

**Written Statement of
the Central Oregon Association of REALTORS® before the
Department of Land Conservation and Development**

RE: Metolius River Area of Critical State Concern Designation

February 12, 2009

COAR is the trade association for Central Oregon's real estate industry. We are the second largest REALTOR® association in Oregon and represent more than 1,500 real estate professionals. Our members are engaged daily in residential and commercial transactions providing essential services to their clients and adding value to their communities.

Our position on this issue reflects COAR's fundamental advocacy platform of ensuring and enhancing the quality of life of Central Oregon, which includes promoting economic vitality, protecting the rights of private property owners, providing homeownership opportunities, and preserving our natural environment.

COAR supports destination resorts and encourages their creation as essential components of the regional economy. We view them as particularly important in rural areas that have few options for job creation and tax revenue generation.

The proposed Area of Critical State Concern designation for the Metolius Basin and a ten-mile buffer around it is unwarranted and represents bad public policy. It is a direct assault on local land use planning and the legitimate prerogative of local governments to determine their own economic future.

Through an open public process laid out by the state in its land use rules and regulations Jefferson County chose to include destination resorts as part of its economic development plans. This was a transparent and legal policy decision. Opponents of that decision, which did not include the state, have used and continue to the legal avenues available to them to challenge that decision.

If Governor Kulongoski was concerned about the development of resorts in Jefferson County his office had every opportunity during the comprehensive plan development process to express those concerns to the county. The county has proceeded under the good faith assumption that the Governor would respect his own land use laws and regulations. This Area of Critical State Concern proposal and the drafting of legislation banning resorts outright from the Metolius Basin demonstrates that the Governor has little interest in keeping faith with Jefferson County and the state's land use planning system.

Jefferson County has followed the same rules in choosing its economic development policy as other counties that allow destination resorts as well as every local government

in Oregon that has developed or amended a comprehensive plan. For the state to step in two years after the county adopted its plan and try to derail it over one project is heavy handed and unfair. The tactics being used by the Governor are preemptive and inappropriate and will have long-lasting negative consequences.

DLCD Director Richard Whitman has said publicly that the department looks at the A.C.C. designation as a “flexible tool” that it hopes to utilize more in the future in other areas of the state. This is a troubling statement if you are a business looking to locate or expand in Oregon or just a taxpayer interested in economic development. The A.C.C. designation is a powerful weapon that DLCD has apparently decided it will use to stop any project that doesn’t meet some arbitrary standard. One can imagine other politically incorrect economic or residential development plans that are otherwise perfectly legal which the state will choose to stop using this “flexible tool”.

When viewed in the context of the legislature’s 2007 political sabotage of the “Big Look” committee and the resulting legislation (H.B. 2229) it is clear that the current administration is making a mockery of the land use process and the ability of local governments to determine their own future.

The Governor’s claim that the A.C.C. designation is necessary to protect the Metolius River basin is baseless. The designation is obviously being used solely because there are no other legal means to throw out Jefferson County’s destination resort map. The responses of state agencies to the Governor’s request to find a mechanism to stop the conceptual resorts are filled with ominous warnings about potential environmental impacts, but no hard facts to justify legal intervention.

Public opposition as expressed at Sisters High School on Wednesday, February 11 was similarly vague and emotionally based. There were few, if any, facts offered by resort opponents to show that destination resorts have had anything other than a beneficial impact on Central Oregon. Environmental demagoguery should not be a legitimate basis for the state to preemptively strike down these projects. The Governor should provide a solid foundation of facts and evidence of significant environmental damage caused by existing resorts in Central Oregon before proceeding with any effort to circumvent an otherwise legal land use process.

The Governor’s intervention in Jefferson County’s land use process is a threat to economic development throughout Oregon, but particularly in Central Oregon. Destination resorts are an essential and beneficial component of our economy.

Central Oregon’s experience with resorts has demonstrated unequivocally the benefits of this land use. It is difficult to imagine how different our region would be without their contribution to the economy. Resorts provide vital tax revenue that supports essential county services. They provide good paying jobs in development, construction, real estate sales, and in ongoing resort operations. They provide lifestyle and recreational amenities that attract a disproportionate share of high income customers that spend money at local businesses and support local charities. Most importantly, they provide all of these assets

and more and place only a minimal strain on local infrastructure. The resorts are mostly self-sufficient and require little in the way of emergency services. Their impact on traffic is marginal because they generate few, if any, peak hour trips, and can be mitigated easily by development exactions in the planning phase.

It is clear from Deschutes County's history with resorts that their benefits exceed their costs. Black Butte Ranch, Eagle Crest and Sunriver enhance Central Oregon not only by providing tax revenue, but recreational, cultural and business amenities as well. Pronghorn, Eagle Crest and Sunriver are three of the county's top ten taxpayers in 2008. Sunriver generates approximately \$1,975 in property tax revenue per full-time resident. In comparison Bend generates only \$238 for each resident. Proposed uses at the Hidden Canyon resort in Crook County show nine different tax revenue generating opportunities. By its tenth year of operation Hidden Canyon is projected to generate more than \$10 million a year in property tax revenue for Crook County. Property taxes paid by destination resorts are a vital source of revenue for schools and emergency services.

Visitors to Sunriver pay more than \$2 million each year in transient room tax revenue. Based on PGA Tour estimates, the Jeld-Wen Tradition golf tournament contributes between \$7 - \$9 million a year to Central Oregon's economy. That tournament, and others like the Pacific Amateur, would not be possible without the nationally recognized facilities that are part of destination resorts.

The federal timber payments program was recently revived for four more years, but with a declining series of payments. Central Oregon governments are slashing jobs because of the economic slowdown, which is driven by the decline in real estate development and construction. How bad would the budget situation be in Crook and Deschutes Counties without the tax revenue provided by resorts?

Central Oregon has limited economic development opportunities beyond tourism and our lifestyle amenities. While we would like to diversify our economy, for the foreseeable future residential and recreational development and construction will be the basis of our prosperity. Unemployment in Deschutes County is more than 11%. It is much worse in Jefferson and Crook Counties. Economic projections indicate Deschutes County unemployment may hit 15%. How much worse will it be in Jefferson County? The obstructionist policies of the Oregon Department of Transportation have already resulted in a growth moratorium in our region that is contributing to our economic decline. The Governor's proposed use of the A.C.C. process to arbitrarily strike down individual development projects is inconsistent with his claims to be supportive of economic development in Oregon and will worsen our condition.

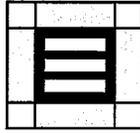
COAR is worried that the proposed use of the A.C.C. designation is a bad precedent and harbinger of things to come. Director Whitman has said that DLCD wants to use the process in similar fashion in the future. Resort opponents in Sisters provided either explicit or implicit support for declaring other areas in Central Oregon off limits to development. We don't believe this is the way that the A.C.C. process was meant to work.

In more than thirty years DLCD has considered only one A.C.C. designation despite examining candidates for such designation statewide. Destination resorts have been around in one form or another for more than twenty years. Black Butte Ranch was the first resort-style development in Central Oregon and it is located in the Metolius River basin. It is hardly a pristine area. The public, and local and state governments, have had ample opportunity to establish an A.C.C. in the Metolius basin and with good reason have not done so. Nothing has changed. We have twenty years of evidence to show that properly planned and permitted destination resorts are compatible with a healthy and vibrant natural environment.

The Governor's use of the A.C.C. process encourages resort opponents to promote the use of this regulatory tool to circumvent the normal land use process and monkeywrench every development project they don't like. Resort opponents are not concerned about the environmental impacts of the resorts. They are concerned about their very existence. Resorts mean more people and more people mean economic growth. That is an unacceptable outcome for growth opponents. The Governor's proposal provides all the guidance and encouragement that anti-growth pressure groups need to wage war on other development projects in Central Oregon.

An A.C.C. designation for the Metolius River basin will have a chilling effect on Central Oregon's future economic development. The A.C.C. process will be wielded like the Sword of Damocles over the head of every developer who seeks to do business in our area. The costs of doing business in Oregon, thanks to our constrained land supply and dismal record on private property rights, are already legendary and a significant obstacle to economic growth. Governor Kulongoski's efforts to strike down discrete projects will only make that situation worse by introducing uncertainty and capriciousness to the development process.

COAR urges the department to ignore the environmental hysteria, reject the A.C.C. designation for the Metolius River basin and take a stand for local self-determination and economic prosperity.



ECONOMIC DEVELOPMENT FOR CENTRAL OREGON

EXCELLENCE IN BUSINESS DEVELOPMENT

Department of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

February 12, 2009

Dear Chariman and Members of the Subcommittee;

As Manager of the Jefferson County Economic Development effort I am responsible for recruiting new businesses to Jefferson County, a rural hardship area. The effort to block development of two destination resorts in western Jefferson County will have a major negative effect on these efforts.

First, most of the potentially new company's owners are looking for a stable and sound economic environment in which to locate. Reversing the rules for land use, which the county followed rigorously, sends the wrong message: one of inconsistency and instability. Making a significant capital investment in a new geographical area will take years to yield a return on that investment. What can make it feasible is the consistency of the rules by which a new company agrees to abide. If the county cannot count on the consistent application of rules from the state, how can potentially new companies count on consistency from the state or county?

Second, many of the prospective new entrepreneurs will become acquainted with Jefferson County by visiting the area and seeing its attributes. Many may even choose to invest in destination resort properties like the ones proposed because of their desire for this quality of lifestyle. Having resort resources like these will be a very positive factor for economic development. This is especially true when people see the careful planning of the proposed development for protecting the natural characteristics of the Metolius Basin and making it available for public use.

Third, as proven by other well planned destination resorts in Central Oregon, the financial contribution to the county will be substantial by an increased tax base. Jefferson County has limited opportunities for an expanded tax base compared with other counties because of the high percentage of prime agriculture land. And with most destination resorts, the demand of services is minimal compared to full-time residential developments.

While there are many other arguments for adhering to the existing land use regulations, the most critical one is: ethics. Are we people of our word or not? Do we abide by the rules and regulations we (the state, county, city) establish or not? Can others count on our integrity or not? Can I tell a prospective new company that they can count on the state and county to be ethical and fair in their application (and enforcement) of the regions statues and regulations? I trust I can!

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne E. Pearson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Wayne E. Pearson, Manager

Economic Development for Central Oregon – Jefferson County

2028 NW Airport Way, Madras, OR 97741

MEMORANDUM

TO: LCDC – Land Conservation and Development Commission
FROM: Jeff Fuchs, PE
DATE: February 12, 2009
SUBJECT: Metolian

My name is Jeff Fuchs. I am the Civil Engineer for the Metolian.

My address is 389 Southwest Scalehouse Court – Bend, Oregon 97702.

I do not think that an ACSC should be applied to the Metolian. I think most of the testimony heard last night and this evening really should be heard when the County reviews our resort application. I believe that is the correct forum for determining whether or not a project meets the standards required for development. With that said, I want to provide a little detail about how we met and exceeded land-use standards for Metolian.

When I first joined this project a little more than a year ago, Jim Kean and Shane Lundgren were adamant that we create a project that is much different than the typical destination resort. They wanted to create a project that will leave the basin in better condition than it is currently in. They wanted to create a resort that is soft on the land and environment. They wanted to create a model for what an eco-resort can be. They also wanted to showcase some of the environmentally friendly development and building techniques that are available to everyone.

They encouraged all of us to step out of our usual comfort zones and design something new - no golf; no Mc-mansions; smaller footprint development; creating a sense of community; building an active resort that respects nature; protecting water resources; recycling wastewater; community composting; reduced energy needs; a truly green resort community.

One year later, we finalized the application documents and posted them on the Metolian website –

www.metolian.com/application.

If you download and read the documents, I think you'll see that we stayed true to our goal.

Water Supply

One of our biggest technical challenges was water. How do you supply water to a resort while keeping the impact on the surrounding ecosystem so small that it becomes unnoticeable? We looked at several areas:

1. **We will reduce our need** - We identified realistic and quantifiable conservation measures to reduce our water demand.

- a. We are proposing to recycle treated wastewater and use it to irrigate minimal landscaping through the project. We plan to use recycled wastewater to flush toilets in commercial facilities. We'd also like to use the water to flush toilets in residential dwellings.
 - b. We will install water meters on each unit, which has been proven to reduce water demand by 20- to 40-percent.
 - c. We are proposing an aggressive demand pricing strategy that penalizes people for using too much water. Every ten percent increase in price tends to reduce demand by 3- to 4-percent.
 - d. We are limiting the amount of landscaped area throughout the project and we're requiring low-water use landscaping. We are also requiring efficient irrigation systems that apply only the amount of water that the plants need to survive.
 - e. We are requiring low-water use fixtures in all buildings including waterless urinals in commercial buildings.
 - f. We are proposing to blend solar hot water systems with on-demand hot water systems to save energy and water by eliminating the wasted water that usually flows down the drain while waiting for the water to get hot. This will save nearly 5-million gallons of water each year. At my house, it takes 45 seconds for the hot water to reach my sink. I probably waste 1400 gallons every year just waiting for the water in the kitchen to get hot. It starts to add up.
 - g. We are eliminating food disposers and creating on-site composting to dispose of food waste. Typically, food disposers use about 700 gallons of water per home per year.
 - h. We'll be educating guests and visitors about the importance of conserving water. This will be part of the culture of Metolian.
2. **We will take water only when it isn't being used somewhere else in the system** - Our water system will only collect water once each year. From March 1st through June 30th, we will divert surface water (snowmelt) that flows across the property and store it in three reservoirs. We'll "fill the bucket" once each year and slowly empty it out during the rest of the year. We designed the reservoirs to hold enough water to carry us through several dry years.

Newton Consultants looked at a 25-year data set. The lowest water yield (during the driest year) that we can expect during the four-month window is 1278 acre-feet. We will only be using 160-acre feet.

We'll be diverting water only during a time when scenic water way flows in the Metolius River are exceeded. Collecting runoff during this period of each year will not affect habitat in the Metolius River.

At full build-out, we will be using approximately 160 acre-feet of water each year or 143,000 gallons per day. Being engineers, we're being pretty conservative on our estimate of water demand for the project. If we use less water than we estimated, then we divert less water each spring. The "bucket" will only hold so much water.

Newton Consultants prepared an alternatives analysis as part of their Water Supply Plan (Exhibit 20a on our website). Their analysis looked at several different alternatives, including groundwater. Based on their analysis, we decided that surface water diversion is the best option.

3. Reuse or recycle as much water as we can -

Wastewater Treatment and Recycling

We recognize the sensitive nature of the Metolius Basin. We will not be using septic tanks and drain fields like other communities in the basin. We will be building a state of the art (MBR) Membrane Bioreactor treatment facility that will allow the project to recycle wastewater.

The treated and disinfected wastewater will be considered Class A recycled water, which is the cleanest classification of treatment in Oregon..

Class A water is filtered and disinfected. We won't be using chemicals for disinfection. Instead, we will be using ultraviolet light to kill any remaining pathogens in the treated wastewater.

| Recycled water classification | Setback to: | | |
|-------------------------------|----------------------|--|---|
| | Water supply sources | Property line ³ | Food preparation, food service, or drinking fountain ⁴ |
| Class A | none ¹ | none ¹ | 0-ft ¹ |
| Class B | 50-ft | none if applied directly to soil, 10-ft if applied by sprinklers | 10-ft if applied by sprinklers |
| Class C | 100-ft | 10-ft if applied directly to soil, 70-ft if applied by sprinklers | 70-ft if applied by sprinklers |
| Class D | 100-ft | 10-ft if applied directly to soil, 100-ft if applied by sprinklers | 70-ft if applied by sprinklers |
| NON-DISINFECTED | 150-ft | NA ⁵ | NA ⁵ |



¹ May not be sprayed onto an area where food is being prepared or onto a drinking fountain.
² Minimum distance between edge of irrigation site and water supply source for human consumption.
³ Distance from irrigated area to property line.
⁴ Distance from irrigated area to area for food preparation, food service, or a drinking fountain.
⁵ Other setback distances required to protect public health shall be determined in recycled water use plan.

To reduce the volume of wastewater that we have to treat at the plant, we will be using a STEP/STEG collection system. A STEP/STEG system includes a holding tank at each building that will collect and hold solids. Over time, the solids in the tank will biodegrade. Periodically we will need to pump the remaining solids out of the tank and either compost them or haul them to an off-site composting facility. In a resort setting, we can expect very long intervals between cleanouts – 7 to 12-years.

Class A recycled water will be used to irrigate landscaping and a tree farm on the project. We are calling this the agronomic uptake area. We have sized the agronomic uptake area to absorb all of the water that is applied to it so that no water can seep back into the ground. Of course, we won't be irrigating with recycled water during the winter. We'll be storing recycled water in a lined pond during the winter and using during the irrigation season. At full build-out, we anticipate that we will generate about 124,000 gallons per day of recycled water.

Stormwater

How we deal with stormwater is also very important. We are proposing low-impact development standards to reduce runoff at the source. This approach starts at the land planning stage.

- Street sections will be narrower than normal developments. Hard surfaces including streets, driveways, parking areas, and trails will be paved with pervious pavement or pavers.
- Building footprints will be significantly smaller than other resorts or communities.
- Large tracts of open space will be restored to their natural condition.
- Rainwater that falls on roofs will be collected and used for irrigation during the summer months.

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- Landscaping will be designed to retain and infiltrate stormwater runoff. Grading will be designed to collect small areas of runoff in swales, berms, and depressions.
- Parking areas will be graded to drain to center landscape planters and open areas.
- The majority of the site will be retained as open space that will be restored to its natural un-logged condition.

Using pervious pavement will eliminate runoff from roadways and other hard surfaces. By eliminating runoff, we are also eliminating the pollutants that typically runoff roads and parking areas. Studies have shown that pervious pavement also treats stormwater runoff. The pavement absorbs 97 to 99% of motor oil that lands on pervious pavement. Bacteria and fungi inside the asphalt matrix break down the absorbed oil. Pervious pavements also remove up to 90% of suspended solids and metals.

Our stormwater report, which you can download from the Metolian website, identifies nine specific Best Management Practices that we will be using at Metolian to reduce runoff to pre-logged conditions and improve water quality from the project.

Based on the amount of effort we've put into creating a project that will be friendly to its environment, it is clear that we understand the sensitive nature of the Metolius basin. Read our application and challenge yourself to help us find more ways to make Metolian ecologically friendly.