94 and M-05-2). The CMP and FMP approved, "...379 single-family-dwelling units, 210 multi-family units, a 300-room resort hotel, and approximately 15,000 square feet of commercial and specialty retail." Staff finds that the CMP and FMP approval limits the number of overnight units at the resort to 300 such units.

Under this proposal, the number of approved overnight units on Development Tract AA will be reduced from 198 to 159.

Staff notes that SP-12-10 allows for the development of 24 overnight lodging units on the adjacent Tetherow clubhouse site, Development Tract Z, that are presently under construction. Thus, following the present approval, a total of 183 overnight lodging units will be approved through site plan approvals within the resort.

Conditions of approval included in the FMP Decision that pertain to the current proposal are set out and evaluated below.

- A. All development in the resort shall require tentative plat approval through Title 17 of the County Code, the County Subdivision/Partition Ordinance, and/or Site Plan Review through Title 19 of the County Code, the Bend Urban Growth Boundary Ordinance.**

FINDING: The applicant has requested Site Plan Review and approval for this proposed overnight lodging project.

- B. As specified by the County Road Department in the FMP Decision (M-05-2):**
- 1. The developer will design and construct the road system in accordance with section 17 of the Deschutes County Code (DCC). Road improvement plans shall be approved by the Road Department prior to construction.**
 - 2. Skyline Ranch Road and Metolius Drive shall be designed and constructed to Collector Standards in accordance with Table "A" of DCC 17.48. Design speed shall less than 35MPH.**
 - 3. The round-about proposed for the intersection of Skyline Ranch Road and Metolius Drive shall be designed and constructed according to ODOT standards.**
 - 4. Lots within the resort shall not have direct access from Skyline Ranch Road or Metolius Drive.**
 - 5. The internal road system shall be improved to standards for private roads.**

FINDING: The Site Plan demonstrates that no direct lot access is sought from Skyline Ranch Road or Metolius Drive. No new roads are included in this proposal. Improvements required under this criterion have been completed.

- C. All portions of the proposed resort must be managed and operated in an integrated manner. Failure to comply with this standard will void resort approval.**

FINDING: The proposal is consistent with the location of proposed visitor-oriented overnight lodging as set forth in the CMP and FMP. As proposed, the internal road system and pedestrian paths are consistent with existing and proposed access points on adjoining resort properties and ensure adequate circulation within the property and with the remainder of the resort. The proposed overnight accommodations are located immediately adjacent to the Resort's required meeting space and restaurant facility in a manner that allows for convenient use of those complementary facilities by overnight lodging patrons.

- D. During all phases of the development, the developer and/or its successors in interest shall ensure that individually-owned residential units shall not exceed two and one-half such units for**

each unit of visitor-oriented overnight lodging. Individually-owned units shall be considered visitor-oriented lodging if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through one or more central reservation and check-in services.

FINDING: Staff notes that this condition of approval was modified under MC-13-3, as it is shown above, to allow a ratio of 2.5 residential units for each overnight unit. The current status of individually owned residential unit and visitor-oriented lodging units for the entire Tetherow resort at the time of this application is as follows:

Residential Units (Lots):

There are 357 total residential units (lots) created by final plat. The breakdown is as follows:

Final Plat	Total Residential Units (Lots)
Tetherow Phase 1	93
Tetherow Phase 2	68
Tetherow Phase 3	82
Tetherow Phase 4	19
Tetherow Phase 5	39
Golf Homes at Tetherow	56
Total Platted Residential Units (lots) =	357

Visitor-Oriented Lodging:

The CMP and FMP provide for 300 overnight units. There are presently are 198 units approved through SP-12-22 on Tract AA. Twenty-six units are under construction on Tract AA. In addition, 24 units approved under SP-12-10 are under construction on Tract Z.

Staff notes that for an overnight lodging unit to count towards the ratio described in this criterion, the overnight unit must be constructed or financially assured. No units are complete and 198 units are financially assured. Presently the individually-owned residential units do not exceed two and one-half such units for each unit of visitor-oriented overnight lodging. The current ratio is 1.8:1.

Under the current proposal, the number of site plan approved overnight units on Tract AA would be reduced from 198 to 159. Specifically, a 78-unit hotel building would be reduced to a 39-unit hotel building. This would change the ratio to 2.25:1.

The current amendment of the financial assurance bonds development of overnight units as permitted and described in SP-12-22. As a condition of approval, the applicant shall record a new or amended improvement agreement bonding units as approved under SP-14-2, prior to issuance of building permits under this land use approval. Any amendment to the improvement agreement must ensure that individually-owned residential units do not exceed two and one-half such units for each unit of visitor-oriented overnight lodging.

Staff notes that, if the applicant reduces the number of bonded and constructed overnight units on Tract AA to 159, the overnight/residential unit ratio will be 2.25:1. However, the actual ratio will depend on the timing of completion of units presently under construction, the specific bonding amendment proposed, and the timing of final plat approval of Tetherow Phase 6. The ratio is ultimately constrained by MC-13-3 condition of approval #4 that requires:

During all phases of the development, the developer and/or its successors in interest shall ensure that individually-owned residential units shall not exceed two and one-half such units for each unit of visitor-oriented overnight lodging.

- E. *Commercial, cultural, entertainment or accessory uses provided as part of the destination resort shall comply with the requirements and limitations of Section 19.106.070(Q). Specific determination of compliance with this condition shall be made initially at the time of FMP approval and finally at the time of site plan approval for each individual commercial component the FMP.***

FINDING: This condition of approval was generated under 19.106.070(Q) in the Conceptual Master Plan approval. Based on the findings made in that approval, Staff finds that this condition does not apply to overnight lodging. Compliance with Section 19.106.070(Q) is addressed below.

- F. *Commercial, cultural, entertainment or accessory uses provided as part of the destination resort shall be contained within the development and shall not be oriented to public roadways. Commercial, cultural and entertainment uses allowed within the destination resort shall be incidental to the resort itself. As such, these ancillary uses shall be permitted only at a scale suited to serve visitors to the resort. Compliance with this requirement shall also be included as a condition of FMP approval. The maximum building height for commercial, cultural and entertainment uses shall be 40 feet.***

FINDING: This condition of approval was generated under 19.106.070(Q) in the Conceptual Master Plan approval. Based on the findings made in that approval, Staff finds that this condition does not apply to overnight lodging.

- G. *The applicant and its successors shall guarantee that all open space used to meet the 50% open space requirement of Section 19.106.030(E) and 19.106.060(D). In addition all trails currently depicted on the conceptual development plan map as being "public trails" shall remain open and available to the public.***

FINDING: Currently, 51.6% of the total acreage of the resort (599.8 acres) has been dedicated to permanent open space in compliance with this criterion. This proposal does not increase or reduce the acreage dedicated to open space.

- H. *The applicant and its successors in interest shall guarantee that all development would comply with the financial commitment and minimum development requirements set out in DCC 19.106.060(A). Guarantees shall be in the form satisfactory to the county to ensure that the development would be completed consistent with this approval, and may include bonds, certificates of participation, and deed restrictions to ensure compliance with open space and developed recreation standards. Failure to comply with these requirements would void the resort approval.***

FINDING: The financial commitment and minimum development requirements set out in DCC 19.106.060(A) have been satisfied by completed development within the resort, as approved under previous applications or has been ensured by bonding under improvement agreements for yet-to-be-completed development within the resort.

Under the current proposal, the number of site plan approved overnight units on Tract AA would be reduced from 198 to 159. Specifically, a 78-unit hotel building would be reduced to a 39-unit hotel building. Since the 78-unit hotel building is bonded under IA-07-6, this bonding must be released prior to issuance of building permits under the current proposal.

The current amendment of the financial assurance bonds development of overnight units as permitted and described in SP-12-22. As a condition of approval, the applicant shall record a new or amended improvement agreement bonding units as approved under SP-14-2, prior to issuance of building permits under this land use approval. Any amendment to the improvement agreement must ensure that individually-owned residential units do not exceed two and one-half such units for each unit of visitor-oriented overnight lodging.

- I. All development within the proposed resort shall meet all fire protection requirements of the Bend Fire Department.**

FINDING: As a condition of approval, the applicant shall coordinate with the Bend Fire Department to identify fire protection requirements. A copy of these requirements shall be provided to Deschutes County Planning, prior to issuance of building permits. All development within the proposed resort shall meet all fire protection requirements of the Bend Fire Department.

- J. No development shall be allowed on slopes of 25% or more on the site.**

FINDING: No development is proposed on slopes of more than 25%.

- K. Any timeshare units not included on the FMP or on individual plats shall be subject to approval under the conditional use criteria set forth in Chapter 19.100 of Title 19 of the County Code.**

FINDING: No timeshare units are proposed under this application.

- L. Proposed drywells shall be approved by the Department of Environmental Quality (DEQ).**

FINDING: No drywells are proposed under this application.

- M. Building heights and setbacks shall conform to the limits set forth in this decision and shall be incorporated into the Design Guidelines for the resort.**

FINDING: The Dimensional Standards approved with the CMP & FMP established the following limits for the commercial and recreational elements of the resort:

1. **Maximum building height of 40 feet**
2. **Front yard setback of 10 feet**
3. **Rear yard setback of 0 feet (unless abutting a residential lot, where the minimum setback shall be 20 feet)**
4. **Side yard setbacks of 0 feet (unless abutting a residential lot, where the minimum setback shall be 10 feet).**

The proposed Site Plan demonstrates compliance with these setback requirements. The applicant did not specify the height of the proposed structure. As a condition of approval, the proposed structure shall have a maximum building height of 40 feet.

Title 19 Of The Deschutes County Code, Urban Area Reserve.

A. Chapter 19.12, Urban Area Reserve – UAR

1. Section 19.12.030. Conditional Uses.

O. Destination resort, where mapped in the Bend Area General Plan destination resort map, subject to DCC 19.106.

FINDING: The proposed structures will be associated with the Tetherow Destination Resort (CU-04-94, M-05-2). The subject property is mapped as destination resort on the Bend Area General Plan destination resort map.

B. Chapter 19.76, Site Plan Review

1. Section 19.76.060. Agreement and Security.

The developer and owner shall, as a condition of approval, execute a development agreement for any improvements required on a form approved by the County Counsel and may be required to file with the County a performance bond or other security as approved by the County Counsel to assure full performance of the required improvements. The bond shall be for the cost of the improvements plus 10 percent.

FINDING: Financial assurance of 198 overnight units on Tract AA is provided under IA-07-6, as amended. Under the current proposal, the number of site plan approved overnight units on Tract AA would be reduced from 198 to 159. Specifically, a 78-unit hotel building would be reduced to a 39-unit hotel building. Since the 78-unit hotel building is bonded under IA-07-6, this bonding must be released prior to issuance of building permits under the current proposal.

The current amendment of the financial assurance bonds development of overnight units as permitted and described in SP-12-22. As a condition of approval, the applicant shall record a new or amended improvement agreement bonding units as approved under SP-14-2, prior to issuance of building permits under this land use approval. Any amendment to the improvement agreement must ensure that individually-owned residential units do not exceed two and one-half such units for each unit of visitor-oriented overnight lodging.

2. Section 19.76.070. Site plan criteria.

Approval of a site plan shall be based on the following criteria:

A. Safety and Privacy. Residential site plans shall be designed to provide a safe living environment while offering appropriate

opportunities for privacy and transitions from public to private spaces.

FINDING: The proposed overnight accommodation units are not considered to be residential units.

- B. *Special Needs of Handicapped. When deemed appropriate, the site plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs, drop curbs and handicapped parking stalls.***

FINDING: As shown on the submitted Site Plan, parking stalls, and accessible routes are provided for special needs access to the proposed hotel. Conformance with ADA standards is confirmed in the building permit review.

- C. *Preservation of Natural Landscape. The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve the applicant's functions. Preserved trees and shrubs shall be protected during construction.***

FINDING: The Applicant proposes to preserve the existing landscape and grade to the maximum practical degree, considering development constraints. The subject property lies within an area that was burned in the Awbrey Hall fire of 1990. The subject site is almost completely devoid of mature trees and has naturally re-vegetated with native shrubs, grasses, some small trees, and indigenous vegetation.

- D. *Pedestrian and Vehicular Circulation and Parking. The location and number of points of access to the site, the interior circulation patterns, designs of parking areas and the separation between pedestrians and moving and parked vehicles shall be designed to promote safety and avoid congestion on adjacent streets.***

FINDING: The general circulation pattern shown on the submitted Site Plan demonstrates that proposed lodging development on Tract AA will be accessed from Skyline Ranch Road and Meeks Trail and will connect to internal roads and driveways on adjacent development on Golf Tract A and Development Tracts Z and AB, thereby promoting safe and efficient circulation within the resort core. The two points of access to Meeks Trail and Skyline Ranch Road, combined with the connectivity to adjacent parcels, will ensure adequate access for safety and accommodate emergency service providers. In addition, the parking areas are designed to segregate vehicular areas from the core lodging structures to promote pedestrian safety.

- E. *Buffering and Screening. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires and the like), loading and parking and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts to the site and neighboring properties.***

FINDING: The Applicant has proposed to screen all structures and facilities for storage, machinery, equipment, and services to ensure that the core lodging area is aesthetically pleasing both within the site and as viewed from neighboring properties.

- F. Utilities.** *All utility installations above ground, if such are allowed, shall be located so as to minimize adverse impacts on the site and neighboring properties.*

FINDING: The only utilities anticipated to be located above ground are standard power transformers, pedestals, and similar franchise utility facilities/appurtenances. Landscaping will be utilized to minimize any adverse visual impacts of the above ground utility cabinets and pedestals on the site yet allow for the required utility access.

- G. Public Facilities.** *The proposed use shall not be an undue burden on public facilities, such as the street, sewer or water system.*

FINDING: Impacts to public facilities for the entire resort were addressed in the Conceptual and Final Master Plan approvals. This proposal is in accordance with the development scope contemplated in those master plan approvals, and the overall resort will not be an undue burden on such public facilities. The resort has entered into a sewer and water agreement with the City of Bend for service to the entire resort.

No traffic analysis is required as transportation was previously addressed in a conceptual master plan (CU-04-94), a final master plan (M-05-2), and a tentative plat (TP-06-973) and the trip generation from SP-12-22 is consistent with those previous land use approvals. Since this proposal reduces the number of approved units on Tract AA by 39, no additional street system impacts are anticipated.

- A. Minimum Landscaping Standards.** *All developments subject to site plan approval shall meet the following minimum standards for landscaping:*

- 1.** *A minimum of 15 percent of the area of a project shall be landscaped for multifamily, commercial and industrial developments, subject to site plan approval and the following requirements:*

FINDING: The Site Plan for this commercial development demonstrates that approximately 53% of Tract AA will be landscaped, and provides the information required in this criterion, including proposed plant and non-plant materials.

- a. Landscape Plan.** *The applicant shall submit a complete landscape plan showing all live plant materials and non-plant materials to be installed on the site in order to meet the landscape requirement. The landscape plan shall also include written documentation of how the site will be prepared for plant material installation with an emphasis on soil quality and available depth.*

FINDING: The applicant indicated that the landscaping plan approved under SP-12-22 will be used in development of the site. The only change will be an increase in landscaping area associated with the decrease in required parking, as described below. Staff finds that the landscaping plan, approved under SP-12-22 continues to satisfy this requirement.

- b. Irrigation.** *All plant materials, except existing native plants not damaged during construction, shall be*

irrigated by underground sprinkler systems set on a timer in order to obtain proper water duration and ease of maintenance.

FINDING: The applicant proposes to install underground automatic irrigation systems to ensure proper irrigation and maintenance of all plant materials.

- c. ***Non-Plant Materials. The use of certain non-plant materials as part of the landscape plan is highly encouraged. These materials may include the following: large landscape quality boulders, wood or concrete soil retaining devices, gravels, concrete garden amenities, approved mulch materials, stepping stones and water features. Borders for landscape beds abutting parking areas shall be constructed with extruded or poured-in-place concrete, retaining walls, sidewalks and/or other features acceptable to the County.***

FINDING: The applicant indicated that the landscaping plan approved under SP-12-22 will be used in development of the site. The only change will be an increase in landscaping area associated with the decrease in required parking, as described below. Staff finds that the landscaping plan, approved under SP-12-22 continues to satisfy this requirement.

- d. ***Plant Materials. Minimum plant material sizes and placement: (Note: Annual type plants will not be counted as part of the landscaping requirement unless permanent architectural or other non-movable features are specifically created for these type of plants.)***
 - i. ***Trees. A variety of tree species is encouraged as a way to provide visual interest and to protect against same species die out or disease. Acceptable tree species shall be those trees which are listed in DCC 19.76.080(A)(2)(g), readily available from local nurseries, tolerant of Central Oregon climate, disease resistant, and do not create unusual maintenance problems. All deciduous trees shall be a minimum of two inches in diameter at breast height. Larger diameter trees are encouraged if soil conditions allow.***

FINDING: The applicant indicated that the landscaping plan approved under SP-12-22 will be used in development of the site. The only change will be an increase in landscaping area associated with the decrease in required parking, as described below. Staff finds that the landscaping plan, approved under SP-12-22 continues to satisfy this requirement.

As a condition of approval, all planted trees shall be those trees which are listed in DCC 19.76.080(A)(2)(g) or are readily available from local nurseries, tolerant of Central Oregon climate, disease resistant, and do not create unusual maintenance problems. All deciduous trees shall be a minimum of two inches in diameter at breast height at time of planting.

- ii. **Ponderosa Pine.** *There shall be one native Ponderosa species of pine planted for every four deciduous trees required to be planted on the site. Pine trees may require larger planting beds due to their size at maturity. All coniferous trees, except Ponderosa, shall be a minimum of six feet in height. Ponderosa trees shall be a minimum of three feet in height. Larger Ponderosa trees are encouraged if readily available.*

FINDING: The applicant indicated that the landscaping plan approved under SP-12-22 will be used in development of the site. The only change will be an increase in landscaping area associated with the decrease in required parking, as described below. Staff finds that the landscaping plan, approved under SP-12-22 continues to satisfy this requirement.

- iii. **Shrubs.** *All shrubs shall be a minimum of three gallons in size. Shrubs adjacent to parking areas with car overhang shall be planted at least three feet from the parking surface. Shrubs shall not be placed closer to other materials than the plant spread at maturity. At least 40 percent of the shrubs in the landscape plan shall include evergreens. The use of a variety of shrub types is encouraged.*
- iv. **Ground covers.** *All ground covers shall be of sufficient size and quantity to provide for maximum coverage in five years based upon the species and growth pattern.*
- v. **Planting beds.** *Planting beds shall be of sufficient width to accommodate the plants at maturity. The planting beds along the perimeter of a building shall incorporate a mix of trees, shrubs and ground covers to buffer the building and reduce the apparent mass of the building as viewed from the street. The plant materials within the planting bed shall not create hiding areas or other security concerns.*

FINDING: The applicant indicated that the landscaping plan approved under SP-12-22 will be used in development of the site. The only change will be an increase in landscaping area associated with the decrease in required parking, as described below. Staff finds that the landscaping plan, approved under SP-12-22 continues to satisfy this requirement.

- 2. **Street Trees.** *The placement, spacing and pruning of street trees shall be as follows, although the Planning Director or Hearings Body may adjust the placement standard for special site conditions:*
 - a. *Street trees shall be located a minimum of five feet from the face of a curb.*
 - b. *Street Trees shall be placed a maximum of 30 feet apart. Reduced separation may be required for smaller species of*

trees. Variety in tree placement using clusters of trees and uneven spacing is encouraged.

- c. An approved tree grate or other surface treatment shall be used for street trees planted in paved or concrete area.
- d. As street trees grow, they shall be pruned to provide a minimum clearance of eight feet above sidewalk and 14 feet above street, alley or roadway surfaces.
- e. Existing trees may be used as street trees if they are not killed or damaged from any new development. Sidewalks of variable width and elevation may be utilized to save existing street trees.
- f. Existing street trees removed by development projects shall be replaced by the developer with those from the approved street tree list.
- g. Street trees shall be those species suitable for the location in which they are placed. Approved tree species include:
Trees with low mature tree height (25 feet or less) for use in areas under power lines or in small planting areas:

Amur Maple/Acer ginnala

Canada Red Cherry/Prunus Virginiana 'Shubert'

Eastern Redbud/Cercis canadensis

Flowering Crabapple/Malus 'variety'

Hawthorn/Crataegus 'variety'

Japanese Lilac Tree/Syringa reticulata

Serviceberry/Amelanchier

Medium mature tree height (30 to 45 feet):

American Hornbeam/ Carpinus caroliniana

Callery Pear/Pyrus calleryana

Hedge Maple/Acer campestre

Mountain Ash/Sorbus acuparia 'variety'

Tall mature tree height (50 feet or larger):

Birch/Betula pendula 'variety'

Green Ash/Fraxinus pennsylvanica

Honey Locust/Gleditsia tricanthos 'variety'

Littleleaf Linden/Tilia cordata

Norway Maple/Acer platanoides 'variety'

Pin Oak/Quercus palustris

Red Maple/Acer rubrum 'variety'

Red Oak/Quercus rubra

Other tree species: The Planning Director or Hearings Body may approve other tree species as necessary to achieve the purposes of DCC 19.76.080.

FINDING: The applicant indicated that the landscaping plan approved under SP-12-22 will be used in development of the site. The only change will be an increase in landscaping area associated with the decrease in required parking, as described below. Staff finds that the landscaping plan, approved under SP-12-22 continues to satisfy this requirement.

- 3. Areas of commercial and industrial zones used for vehicle maneuvering, parking, loading or storage shall be landscaped and screened as follows:

- a. *Landscape coverage of the landscape area shall be 50 percent at the time of installation and 90 percent at five years.*
- b. *Parking lot landscaping shall consist of a minimum of seven percent of the total parking area plus a ratio of one tree per eight parking spaces to create a canopy effect.*
- c. *Landscape buffers between parking areas, parking pods and internal streets shall have a minimum width of five feet with no car overhang and 10 feet with a car overhang.*
- d. *Landscape buffers between parking and an abutting property line shall have a minimum width of 10 feet.*
- e. *Front or exterior yard landscaping may not be substituted for the interior landscaping required for interior parking stalls.*
- f. *There shall be a landscaped and/or screened buffer area a minimum distance of five feet between commercial uses.*
- g. *There shall be a minimum width of 10 feet for landscape buffers between buildings adjacent to streets.*
- h. *Landscape buffers shall consist of evergreen ground cover and shrubs mixed with a variety of flowering and deciduous species of trees and shrubs.*
 - i. *Landscaping in a parking or loading area shall have a width of not less than five feet. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.*

FINDING: Staff believes these criteria do not apply, as the lodging units are not located in a commercial or industrial zone.

4. *Required landscaping shall be continuously maintained.*

FINDING: The applicant has acknowledged this requirement. As a condition of approval, required landscaping shall be continuously maintained.

5. *Vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir or assignee. Plants or trees that die or are damaged shall be replaced and maintained.*

FINDING: The applicant has acknowledged this requirement. As a condition of approval, vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir or assignee. Plants or trees that die or are damaged shall be replaced and maintained.

B. *Shared Areas. Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development as follows:*

- 1. *Units with one or two bedrooms: 200 square feet of lawn per unit.*
- 2. *Units with three or more bedrooms: 300 square feet of lawn per unit.*

FINDING: This proposal does not include any apartment residential development.

- C. ***Storage. Areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc.***

FINDING: This proposal does not include any residential development.

- D. ***Drainage. Surface drainage shall be contained on site.***

FINDING: A Grading and Drainage Plan was provided and demonstrates that drainage will be contained on site.

- E. ***Bicycle Parking. The development shall provide the number and type of bicycle parking facility as required in DCC 19.80.080 and 19.80.090. The location and design of bicycle parking facilities shall be shown on the site plan.***

FINDING: Requirements under DCC 19.80.080 and 19.80.090 are discussed below.

- F. ***Internal Pedestrian Circulation. Internal pedestrian circulation shall be provided in new office parks and commercial developments through the clustering of buildings, construction of hard surface pedestrian walkway, and similar techniques. Walkways shall connect building entrances to one another and from building entrances to public street and existing or planned transit stops. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connection on adjacent properties planned or used for commercial, multifamily, institutional or park use.***

FINDING: Staff finds that the overnight lodging constitutes a commercial development for the purposes of this criterion. Staff believes the proposal meets this criterion through the clustering of buildings and construction of hard surface pedestrian walkway. The walkways connect building entrances to one another and from building entrances to public streets. There are no existing or planned transit stops in the area.

- G. ***Public Transit Orientation. New retail, office and institutional buildings on parcels within 600 feet of existing or planned transit routes shall provide preferential access to transit through the following measures:***
1. ***Orienting building entrances to a transit facility; or***
 2. ***Locating buildings as close as possible to the transit route street.***

FINDING: This proposal does not include any new retail, office, or institutional buildings.

C. Chapter 19.80, Off Street Parking and Loading

1. Section 19.80.020, Off-Street Loading.

- A. ***Commercial, industrial and public utility uses which have a gross floor area of 5,000 square feet or more shall provide truck loading or unloading berths in accordance with the following table. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space, and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:***

Square Feet of Floor Area	No. of Berths Required
Less than 5,000	0
5,000-30,000	1
30,000-100,000	2
100,000 and Over	3

FINDING: This proposal proposed use falls under subsection (B), below. This criterion does not apply.

- B. ***Restaurants, office buildings, hotels, motels, hospitals and institutions, schools and colleges, public buildings, recreation or entertainment facilities and any similar use which has a gross floor space of 30,000 square feet or more shall provide off-street truck loading or unloading berths in accordance with the following table:***

Square Feet of Floor Area	No. of Berths Required
Less than 30,000	0
30,000-100,000	1
100,000 and Over	2

- C. ***A loading berth shall contain space 10 feet wide, 35 feet long and have a height clearance of 14 feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required length of these berths shall be increased.***
- D. ***If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.***
- E. ***Off-street parking areas used to fulfill the requirements of DCC Title 19 shall not be used for loading and unloading operations, except during periods of the day when not required to take care of parking needs.***

FINDING: Proposed loading dock and berth area for the large Hotel Buildings exceeding 30,000 square feet in floor area, was approved under SP-12-22 in the northeastern corner of the

tract, behind the easternmost corner of Hotel Building 1. This area contains sufficient space to accommodate the required loading berths, and it ensures that such activity will be sufficiently separated and screened from the main pedestrian areas. The site plan shows that the loading area will also be screened from the adjacent golf course tract and Tract AB.

2. Section 19.80.030, Off-Street Parking.

Off-street parking space shall be provided and maintained as set forth in DCC 19.80.030 for all uses in all zones, except for the CB zone. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 19 is changed. Improved off-street parking shall mean paved with two inches of paving.

FINDING: The applicant has stated that all improved off street parking depicted on the site plan will include a minimum of two inches of paving.

3. Section 19.80.040, Number of Spaces Required.

Off-street parking shall be provided as follows:

B. Commercial Residential.

Hotel	1 space per guest room plus 1 space per 2 employees
Motel	1 space per guest room or suite plus 1 additional space for the owner or manager.
Club or Lodge	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
Fraternity, Sorority or Dormitory	1 space for each 6 student beds

H. Other uses not specifically listed above shall furnish parking as required by the Planning Commission. The Planning Commission shall use the above list as a guide for determining requirements for said other uses.

FINDING: The total hotel parking demand for Tract AA under this proposal includes 172 spaces required for guests (159 spaces) and employee parking (13 spaces for 26 employees). The applicant has proposed 257 paved parking spaces to meet this demand.

4. Section 19.80.050, General Provisions-Off-Street Parking.

A. More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of the requirements of the several uses computed separately.

FINDING: A single use, resort overnight lodging, is proposed on a single parcel.

- B. Joint Use of Facilities.** *The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.*

FINDING: No joint use of parking spaces under this criterion is proposed.

- C. Location of Parking Facilities.** *Off-street parking spaces for dwellings shall be located on the same lot with the dwellings. All other off-street parking shall be located on the lot with the use or, if not located on the same lot, shall be first approved as a conditional use. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the use. The burden of proving the existence of such off-premises parking arrangements rests upon the person who has the responsibility of providing parking.*

FINDING: Parking for the overnight lodging is located on the same lot with the lodging.

- D. Use of Parking Facilities.** *Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.*

FINDING: The applicant has acknowledged this requirement. As a condition of approval, required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.

- E. Parking, Front Yard.** *Unless otherwise provided, required parking and loading spaces for multifamily dwellings, commercial and industrial use shall not be located in a required front yard, but such space may be located within a required side or rear yard.*

FINDING: The submitted Site Plan demonstrates that no parking is proposed in a required front yard.

- F. Disabled Parking.** *The number, location and design of disabled parking spaces shall be as required by the building code. Buildings and uses in existence on April 30, 1993 that are retroactively required to provide disabled parking facilities may place the disabled spaces in the front yard setback area if it is not possible to locate the parking elsewhere on the site.*

FINDING: The applicant has acknowledged this requirement. As a condition of approval, the number, location and design of disabled parking spaces shall be as required by the Building Code.

- G. Shopping Center Parking.** *The motor vehicle parking areas shall be located and designed to facilitate safe and convenient pedestrian and bicycle movement to and from public sidewalks, streets, or transit stops. Ways to achieve this standard may include, but are not limited to:*
- 1. Location and orientation of buildings closer to the street to minimize pedestrian and bicycle travel through a parking area;*
 - 2. Providing one or more raised walkways through the parking areas;*
 - 3. Providing one or more walkways protected by landscaping and parking bumpers with areas across vehicle aisles delineated by nonasphaltic material in a different color or texture than the parking areas;*
 - 4. Connecting on-site pedestrian walkways and bikeways to other existing pedestrian and bicycle circulation systems that serve adjacent commercial uses or residential areas.*

FINDING: This proposal does not include a shopping center.

- H. Maximum parking.** *The maximum number of parking spaces for a commercial development with a gross floor area of 30,000 square feet or greater, or a site with more than six acres shall not exceed 150 percent of the required parking.*

FINDING: The subject site contains more than six acres. The proposed parking of 257 spaces is less than 150% of required parking ($172 * 1.5 = 258$ spaces).

- I. Reduction In Required Parking.** *The total number of required motor vehicle parking spaces for an industrial, commercial, and office use may be reduced by five percent for each of the activities listed below provided by the owners or operators, up to a maximum 10 percent reduction in the total number of motor vehicle spaces.*
- 1. Participation in an area wide carpool/vanpool ride matching program for employees;*
 - 2. Designating at least 10 percent of the employee motor vehicle parking spaces as carpool/vanpool parking and placing such spaces closer to the building than other employee parking;*
 - 3. Providing showers and lockers for employees who commute by bicycle;*
 - 4. Providing twice as many covered, secured bicycle parking racks or facilities as required by DCC Title 19;*
 - 5. Providing a transit facility that is approved by the local transit authority and related amenities. Related amenities include, but are not limited to, a public plaza, pedestrian sitting areas, and additional landscaping.*

FINDING: The applicant has not requested any reduction in required parking under this criterion.

- J. *Parking Pods. Developments that provide more than 75 parking spaces shall:***
- 1. *Develop the parking area into pods of no more than 50 spaces each.***
 - 2. *Develop physical breaks between the pods by providing one or more of the following:***
 - a. *Landscaping beds of not less than five feet in width with no car overhang and 10 feet in width with a car overhang;***
 - b. *Siting of building pads, landscaped pedestrian walkways, interior streets or other site features acceptable to the planning director or hearings body.***

FINDING: The developments will provide more than 75 parking spaces. The parking area is proposed to be developed as parking pods separated by landscaping beds as required by this criterion.

- 5. Section 19.80.060, Development and Maintenance Standards for Off-Street Parking Areas.**

Every parcel of land hereafter used as a public or private area, including commercial parking lots, shall be developed as follows:

- A. *An off-street parking area for more than five vehicles shall be effectively screened by a site-obscuring fence, hedge or planting on each side which adjoins a residential use or property situated in a residential zone or the premises of any school or like institution.***

FINDING: The subject Site Plan does not adjoin a residential use, residential zone or any school or like institution. This criterion does not apply.

- B. *Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in an R zone.***

FINDING: There is no adjoining property in an R zone.

- C. *Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street or right of way other than an alley.***

FINDING: All proposed parking spaces are located and served by a driveway so that their use will require no backing movements or other maneuvering within a street or right of way.

- D. *Areas used for standing and maneuvering of vehicles shall be paved surfaces maintained adequately for all weather use and so drained as to contain any flow of water on the site.***

FINDING: As shown on the submitted Site Plan, the proposed new parking and driveway areas will be paved in compliance with this criterion. The applicant did not provide a detailed drainage plan. As a condition of approval, the applicant shall submit a detailed drainage plan prior to issuance of building permits to demonstrate that areas used for standing and maneuvering of vehicles are drained as to contain any flow of water on the site.

- E. *Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.***

FINDING: The subject Site Plan does not adjoin a residential use or residential zone. This criterion does not apply.

- F. *Access aisles shall be of sufficient width for all vehicular turning and maneuvering.***

FINDING: The proposed 24-foot access aisles are of sufficient width for all vehicular turning and maneuvering.

- G. *Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined throughout by the use of rails, fences, walls or other barriers or markers. Service drives to drive-in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.***

FINDING: The proposed new service drive for the new parking area is designed with for two-way traffic which will serve to safely and efficiently facilitate the flow of traffic and minimize conflicts between pedestrians and vehicles. The applicant has proposed to clearly delineate the drive by curbs, surfacing, and signage.

- H. *Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points 30 feet from their intersection.***

FINDING: The applicant has acknowledged this requirement. As a condition of approval, service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.

- I. *Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail so placed to prevent a motor vehicle from extending over an adjacent property line, pedestrian walkway, bikeway, or a street right-of-way.***

FINDING: The submitted site plan includes curbs at all parking space outer boundaries.

6. Section 19.80.070, Off-Street Parking Lot Design.

All off-street parking lots shall be designed in accordance with county standards for stalls and aisles set forth in the following drawings and table:

SEE TABLE AT END OF CHAPTER 19.80

- A. *For one row of stalls, use C plus D as minimum bay width.*
- B. *Public alley width may be included as part of dimension D, but all parking stalls must be on private property, off the public right of way.*
- C. *For estimating available parking area, use 300-325 sq. ft. per vehicle for stall, aisle and access areas.*
- D. *For narrow lots, equivalent size stalls and aisles may be approved by the Public Works Director.*
- E. *For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls not exceed 30 percent of the total required stalls. A compact stall shall be eight feet in width and 17 feet in length with appropriate aisle width.*

FINDING: The proposed new off-street parking lot to serve the hotel includes uses standard 90° parking stalls and two-way, 24-foot drive aisles.

7. Section 19.80.080, Required Bicycle Parking.

- A. *On-site bicycle parking shall be provided as listed below. Fractional spaces shall be rounded to the next highest number. Bicycle parking for multiple uses or large commercial developments may be provided in one or more locations.*

FINDING: The County Code does not contain a bicycle parking requirement for overnight accommodations or lodging units. Nonetheless the applicant intends to provide bicycle parking on the site.

8. Section 19.80.090, Bicycle Parking Location And Design; Other Required Conditions.

- A. *Each required bicycle parking space shall be on asphaltic concrete, portland cement, or similar hard surface material and each space shall be at least two feet wide by six feet long with a minimum vertical clearance of seven feet. An access aisle at least five feet wide shall be provided and maintained beside or between each row of bicycle parking.*
- B. *Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary rack upon which the bicycle can be locked. Bicycle rack design must accommodate both U shaped locks and cables and include, but are not limited to, such shapes as an inverted "U" design or a "ribbon." Racks shall be securely anchored to a walkway, parking lot, building, or other approved structure.*
- C. *Where required, covered bicycle parking may be provided underneath an awning, eave, or other structural overhang, inside the*

main building or an accessory parking structure, or other facility as determined by the Site Plan Review that protects the bicycle from direct exposure to the elements.

- D. Except as noted below, all required bicycle parking shall be located on site within 50 feet of well used entrances and not farther than the closest motor vehicle parking space. Bicycle parking for multiple uses such as a commercial center or college may be clustered in one or more locations that are convenient for bicyclists but must meet all requirements for bicycle parking.*
- E. Lighting shall be provided in a bicycle parking area so that all facilities are thoroughly illuminated and visible from adjacent sidewalks or motor vehicle parking lots. Bicycle parking shall be at least as well lit as motor vehicle parking.*

FINDING: Staff believes these criteria do not apply, as the proposed use does not generate any required bicycle parking spaces.

- F. New commercial developments and public buildings in which 25 or more persons will be employed, shall provide changing room(s) and shower(s) for employees who bicycle to work. Such facilities may be incorporated into restrooms, exercise rooms or similar facilities in the building.*

FINDING: The applicant has acknowledged this requirement. The applicant has stated that 26 employees are anticipated at the hotel. As a condition of approval, the applicant shall provide changing room(s) and shower(s) for employees who bicycle to work. Such facilities may be incorporated into restrooms, exercise rooms or similar facilities in the building.

E. Chapter 19.106, DESTINATION RESORTS

- 1. Section 19.106.110, Provision of Streets, Utilities, Developed Recreational Facilities and Visitor-Oriented Accommodations..

- B. Financial assurance or bonding to assure completion of streets and utilities, developed recreational facilities and visitor-oriented accommodations in the FMP shall be required pursuant to the security requirements for site plan review and subdivision review established by the Deschutes County Code*

FINDING: Financial assurance of the required visitor-oriented accommodations is discussed above, under 19.76, Site Plan Review.

V. CONCLUSION:

Based on the foregoing Basic and Conclusionary Findings, Staff concludes that the proposed project can meet all applicable criteria for approval. **Other permits may be required. The applicant is responsible for obtaining any necessary permits from the Deschutes County Building Division, the Deschutes County Environmental Health Division and the Deschutes County Road Department, as well as any required state and federal permits.**

VI. DECISION:

APPROVAL, subject to the following conditions of approval

VII. CONDITIONS OF APPROVAL:

1. This approval is based upon the site plan and information submitted by the applicant. Any substantial change in the approved plan will require a new application.
2. All lighting on the subject property shall be required to comply with Chapter 15.10 of the Deschutes County Code, the Outdoor Lighting Control Ordinance. All exterior lights shall be sited and shielded so that no direct light projects off-site.
3. Off-street parking areas used to fulfill the requirements of DCC Title 19 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
4. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
5. All planted trees shall be those trees which are listed in DCC 19.76.080(A)(2)(g) or are readily available from local nurseries, tolerant of Central Oregon climate, disease resistant, and do not create unusual maintenance problems. All deciduous trees shall be a minimum of two inches in diameter at breast height at time of planting.
6. Required landscaping shall be continuously maintained. Vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir or assignee. Plants or trees that die or are damaged shall be replaced and maintained
7. The number, location and design of disabled parking spaces shall be as required by the building code.
8. The applicant shall submit a detailed drainage plan prior to issuance of building permits to demonstrate that surface drainage shall be contained on site.
9. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.
10. The applicant shall provide changing room(s) and shower(s) for employees who bicycle to work. Such facilities may be incorporated into restrooms, exercise rooms or similar facilities in the building.
11. The proposed structure shall have a maximum building height of 40 feet.
12. The current amendment of the financial assurance bonds development of overnight units as permitted and described in SP-12-22. As a condition of approval, the applicant shall

record a new or amended improvement agreement bonding units as approved under SP-14-2, prior to issuance of building permits under this land use approval. Any amendment to the improvement agreement must ensure that individually-owned residential units do not exceed two and one-half such units for each unit of visitor-oriented overnight lodging.

13. The applicant shall coordinate with the Bend Fire Department to identify fire protection requirements. A copy of these requirements shall be provided to Deschutes County Planning, prior to issuance of building permits. All development within the proposed resort shall meet all fire protection requirements of the Bend Fire Department.

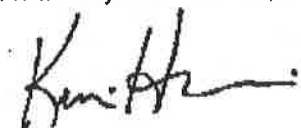
VIII. DURATION OF APPROVAL:

The applicant shall submit an application(s) for a building permit(s) within two (2) years following the date this decision becomes final, or obtain an extension of time pursuant to Section 22.36.010 of the County Code, or this approval shall be void. **This decision becomes final twelve (12) days after the date of mailing, unless appealed by a party of interest.**

DESCHUTES COUNTY PLANNING DIVISION



Written by: Will Groves, Senior Planner



Reviewed by: Kevin Harrison, Principal Planner

Dated this 18th day of March, 2014

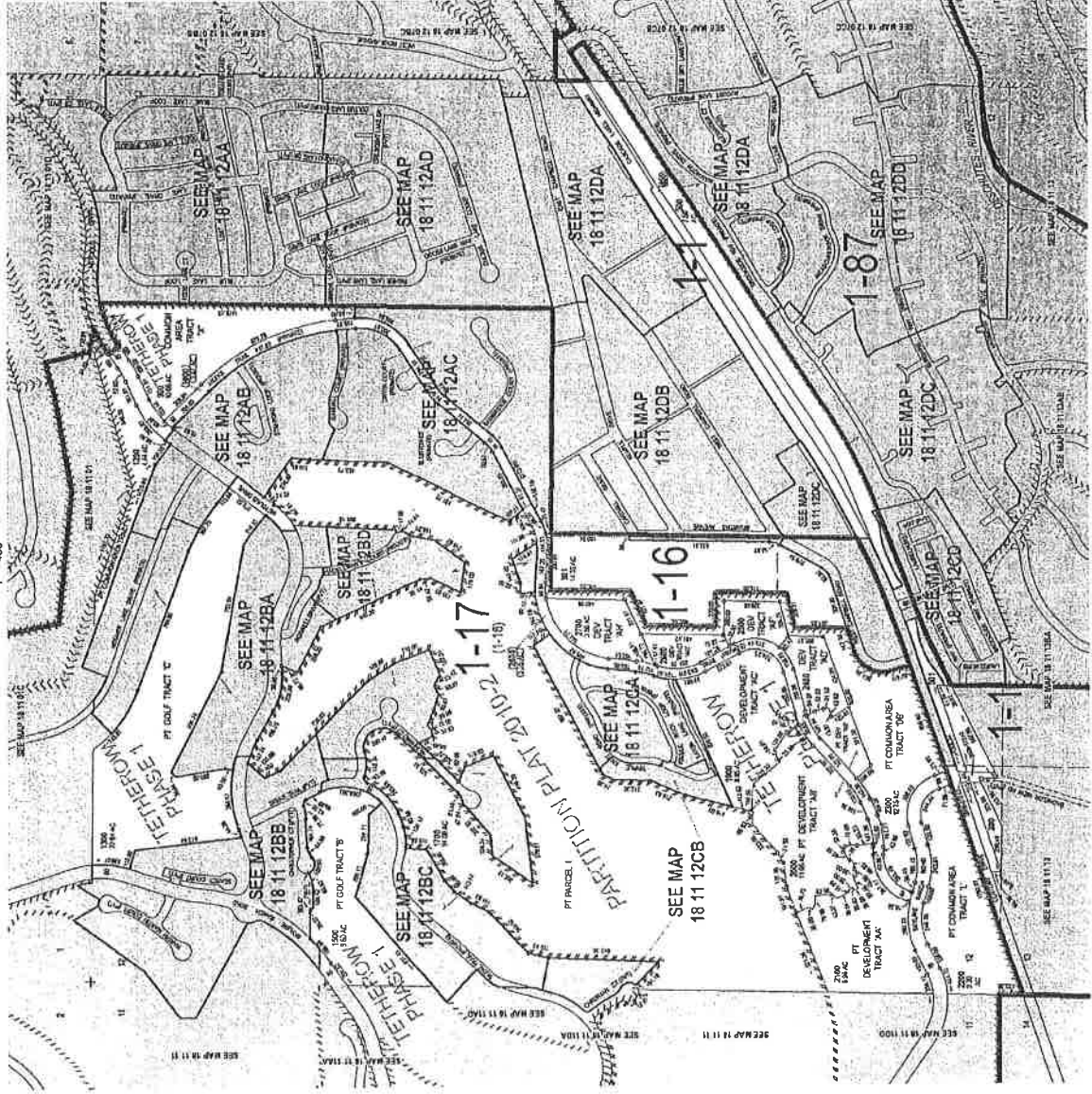
Mailed this 18th day of March, 2014

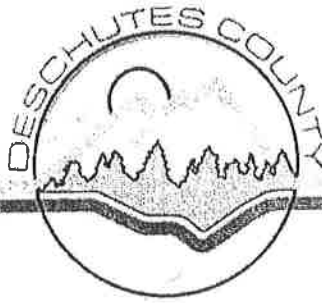
18 11 1200
& INDEX

SECTION 12 T.18S, R.11E, W.M.
DESCHUTES COUNTY

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY
6/16/2011

1" = 400'





Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

NOTICE OF DECISION

FILE NUMBERS: SP-14-2

LOCATION: The subject property is identified on Deschutes County Assessor's Maps as Tax Lot Nos. 18-11-11DD-100 and 18-11-12-2100.

PROPOSAL: The Applicant is requesting Site Plan approval for a 39 unit hotel building (replacing the 78 unit hotel building approved in SP-12-22) and an associated reduction in parking on Tetherow Development Tract AA.

APPLICANT'S REPRESENTATIVE: Radler White Parks & Alexander, LLP
P.O. Box 2007
Bend, OR 97709
Attn: Steven Hultberg

APPLICANT/OWNER: Weston Investment Co. LLC
Attn.: Joe Weston
2154 NE Broadway St.
Portland, OR 97232

PLANNING/ENGINEERING: D'Agostino Parker, LLC
Attn.: Keith Dagostino, PE
231 Scalehouse Loop, Suite 203
Bend, OR 97702

STAFF CONTACT: Will Groves, Senior Planner

STANDARDS AND APPLICABLE CRITERIA

Cascade Highlands (Tetherow) Destination Resort Conceptual and Final Master Plans, County File Nos. CU-04-94 and M-05-2.

Title 19 of the Deschutes County Code, Bend Urban Growth Boundary Zoning Ordinance

Chapter 19.76, Site Plan Review

Sections 19.76.010, .040, .070, .080

Chapter 19.80, Off-Street Parking and Loading

Sections 19.80.040

Chapter 19.106, Destination Resorts

Sections 19.106.040, .060

Quality Services Performed with Pride

DECISION: Staff finds that the application satisfies all applicable criteria, and approval is being granted subject to the following conditions:

1. This approval is based upon the site plan and information submitted by the applicant. Any substantial change in the approved plan will require a new application.
2. All lighting on the subject property shall be required to comply with Chapter 15.10 of the Deschutes County Code, the Outdoor Lighting Control Ordinance. All exterior lights shall be sited and shielded so that no direct light projects off-site.
3. Off-street parking areas used to fulfill the requirements of DCC Title 19 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
4. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
5. All planted trees shall be those trees which are listed in DCC 19.76.080(A)(2)(g) or are readily available from local nurseries, tolerant of Central Oregon climate, disease resistant, and do not create unusual maintenance problems. All deciduous trees shall be a minimum of two inches in diameter at breast height at time of planting.
6. Required landscaping shall be continuously maintained. Vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir or assignee. Plants or trees that die or are damaged shall be replaced and maintained.
7. The number, location and design of disabled parking spaces shall be as required by the building code.
8. The applicant shall submit a detailed drainage plan prior to issuance of building permits to demonstrate that surface drainage shall be contained on site.
9. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.
10. The applicant shall provide changing room(s) and shower(s) for employees who bicycle to work. Such facilities may be incorporated into restrooms, exercise rooms or similar facilities in the building.
11. The proposed structure shall have a maximum building height of 40 feet.
12. The current amendment of the financial assurance bonds development of overnight units as permitted and described in SP-12-22. As a condition of approval, the applicant shall record a new or amended improvement agreement bonding units as approved under SP-14-2, prior to issuance of building permits under this land use approval. Any amendment to the improvement agreement must ensure that individually-owned residential units do not exceed two and one-half such units for each unit of visitor-oriented overnight lodging.

13. The applicant shall coordinate with the Bend Fire Department to identify fire protection requirements. A copy of these requirements shall be provided to Deschutes County Planning, prior to issuance of building permits. All development within the proposed resort shall meet all fire protection requirements of the Bend Fire Department.

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$250.00 and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

Information about pending land use applications can be accessed online at <http://www.deschutes.org/Community-Development/Planning/Current-Planning.aspx>. Click on "Pending Land Use Applications" (opens in new window).

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

Dated this 18th day of March, 2014

Mailed this 18th day of March, 2014

Ex. E

WELLS FARGO BANK, N.A.
TRADE SERVICES DIVISION - STANDBY LETTER OF CREDIT UNIT
One Front Street, 21st Floor, San Francisco, California 94111
Phone: (800) 798-2815 Option 1. E-Mail: sftrade@wellsfargo.com
MAC CODE - A0195-212

IRREVOCABLE STANDBY LETTER OF CREDIT

Letter of Credit No.: NZS648008
Date: September 28, 2009

BENEFICIARY:

Deschutes County, Oregon
117 NW Lafayette
Bend, OR 97701

Attn: Deschutes County Planning Director

At the request and for the account of Arrowood Development, LLC, an Oregon limited liability company, we hereby establish our irrevocable stand-by Letter of Credit in Beneficiary's favor in the amount of Eight Million, Six Hundred and Ninety Thousand and No/100 United States Dollars (US \$8,690,00.00). This Letter of Credit is available with us at our above office by payment of your draft(s) drawn on us at sight accompanied by your signed and dated statement in the form attached hereto as Exhibit A-1.

Each draft must also be accompanied by the original or a facsimile copy of this Letter of Credit for our endorsement on this Letter of Credit of our payment of such draft. We shall have no responsibility whatsoever for verifying or investigating the truth of any matter contained in the Certification. Any draft(s) and this Letter of Credit shall be presented to us at the address provided below or by facsimile as provided below.

Partial and multiple drawings are permitted under this Letter of Credit.

Each draft must be marked "DRAWN UNDER WELLS FARGO BANK, N. A. LETTER OF CREDIT NO. NZS648008."

This Letter of Credit expires at our above office on September 30, 2010, but shall be automatically extended, without written amendment, to September 30, in each succeeding calendar year unless we have sent written notice to you at your address above by registered mail or express courier that we elect not to renew this Letter of Credit beyond the date specified in such notice, which expiration date will be September 30, 2010 or any subsequent September 30, and be at least sixty (60) calendar days after the date we send you such notice.

Upon our sending you such notice of the non-renewal of the expiration date of this Letter of Credit, you may also draw under this Letter of Credit by presentation to us at the address set forth below or by facsimile as provided below, on or before the expiration date specified in such notice, of your draft drawn on us at sight accompanied by your signed and dated statement in the form attached hereto as Exhibit A-2.

Drafts and documents must be forwarded to us via overnight mail in one parcel and addressed to Wells Fargo Bank, N.A., Trade Services - North, One Front Street, 21st Floor, MAC: A0195-212, San Francisco, CA 94111.

Drawings may also be presented to us via facsimile to facsimile number 415-296-8905 (each such Drawing, a "Fax Drawing") provided however that a Fax Drawing will not be effectively presented until you confirm by telephone our receipt of such Fax Drawing by calling us at telephone number 1-800-798-2815.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, and engages us in accordance with the terms thereof.

We hereby engage with you that each draft drawn and presented to us in compliance with the terms and provisions of this Letter of Credit on or before 1:00 p.m. California time on any Business Day (a day on which we are open at our above address to conduct our letter of credit business) will be duly honored by payment to you of the amount requested before the close of our letter of credit business on the next succeeding Business Day, and each draft drawn and presented to us in compliance with the terms and provisions of this Letter of Credit after 1:00 p.m. California time on any Business Day will be duly honored by payment to you of the amount requested before the close of our letter of credit business on the second succeeding Business Day.

Very truly yours,

WELLS FARGO BANK, N. A.

By: 
Nelda Scott Newton
Senior Vice President

STATEMENT OF DESCHUTES COUNTY, OREGON
DRAFT DRAWN UNDER WELLS FARGO BANK, N.A.
LETTER OF CREDIT NO. NZS648008

Re: Arrowood Development, LLC, Cascade Highlands/Tetherow Destination
Resort, Deschutes County, Oregon

The undersigned, an authorized representative of Deschutes County, Oregon (the "Beneficiary") hereby certifies that Arrowood Development, LLC (the "Applicant") has violated the terms and conditions of the Improvement Agreement for Overnight Lodging, Deschutes County Document No. 2007-380, as amended by Amendment Nos. 1, 2 and 3, signed by and between the Applicant and the Beneficiary and the amount of this accompanying draft drawn under Wells Fargo Bank, N.A. Letter of Credit No. NZS648008 represents the amount the Beneficiary is entitled to draw on the Letter of Credit as a result of the occurrence of such violation of the Agreement.

Dated this ____ day of _____, 20__.

DESCHUTES COUNTY, OREGON, a political
subdivision of the State of Oregon

By: _____
Name: _____
As Its: _____

STATEMENT OF DESCHUTES COUNTY, OREGON
DRAFT DRAWN UNDER WELLS FARGO BANK, N. A.
LETTER OF CREDIT NO. NZS648008

Re: Arrowood Development, LLC, Cascade Highlands/Tetherow Destination
Resort, Deschutes County, Oregon

The undersigned, an authorized representative of Deschutes County, Oregon (the "Beneficiary"), hereby certifies that (1) the Beneficiary has received notice from Wells Fargo Bank, N.A. that the Letter of Credit will not be renewed beyond its current expiration date, and (2) Arrowood Development, LLC has failed to secure and deliver to the Beneficiary a replacement letter of credit in form and substance satisfactory to the Beneficiary.

The Letter of Credit, together with all other required documentation, is herewith enclosed and said Letter of Credit is to be cancelled, upon receipt and payment drawn for the full amount available under said Letter of Credit.

Dated this _____ day of _____, 20__.

DESCHUTES COUNTY, OREGON, a political
subdivision of the State of Oregon

By: _____
Name: _____
As Its: _____

EXHIBIT F

**WELLS
FARGO**

June 16, 2015

Deschutes County, Oregon
117 NW Lafayette
Bend, Oregon 97701

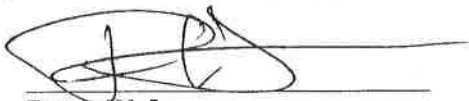
Re: Wells Fargo Bank, National Association
Letter of Credit No. NZS648008

To Whom It May Concern:

Reference is made to that certain Letter of Credit No. NZS648008, dated September 8, 2009, as amended (the "Letter of Credit"). This letter confirms that the Letter of Credit remains in full force and effect according to its terms and that execution and delivery of the Restated Improvement Agreement dated June 10, 2015 will not affect the terms or conditions of the Letter of Credit.

Sincerely,

WELLS FARGO BANK,
NATIONAL ASSOCIATION

A handwritten signature in black ink, appearing to be "R. Long", written over a horizontal line.

Roger W. Long
Vice President
Relationship Manager

cc: KeithVernon, via email