

October 3, 2008

TO: Land Conservation and Development Commission
FROM: Bob Rindy, Bob Cortright, and Doug White, DLCD
SUBJECT: **Agenda Item 4, October 15, 2008 LCDC Meeting**

Informational Briefing and Public Hearing Regarding Destination Resorts

AGENDA ITEM SUMMARY

This item is a public hearing and an informational briefing regarding destination resorts. The item will also include a staff presentation summarizing current destination resort requirements under state law and Statewide Planning Goal 8, and a summary of the department's proposed 2009 legislative concept regarding destination resorts (see attachments A through C of this report). The department will present Power Point slides at the beginning of the hearing to summarize current destination resort requirements.

This item is primarily intended as an opportunity for public testimony, and is a joint public hearing hosted by LCDC and a Subcommittee of the Oregon House Interim Committee on Agriculture and Natural Resources. Representative Brian Clem (Oregon House District 21 and Vice Chair of the committee) will be attending to represent the House committee. Other state legislators are invited and may also be in attendance.

Following the staff presentation, the public is invited to address the Commission and Legislator(s) regarding destination resorts, including information, concerns, and issues associated with current and planned resorts.

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Additional information regarding statewide planning statutes, goals, and rules, and DLCD staff contacts is available on the DLCD Website at <http://www.oregon.gov/LCD/index.shtml>

RECOMMEDED ACTION

This is an information hearing only; LCDC does not intend to take any formal action at the conclusion of this hearing. The information presented at the hearing may inform consideration and possible future action by LCDC (see discussion below regarding DLCD legislative concept regarding resorts).

BACKGROUND

Initially, destination resorts were not allowed on rural lands in Oregon without an “exception” to the statewide planning goals that limit development on farm or forest land. However, several large resort developments preceded the statewide land use planning system (SunRiver, Black Butte Ranch, and Salishan).

In 1981, Governor Atiyeh's Task Force on Land Use Planning recommended that destination resorts be allowed as an economic development tool in rural areas, with certain sideboards to limit their effects and ensure that their main focus would be overnight lodging rather than second home development. The provisions authorizing the siting of destination resorts outside UGBs without taking exceptions to statewide planning goals were adopted by LCDC in 1984 as amendments to Statewide Planning Goal 8 (see attachment B). After adoption of Goal 8, requirements of the goal were subsequently added to ORS chapter 197 in the late 1980's. Some requirements were amended at that time, and additional requirements were amended in later sessions (subsequent Goal 8 amendments were also adopted to maintain Goal 8 consistency with state law). Because of the requirements for resorts in state statute, LCDC has a very limited ability to alter state standards for destination resorts without legislative action.

The number, size and concentration of resorts in some areas of the state have resulted in types of resorts and related impacts that were not anticipated at the time Goal 8 was initially developed by LCDC. When the resort provisions in Goal 8 were adopted, the expectation was that only a limited number of new resorts would be built (mirroring experience in Oregon during the 1960's and '70s when only three major resort-like developments were built – SunRiver, Salishan and Black Butte). In addition, the expectation was that resorts would be spread around the state and in rural areas – in “away-from-it-all” settings – so that the predominantly rural character of the area in which they were located would not be altered.

More recently, the number and size of resorts in certain areas (see Attachments F and G), and related destination resort impacts, has resulted in increasing concerns among some citizens, local governments, state agencies, conservation groups and other interests. Some of the issues reported to the department and legislators by citizens and other groups with respect to the growing concentration of resorts in certain areas include:

- Impacts on natural resources, especially water and sensitive habitat areas
- Impacts on public services – transportation, schools, health care

- Effects on commercial farm and forest operations, including (in some cases) resort residents' opposition to accepted farm/forest practices
- Increasing traffic congestion due to the lack of affordable housing for a resort's work force, which typically must live in and commute from other areas.
- Concerns about wild fire management on rural land near resorts

A primary concern is whether or not resorts are, in fact, functioning as originally intended – an economic development strategy to draw recreation dollars to parts of the state that would not otherwise benefit from them – or whether they are increasingly built to serve as residential and second-home development outside of urban growth boundaries. While the goal and statute allow for individually-owned homes and units in resorts, this was allowed with the understanding that such homes were a necessary *but limited* part of destination resorts – like the existing resorts of Salishan and SunRiver used as models for the original rules. However, in some recently-constructed resorts in Central Oregon, the emphasis appears to be primarily on creating high end primary and second home communities rather than developments whose primary objective is to attract and serve visitors.

SUMMARY OF RESORT PLANNING IN OREGON

To approve destination resorts, counties must first adopt a map of lands eligible for resorts and must also adopt related plans and ordinances consistent with Goal 8. In general, the department has worked closely with each county adopting a destination resort program, and participates in local hearings for the approval of individual resort applications.

Statewide, eight counties have adopted resort mapping and ordinances so far: Deschutes, Douglas, Crook, Klamath, Jefferson, Jackson, Josephine, and Tillamook. Other counties have instead used the goal exceptions process to approve resort development outside UGBs, e.g., Coos County to approve Bandon Dunes. Over the past decade, there have been approximately nine new destination resorts approved by counties, most in Central Oregon. Provided below is a brief update and status report for each of the 8 counties that currently have adopted destination resorts programs and maps identifying lands eligible for destination resorts within these counties:

Crook County: Program adopted in 2002. There is one resort currently operating in the county: Brasada Ranch. Other resorts are tentatively approved or under consideration (see Attachment H).

In May 2008, Crook County held an election on County Ballot Measure 7-47 to rescind the county's destination resort map, this measure passed. On June 26, 2008, the department received notice of a post acknowledgment plan amendment to the county's destination resort overlay zone to implement ballot measure 7-47 (essentially the rescinding of the destination resort overlay to prevent approval of more resorts, "in a manner that would not affect existing resorts"). The first evidentiary hearing was scheduled for September 24, 2008. Another hearing will be held on October 15, 2008.

Deschutes County: Program adopted in 1992. There are four Goal 8 destination resorts in the county, Eagle Crest, Pronghorn, Tetherow and Caldera Springs (See Attachment F). Another resort, Thornburg, received conceptual master plan approval from the county in 2006. That plan was appealed to LUBA, which remanded the conceptual master plan. In response to the remand order, the county approved a second conceptual master plan. That plan was affirmed by LUBA. Although the conceptual master plan is under appeal, the applicant submitted a final master plan for the resort. Hearings have been held on this, and a decision by the hearings officer is anticipated approximately October 6, 2008. In addition, the county is considering a proposal to convert an existing development, Aspen Lakes, to a destination resort.

The county will be considering revising its destination resort map as part of a county-wide effort to update its Comprehensive Plan. The tentative time-line is to begin data gathering and analysis through this year, have conversations with the communities this Fall and Winter 2008/2009, prepare draft text, goals, policies and implementation measures Spring/Summer 2009, have public review and hearings Summer/Fall 2009, and then consider adoption in 2010. One proposed amendment is a text amendment to allow conversion of existing or planned “cluster developments” (rural subdivisions previously approved as exceptions) to destination resorts.

Jefferson County: Amendments to the county’s plan and zoning to provide for destination resorts were adopted in December 2007. Those amendments were appealed to the LUBA. Two properties, one north of Suttle Lake and the other near Camp Sherman, were designated in the comprehensive plan as eligible for destination resorts. No other properties in the county were mapped as being eligible for destination resorts. On February 11, 2008, LUBA remanded the county’s resort provisions, and the applicant and parties opposed to the amendments appealed the LUBA decision to the Oregon Court of Appeals. On July 9, 2008, the Court of Appeals affirmed the LUBA decision. Although the county’s mapping is remanded for further work, it is anticipated that the remand issues will be resolved by the county.

Klamath County: Program adopted in 1994 (see Attachment H). Large areas in the county have been mapped as eligible for a destination resort. There is one resort in the county (Running Y Ranch), which was approved in 1996. On July 3, 2008, Cascade Timberlands submitted an application to the county for approval of a preliminary development plan for a resort, Crescent Creek Ranch, near Crescent and Gilchrist. Hearings on the preliminary development plan were held on September 6 and 9, 2009. A decision on the preliminary development plan is anticipated in the next few weeks.

Josephine County: Program adopted in 1986. One resort, Paradise Ranch near Merlin, was approved in 1993, appealed by the department, and (by stipulated remand) later approved as a destination resort in 1994. The site obtained tentative approval in 2007 for a planned unit development destination resort. The resort golf course is currently being developed.

Jackson County: Program adopted in 1986, and updated in 2007. One resort project, Table Rock, is in the planning stages but has been put on hold due to current market conditions and additional ordinance work the county needs to complete.

Tillamook County: Program was adopted in 1989. One resort project near Sand Lake (Belts Farm) was zoned for a coastal destination resort, but that opportunity expired after a five year sunset provision included in that zone. No other resorts have been approved or proposed.

Douglas County: Program adopted in 1986. Heaven's Gate Destination Resort is the only active application. It currently has tentative approval, granted in 2003, with many conditions. The applicant has not met any of the conditions of approval. The tentative approval has been extended.

Several coastal resorts have also been approved, but remain unbuilt, including:

- Big Creek – Lane County Coast (1985)
- Elkhorn Valley - Marion County (1985, some development underway)
- Newport – Wolf Tree (1987)
- Tillamook – Beltz Farm (1990)
- Waldport – Naples (2007)

DLCD 2009 LEGISLATIVE CONCEPT

DLCD has proposed a 2009 legislative concept intended to consolidate resort land use policy and requirements in Goal 8 allowing the program to be updated and adapted over time in response to changing conditions and to differing situations in diverse regions of the state. Under DLCD's legislative concept (Attachment C), this would be accomplished by keeping general principles that set forth the intent of the destination resort policy in statute, along with key protections such as those for high value cropland and critical habitat. Under the legislative concept, the legislature would direct LCDC to evaluate the destination resort program, amend and update requirements in Goal 8, add regional variation as appropriate in light of that evaluation, and report back to the 2011 legislature.

ATTACHMENTS

- A. ORS 197.467 - State Law regarding destination resorts
- B. Statewide Planning Goal 8 regarding Recreational Needs (including Resort Planning)
- C. DLCD proposed 2009 legislative concept regarding destination resorts
- D. DLCD Power Point Presentation regarding destination resorts
- E. Map of Destination Resorts in Central Oregon
- F. Bend Bulletin article regarding destination resorts in Crook County, including map
- G. Table of resort acreage in Deschutes, Klamath and Crook Counties
- H. Public Comments