



COMMUNITY DEVELOPMENT

THORNBURGH DESTINATION RESORT APPEALS: 247-21-000637-TP, 948-A AND APPEAL 247-21-000537-SP, 998-A AND 1009-A

6:00 PM, WEDNESDAY, DECEMBER 08, 2021

Barnes Sawyer Rooms - Deschutes Services Bldg - 1300 NW Wall St – Bend

(541) 388-6575 | www.deschutes.org

AGENDA

MEETING FORMAT

This meeting will be conducted electronically, by phone, in person, and using Zoom.

Members of the public may view the meeting in real time via the Public Meeting Portal at www.deschutes.org/meetings.

Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link:

<https://us02web.zoom.us/j/81170396115>

Using this option may require you to download the Zoom app to your device.

Members of the public can access the meeting via telephone, dial 1-312-626-6799. When prompted, enter the following: Webinar ID: 811 7039 6115.

Written comments can also be provided for the public comment section to angie.brewer@deschutes.org by 5:00PM on December 7, 2021. They will be entered into the record.

PUBLIC HEARINGS

1. Thornburgh Destination Resort Appeal 247-21-000948-A of 247-21-000637-TP (Tentative Plan Review of Phase A-2 Subdivision to create 108 Single Family Dwelling Lots).
2. Thornburgh Destination Resort Appeals 247-21-000998-A and 1009-A of 247-21-000537-SP (Site Plan Review of Welcome Center, Gatehouse, Golf Clubhouse, and Community Hall).

Please note: Hearing 1 will begin at 6pm and Hearing 2 will promptly follow. The same link and phone number will be used for both events.



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call (541) 617-4747.



NOTICE OF PUBLIC HEARING

MEETING FORMAT

In response to the COVID-19 public health emergency, Oregon Governor Kate Brown issued Executive Order 20-16 (later enacted as part of HB 4212) directing government entities to utilize virtual meetings whenever possible and to take necessary measures to facilitate public participation in these virtual meetings. Since May 4, 2020, Deschutes County public hearings have been conducted primarily in a virtual format. Additionally, on August 13, 2021, the Public Health Division of the Oregon Health Authority adopted into Administrative Rule requirements that all persons 5 years of age or older must wear face coverings and/or masks in indoor spaces (OAR 333-019-1025).

The Deschutes County Hearings Officer will conduct the public hearing described below by video and telephone. If participation by video and telephone is not possible, in-person testimony is available. Options for participating in the public hearing are detailed in the Public Hearing Participation section.

PROJECT DESCRIPTION

- FILE NUMBERS:** 247-21-000637-TP and 247-21-000948-A
- OWNER:** Central Land and Cattle Company, LLC
- APPLICANT:** Central Land and Cattle Company, LLC
Kameron DeLashmutt
- PROPOSAL:** The applicant is seeking tentative plan approval for a portion of Phase A (A-2) of the Thornburgh Destination Resort. The tentative plan ("Tentative Plan") includes 108 single-family residential dwelling lots. The Tentative Plan proposes to plat the subdivision in four phases.
- LOCATION:** Tax Lot 7800, Assessor's Map 15-12-00
- HEARING DATE:** December 8, 2021
- HEARING START:** 6:00 pm

STAFF CONTACT: Angie Brewer, Senior Planner
 Email: Angie.Brewer@Deschutes.org
 Telephone: 541-385-1704

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov

STANDARDS AND APPLICABLE CRITERIA:

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6
 Title 17 of The Deschutes County Code, Subdivisions
 Chapter 17.12, Administration and Enforcement
 Chapter 17.16, Approval of Subdivision Tentative Plans.
 Chapter 17.24, Final Plat.
 Chapter 17.36, Design Standards.
 Chapter 17.44, Park Development.
 Chapter 17.48, Design and Construction Specifications.
 Title 18 of the Deschutes County Code, the County Zoning Ordinance:
 Chapter 18.04, Definitions
 Chapter 18.113, Destination Resorts Zone
 Title 22, Deschutes County Development Procedures Ordinance

PUBLIC HEARING PARTICIPATION

- If you wish to provide testimony during the public hearing, please contact the staff planner by 5 pm on December 7, 2021. Testimony can be provided as described below.
- Members of the public may listen, view, and/or participate in this hearing using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link: <https://us02web.zoom.us/j/81170396115>
 Using this option may require you to download the Zoom app to your device.
- Members of the public can access the meeting via telephone, dial 1-312-626-6799. When prompted, enter the following: Webinar ID: 811 7039 6115.
- Written comments can also be submitted to the record. Please see the Document Submission section below for details regarding written submittals.
- If participation during the hearing by video and telephone is not possible, the public can provide testimony in person at 6 pm in the Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend. Please be aware County staff will enforce the 6-foot social distancing standard in the hearing room. Additionally, all participants attending in person must wear a face covering at all times.

All documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost at the Deschutes County Community Development Department (CDD) at 117 NW Lafayette Avenue. Seven (7) days prior to the public hearing, a copy of the staff report will be available for inspection at no cost at CDD. Copies of all documents, evidence and the staff report can be purchased at CDD for (25) cents a page.

ALL INTERESTED PERSONS MAY APPEAR, BE HEARD, BE REPRESENTED BY COUNSEL, OR SEND WRITTEN SIGNED TESTIMONY. ANY PARTY TO THE APPLICATION IS ENTITLED TO A CONTINUANCE OF THE INITIAL EVIDENTIARY HEARING OR TO HAVE THE RECORD LEFT OPEN IN ACCORDANCE WITH SECTION 22.24.140 OF THE DESCHUTES COUNTY CODE.

Failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.

Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please contact the staff planner identified above.

DOCUMENT SUBMISSION

Any person may submit written comments on a proposed land use action. Documents may be submitted to our office in person, U.S. mail, or email.

In Person

We accept all printed documents.

U.S. Mail

Deschutes County Community Development
Planning Division, Angie Brewer
P.O. Box 6005
Bend, OR 97708-6005

Email

Email submittals should be directed to angie.brewer@descutes.org and must comply with the following guidelines:

- Submission is 20 pages or less
- Documents can be printed in black and white only
- Documents can be printed on 8.5" x 11" paper

Any email submittal which exceeds the guidelines provided above must be submitted as a paper copy.

Limitations

- Deschutes County does not take responsibility for retrieving information from a website link or a personal cloud storage service. It is the submitter's responsibility to provide the specific information they wish to enter into the record. We will print the email which includes the link(s), however, we will not retrieve any information on behalf of the submitter.
- Deschutes County makes an effort to scan all submittals as soon as possible. Recognizing staff availability and workload, there is often a delay between the submittal of a document to the record, and when it is scanned and uploaded to Accela Citizen Access (ACA) and Deschutes County Property Information (DIAL). For this reason, the official record is the file that resides in the Community Development office. The electronic record in ACA and DIAL is not a substitute for the official record.
- To ensure your submission is entered into the correct land use record, please specify the land use file number(s).
- For the open record period after a public hearing, electronic submittals are valid **if received by the County's server** by the deadline established for the land use action.
- IF YOU WISH TO BE NOTIFIED OF ANY DECISION RELATED TO THIS APPLICATION, YOU MUST PROVIDE A MAILING ADDRESS.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

This Notice was mailed pursuant to Deschutes County Code Chapters 22.20 and 22.24.

THORNBURGH RESORT PHASE A-2 TENTATIVE PLAN

DESCHUTES COUNTY, OREGON
LOCATED IN SECTIONS 29 AND 30
TOWNSHIP 15 SOUTH, RANGE 12 EAST
WILLAMETTE MERIDIAN

SHEET NUMBER	SHEET TITLE
TP1.1	COVER SHEET
TP1.2	TYPICAL SECTIONS
TP2.1	EXISTING CONDITIONS
TP2.2	ROCK OUTCROPPINGS
TP3.2	ROADS AND LOTS
TP3.3	ROADS AND LOTS
TP3.4	OPEN SPACE
TP3.5	PHASING PLAN
TP4.1	SEDIMENTATION & EROSION CONTROL PLAN
TP4.2	SEDIMENTATION & EROSION CONTROL PLAN
TP5.1	DRAINAGE PLAN
TP5.2	UTILITY PLAN

DEVELOPMENT DATA:

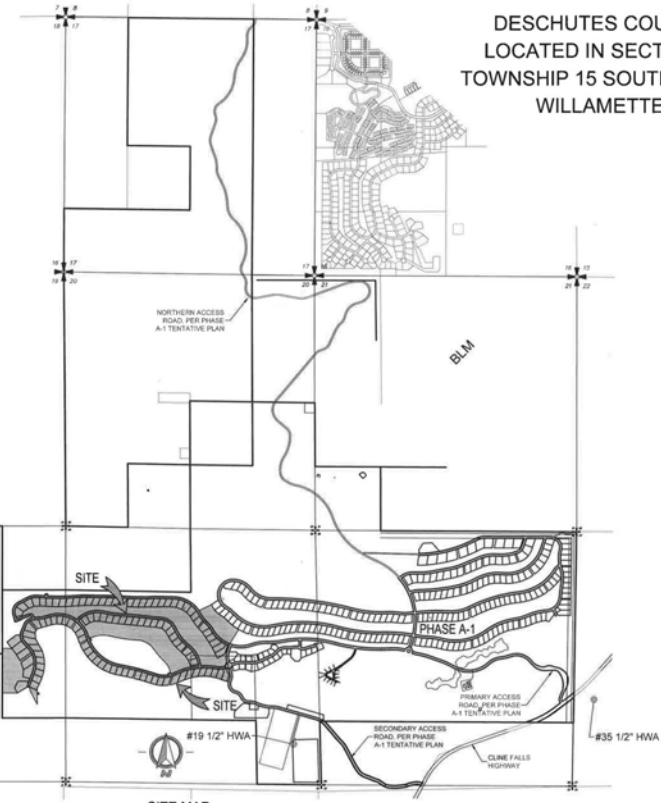
<p>APPLICANT: CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479</p> <p>OWNER: CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479</p> <p>SURVEYOR/ ENGINEER: HWA, INC. 6205 O RILEY ROAD STE 100 BEND, OR 97703 PH: 541-339-3381</p> <p>PROPERTY ADDRESS: 6753 CLINE FALLS HIGHWAY REDMOND, OR 97756</p> <p>ZONE: EFU / DR</p> <p>ADJOINING ZONES: EFU / DR OPEN SPACE AND CONSERVATION</p> <p>TAX LOT NUMBERS: 1512000007800 1512000007900</p> <p>PREVIOUS GROSS AREA (PHASE A-1): 517+ ACRES</p> <p>PHASE A-2 GROSS AREA: 235+ ACRES</p> <p>TOTAL GROSS AREA: 752+ ACRES</p>	<p>TOTAL NUMBER OF SINGLE FAMILY LOTS: 108</p> <p>PREVIOUS OPEN SPACE (PHASE A-1): 341+ ACRES</p> <p>PHASE A-2 OPEN SPACE: 98+ ACRES</p> <p>PHASE A-2 GOLF OPEN SPACE: 150+ ACRES</p> <p>TOTAL OPEN SPACE: 502+ ACRES</p> <p>EXISTING LAND USE: FARM / RESIDENTIAL</p> <p>PROPOSED LAND USE: DESTINATION RESORT</p> <p>ADJOINING LAND USE: FARM / US GOVERNMENT</p> <p>ACCESS: CLINE FALLS HIGHWAY AND HIGHWAY 126</p> <p>FIRE PROTECTION: DESCHUTES COUNTY RURAL FIRE PROTECTION DISTRICT #1</p> <p>POWER: CENTRAL ELECTRIC COOPERATIVE</p> <p>SEWAGE DISPOSAL: ON-SITE TREATMENT FACILITY</p> <p>SOLID WASTE DISPOSAL: HIGH COUNTRY DISPOSAL</p> <p>TELEPHONE: CENTURY LINK</p> <p>WATER SUPPLY: ON-SITE WELLS</p> <p>IRRIGATION: ON-SITE WELLS</p>
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PERMANENT BENCH MARK USED

ID	DESCRIPTION	NORTHING	EASTING	ELEV.
#19	SET 10" HWA	455072.49	3250095.05	3194.82
#35	SET 10" HWA	451306.11	3259325.10	3189.51



VICINITY MAP SCALE: N.T.S.



SITE MAP SCALE: 1"=100'

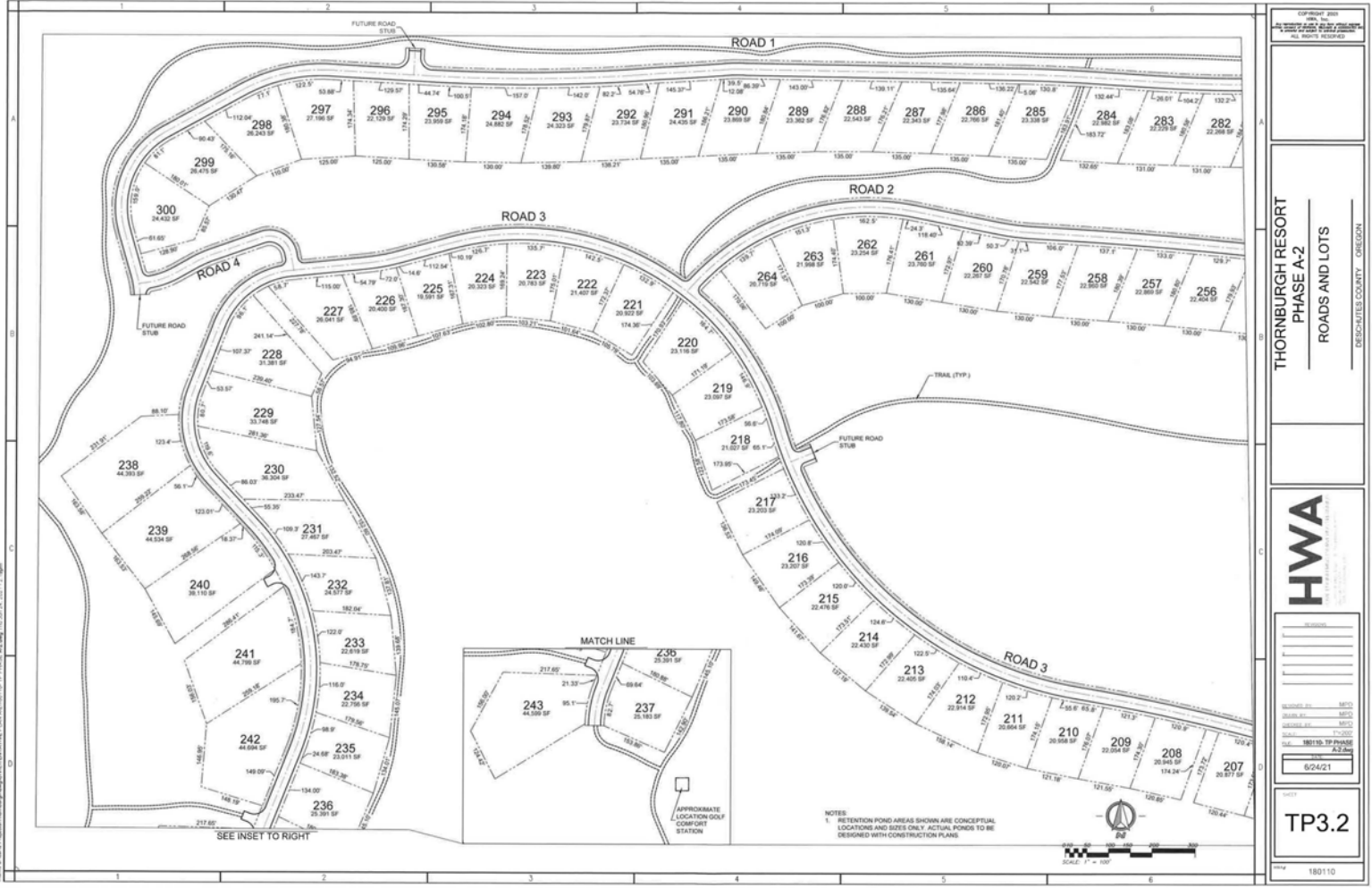
THORNBURGH RESORT
PHASE A-2
COVER PAGE

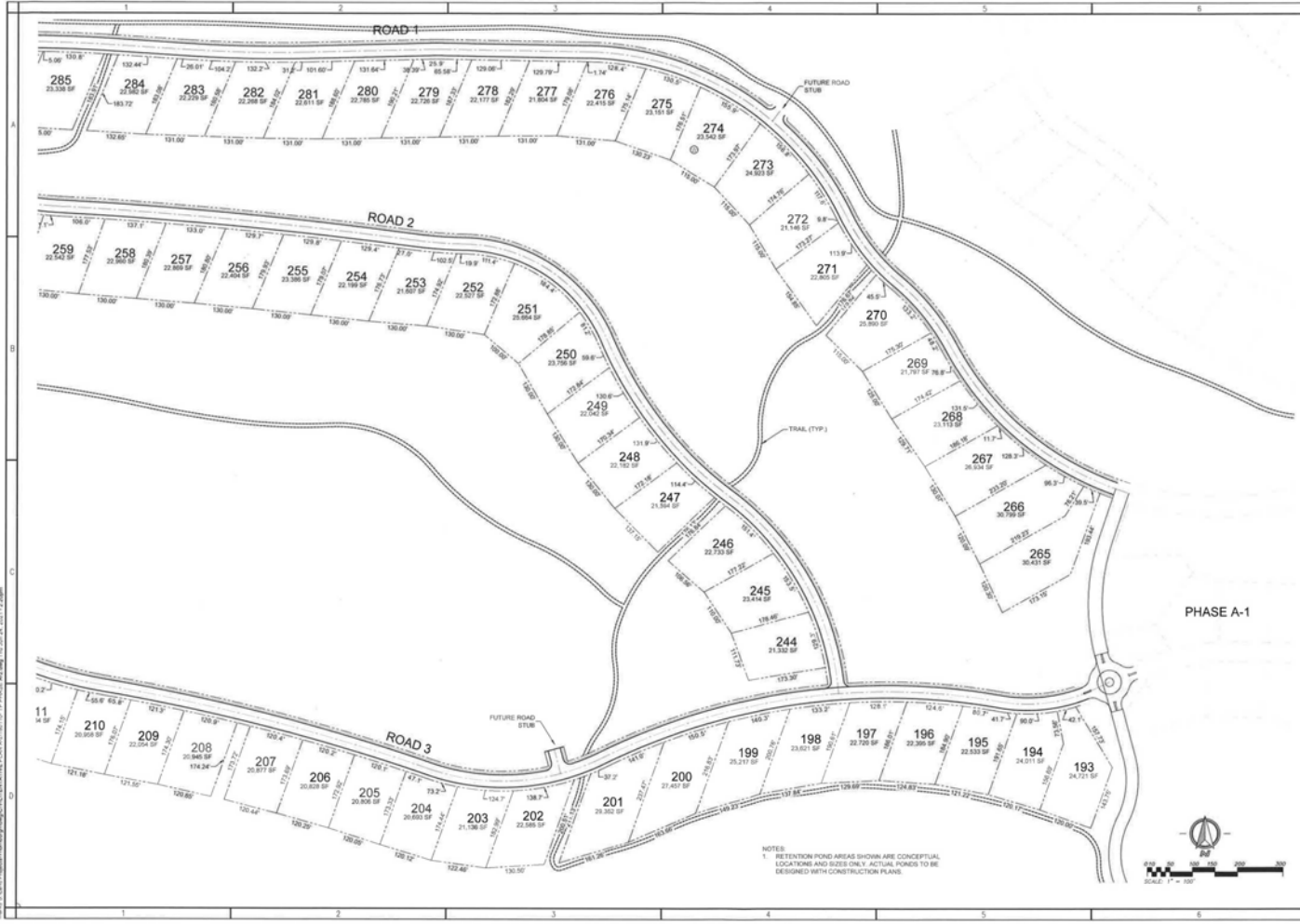
HWA
HWA, INC.
6205 O RILEY ROAD STE 100
BEND, OR 97703
PH: 541-339-3381

DATE: 6/24/21

TP1.1

180110

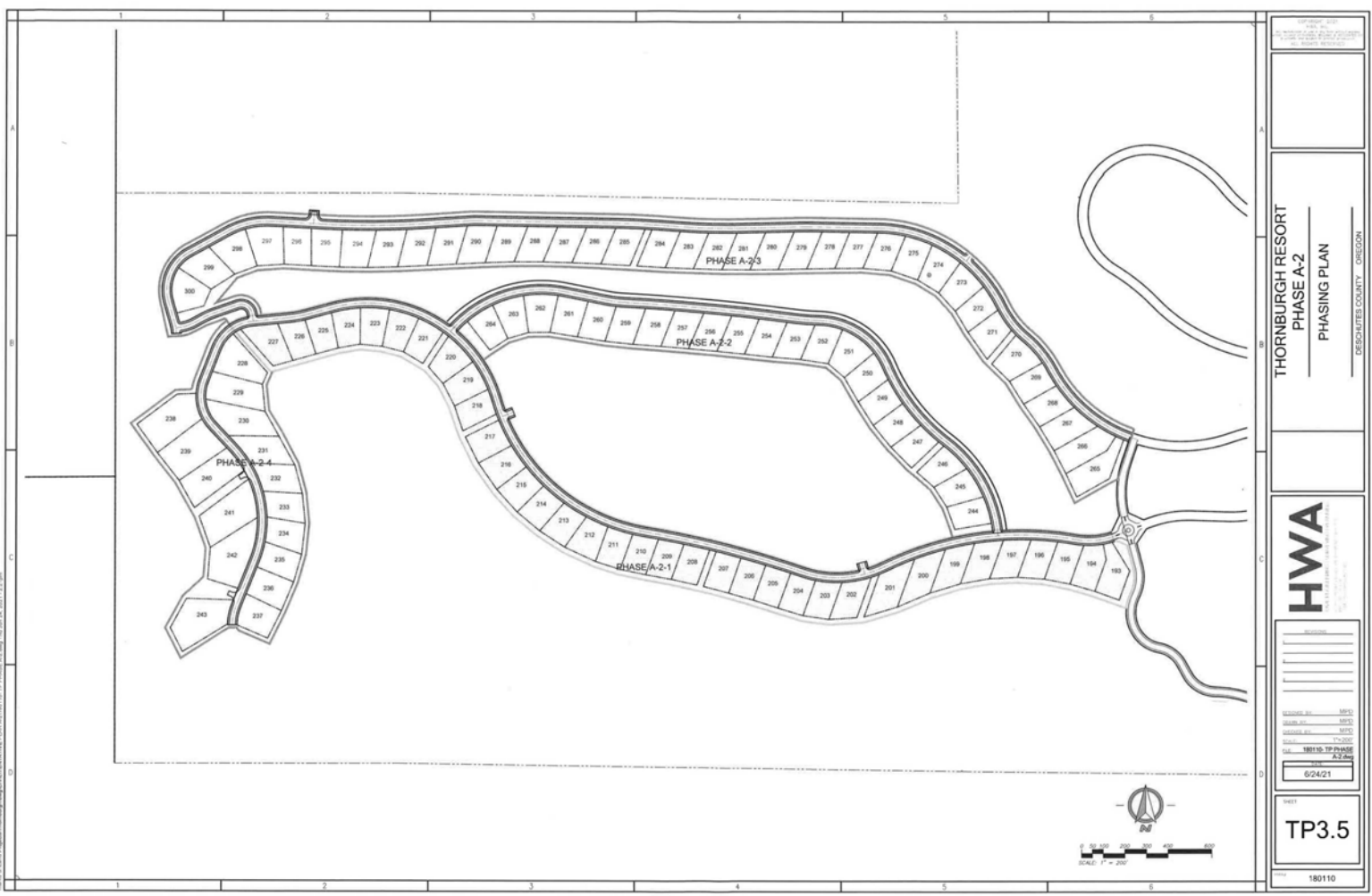




07/19/2023
 ALL RIGHTS RESERVED
 THORNBURGH RESORT
 PHASE A-2
 ROADS AND LOTS
 DESCHUTES COUNTY, OREGON

HWA
 HWA CONSULTANTS, INC.
 1000 NE 10TH AVENUE, SUITE 200
 WASHO, OREGON 97148
 TEL: 503-838-8800
 FAX: 503-838-8801
 WWW.HWA-CONSULTANTS.COM

6/24/21
 TP3.3
 180110



180110-TP PHASE A-2.dwg
6/24/21

HWA
HWA CONSULTANTS, INC.
1000 NE Oregon Street, Suite 200
Portland, Oregon 97232
503.251.1111
www.hwaconsultants.com

**THORBURGH RESORT
PHASE A-2
PHASING PLAN**
ESCHENFEE COUNTY OREGON

180110



APPEAL APPLICATION

FEE: \$250

EVERY NOTICE OF APPEAL SHALL INCLUDE:

- 1. A statement describing the specific reasons for the appeal.
2. If the Board of County Commissioners is the Hearings Body, a request for review by the Board stating the reasons the Board should review the lower decision.
3. If the Board of County Commissioners is the Hearings Body and de novo review is desired, a request for de novo review by the Board, stating the reasons the Board should provide the de novo review as provided in Section 22.32.027 of Title 22.
4. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.

It is the responsibility of the appellant to complete a Notice of Appeal as set forth in Chapter 22.32 of the County Code. The Notice of Appeal on the reverse side of this form must include the items listed above. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on the Notice of Appeal.

Staff cannot advise a potential appellant as to whether the appellant is eligible to file an appeal (DCC Section 22.32.010) or whether an appeal is valid. Appellants should seek their own legal advice concerning those issues. Email: BrooksLarson1205@gmail.com

Appellant's Name (print): Christine Larson Phone: (503) 709-5572

Mailing Address: 20200 Marsh Rd., City/State/Zip: Bend, OR 97703

Land Use Application Being Appealed: 247-21-000637-TP (Central Land/DeLashmuth)

Property Description: Township Range Section Tax Lot (See Exhib. F.A.)

Appellant's Signature: [Handwritten Signature]

EXCEPT AS PROVIDED IN SECTION 22.32.024, APPELLANT SHALL PROVIDE A COMPLETE TRANSCRIPT OF ANY HEARING APPEALED, FROM RECORDED MAGNETIC TAPES PROVIDED BY THE PLANNING DIVISION UPON REQUEST (THERE IS A \$5.00 FEE FOR EACH MAGNETIC TAPE RECORD). APPELLANT SHALL SUBMIT THE TRANSCRIPT TO THE PLANNING DIVISION NO LATER THAN THE CLOSE OF THE DAY FIVE (5) DAYS PRIOR TO THE DATE SET FOR THE DE NOVO HEARING OR, FOR ON-THE-RECORD APPEALS, THE DATE SET FOR RECEIPT OF WRITTEN RECORDS.

Appellant's attorney is Jeffrey L. Kleinman, (over) 1207 SW 6th Av., Portland, OR 97204.

NOTICE OF APPEAL

(See Exhibit B.)

(This page may be photocopied if additional space is needed.)

Exhibit A-Property Description

Map and Taxlot: 15-12-7800

Address: 67555 CLINE FALLS RD., REDMOND, OR 9775

EXHIBIT B–STATEMENT OF REASONS FOR APPEAL

As a preliminary matter, appellant Christine Larson hereby requests a de novo hearing of this appeal before the county’s land use hearing officer.

Statement of Reasons

1. **Findings page 5.** I understand that the “golf course and lakes” decision is the subject of a likely petition for review in the Oregon Supreme Court.

2. **Findings pages 5-7 (“Impermissible Collateral Attack”).** These findings are in error in several respects. Most importantly, Final Master Plan Condition 10 requires proof of compliance for each phase of the resort development, and Condition 38 requires a continuous showing of the developer’s abiding by the April 2008 Wildlife Mitigation Plan, the August 2008 Supplement, and agreements with the BLM and ODFW for management of off-site mitigation efforts. These conditions state:

10. Applicant shall provide, at the time of tentative plat/site plan review for each individual phase of the resort development, updated documentation for the state water right permit and an accounting of the full amount of mitigation, as required under the water right, for that individual phase.

38. The applicant shall abide by the April 2008 Wildlife Mitigation Plan, the August 2008 Supplement, and agreements with the BLM and ODFW for management of off-site mitigation efforts. Consistent with the plan, the applicant shall submit an annual report to the county detailing mitigation activities that have occurred over the previous year. The mitigation measures include removal of existing wells on the subject property, and coordination with ODFW to model stream temperatures in Whychus Creek.

Please note that Conditions 10 and 38 are intertwined. The documents described in Condition 38 are in fact those that set out the “full amount of mitigation, as required under the water right” under Condition 10. The “August 2008 Supplement” to the Wildlife Mitigation Plan *is* in fact the “Thornburgh Resort Fish and Wildlife Mitigation Plan Addendum Relating to Potential Impacts of Ground Water Withdrawals On Fish Habitat,” dated April 21, 2008. This is the document setting out Thornburgh’s agreement with ODFW as to preservation of anadromous fish habitat, including the requirement to place the right to the cold spring water in Deep Canyon Creek permanently instream.

By the express terms of Conditions 10 and 38, challenges to purported compliance may be raised as to new or different phases of the resort as they are put forward for consideration. To hold otherwise would serve to nullify these essential conditions in the face of changing circumstances on the ground. The issues in question were not settled by the CMP and the FMP. Rather, they could not be fully settled at that time. That is why the requirement of regular future showings of compliance was installed in Conditions 10 and 38. *This is how affected state agencies, the county, and the public are supposed to be assured that the difficult problems of availability of water for consumption and cold water for mitigation as to anadromous fish habitat are resolved at each relevant point in time. And the burden of proof always lies on the applicant. And the county must “drill down” to*

make sure that it is met, and not rely upon glib assurances or the incorrectly applied crutch of “impermissible collateral attack” in order to assist the applicant.

LUBA described Condition 10's requirement as to “updated documentation for the state water right permit and an accounting of the full amount of mitigation, as required under the water right, for that individual phase” in its decision in *Gould v. Deschutes County*, 79 Or LUBA 561, 573-74 (2019), which involved a tentative plan and site plan for Phase A-1, the preceding “subphase” of this resort:

The Oregon Water Resources Department (OWRD) granted the water right upon finding that intervenor is responsible for providing 1,356 total acre-feet of mitigation water: 836 acre-feet from Deep Canyon Creek irrigation rights that were granted to Big Falls Ranch, and the remaining mitigation water from the Central Oregon Irrigation District (COID). [footnote omitted]

The resort's consumptive use of groundwater is anticipated to impact an offsite fish-bearing stream, Whychus Creek, by reducing instream water volumes and increasing water temperatures. The mitigation plan requires intervenor to replace the water consumed by the resort with volumes and quality of water that will maintain fish habitat, especially cold water thermal refugia. The county found that the mitigation plan will result in no net loss/degradation to fish and wildlife resources.

(Emphasis added.)

In the county’s 2018 proceeding in that case, the hearings officer recognized some of these concerns, finding that the applicant had failed to show availability of the sources of mitigation water promised in the approved Fish and Wildlife

Mitigation Plan:

The June 13, ODFW letter references COID [Central Oregon Irrigation District] water and that “flows from COID during the irrigation season provide a net benefit in instream flows for the Deschutes River”. It seems to focus primarily on the Big Falls Ranch, however, stating that “During the irrigation season when ODFW is most concerned about impacts to springs and flows in the Deschutes River, the mitigation water from the springs in Deep Canyon Creek exceeds the flows needed to mitigate from spring and seep impacts.”

The FMP also references both water sources, primarily the Big Springs Ranch and that “the remaining mitigation water is to be obtained from” COID. (Page 22 and 24).

It appears to me, therefore, that both ODFW and the Hearings Officer relied on those sources [COID water and Big Falls Ranch water] in reaching their respective conclusions that mitigation was adequate. While it may be that a change to another source within the General Zone of Impact will satisfy both quality and quantity mitigation, that is speculative on this record. It may be that the impact of the 192 homes that the tentative plat would permit would be compensated for by other sources and not be significant enough to implicate these sources but that also is speculative. Further, if the applicant proceeds with providing water to these homes but cannot get water for the balance of Phase ‘A’ (meaning the Phase ‘A’ of the Phasing Plan) *i.e.*, what Mr. Dewey refers to as the “core facilities” then the opponents are correct that we may have a “sagebrush subdivision” that the statutes, Code and FMP are intended to prevent.

In short, the applicant demonstrated at the FMP stage that mitigation was feasible and identified specific sources. Opponents now have raised sufficient evidence to call into question whether obtaining water from those sources remains feasible. On the other hand, demonstrating that the applicant has rights from Big Springs Ranch [Big Falls Ranch] and COID should be straight-forward. The Big Springs Ranch rights appear to be the more important given the emphasis put on them by ODFW. COID water appears to relate more to quantity, although ODFW stressed that providing mitigation water during the irrigation season is important. I find that failure to obtain the ODFW [Big Falls Ranch] and COID water referenced in the Mitigation Plan and FMP decision may constitute a substantial modification to the FMP approval.

H.O. Decision, 10/29/18, 29-30. (Emphasis added.)

The evidence to which the hearings officer referred included “an August 28, email from Matt Singer, general counsel for COID, stating that it is COID’s position that there are no current or active agreements with Thornburgh * * *.”

Id., 29.

Beyond that, the hearings officer noted that:

“Mr. Dewey also cites to an excerpt of a document suggesting that Big Falls Ranch proposed and OWRD proposes to approve a transfer of surface water points of diversion to groundwater points of appropriation which Mr. Dewey asserts was to be used for mitigation by Thornburgh * * *.”

Id.

Documentation that the transfer *away* from Deep Canyon Creek has now actually occurred is contained in a memorandum from attorney, Karl Anuta, filed in the Phase A-1 remand case on August 23, 2021. That memo also explains the ramifications of that transfer.

The prolonged litigation regarding the CMP and the FMP achieved a very delicate balance between the resort’s consumption of groundwater and the provision of adequate cold water to mitigate for the impacts upon anadromous fish habitat which would be caused by said consumption. On the consumption side, the approval of the resort depends upon a now-challenged OWRD permit designating specific wells. The county’s approval herein requires the abandonment of certain other wells. Based upon the location and depth of the wells to be operated under

the OWRD permit, specific impacts upon fish habitat in Whychus Creek (and hence the Deschutes) were analyzed and evaluated and specific sources of cold water for mitigation in this sub-basin of the Deschutes watershed were identified. Thus, a change in the source of quasi-municipal supply, or a failure to supply the specific, approved mitigation water, would thoroughly disrupt the balance methodically assembled over the years of legal disputes. This is compounded by the pervasive drought conditions now prevailing year after year in Deschutes County.

Thornburgh intends to secure the mitigation water for this subphase of the resort solely from Big Falls Ranch. This is cold spring water feeding Deep Canyon Creek. The springs in question arise only one-half mile upstream from the Deschutes. The primary problem here is that BFR has already transferred the subject water right from surface water in Deep Canyon Creek to groundwater up on the ranch itself. As Mr. Anuta explained in the Phase A-1 remand proceeding on August 23, 2021:

* * * [T]he water rights that the Resort promised and that the County required for that mitigation **have subsequently been transferred to another location**. They have been moved to ground water, by the holder of those rights - Big Falls Ranch.

In 2018, as part of Transfer T-12651, Big Falls Ranch requested a "Permanent Water Right Transfer" to move the surface water rights in Deep Canyon Creek to ground water. That request was granted, by OWRD Special Order dated November 21, 2018.

That transfer means that the cold spring surface water flows in Deep Canyon Creek - the flows specifically required to offset the impacts of the Resort G-17036 Permit - are no longer currently available as potential instream flow mitigation for the Resort.

In theory, up until or on November 20, 2023, a request to have Transfer T-12651 "unwound" - in other words the water moved back to surface water - could be submitted. That date is 5 years from the date the transfer was approved. The transfer Order on T-12651 recognized (as is normal for such transfers in the Deschutes Basin) that if an application to transfer the right back to surface water was submitted within 5 years from date of the transfer approval, such an application would normally be approved.

How long such an approval that would take [to] complete, is anyone's guess. Regardless, there is no evidence that such an application has to date even been submitted. There is certainly no approval that would allow the use of the Deep Canyon Creek water in the manner required under the Mitigation Agreement.

To the contrary, rather than a request to transfer the water back, Big Falls Ranch has instead submitted a Claim Of Beneficial Use (COBU) at the new groundwater location. That COBU is an effort to try to turn the T-12651 transfer Order into a new Certificated right, at that new groundwater location. That COBU was submitted on 9-30-20.

(Footnotes omitted. In the original letter, the footnotes direct the reader to specific supporting exhibits.)

I would reemphasize here the following dates:

- November 21, 2018. OWRD approves the application of Big Falls Ranch to move the surface water rights in Deep Canyon Creek which are required to be permanently protected *instream*, to groundwater instead. When moved to groundwater (drawn from wells), the water in question is no longer available instream for fish habitat mitigation purposes.

- September 30, 2020. Big Falls Ranch submits its Claim of Beneficial Use at the new location at which it draws groundwater, in order to turn OWRD's Order approving the transfer into a new certificated right at that location. If OWRD determines that the permit conditions have been met, a water right certificate will be issued to BFR; this will be the "certificated right."

Thornburgh's position as to the required mitigation water has only become weaker over time. It was error for staff to find compliance with FMP Conditions 10 and 38. With this in mind, I would point out the following specific errors on pages 6 and 7 of the decision.

First, this is not the golf course-and-lakes case, and the county cannot rely upon the decision in that case here. Second, to the extent that the FMP conditions of approval require continuous, ongoing compliance, or an independent showing of compliance as with Conditions 10 and 38, Thornburgh must demonstrate compliance *in this proceeding*. It has not done so with respect to the matters listed in items 3, 4, 5, 6, 7 and 13 through 17.

With respect to the dams/impoundments referenced in item 6, these have not been removed. Their removal is required in order to comply with the FWMP and ODFW agreements referenced in Condition 38. I will address the "lot of record" issue referenced in item 16 at the end of this Statement.

3. Findings pages 10-11 (DSL Comments). Although DSL's comments are difficult to read, its concerns are readily discernible. Proposed Phase A-2 extends beyond the scope of development previously reviewed and approved; there

appear to be intermittent streams on the subject property; and further action will be required. The decision is in error in failing to address these issues.

4. Findings pages 16-17 (DCC 17.16.100.A). As discussed above, FMP Conditions 10 and 38 contain independent requirements with respect to streams, water, and fish and wildlife resources. To the extent that these findings purport to sign off on compliance with those conditions, they are in error for the reasons stated.

5. Findings page 22 (ORS 92.090(6)). It would appear that the subject property is within the boundaries of the Central Oregon Irrigation District. Thus the requirements of this section apply and have not been met.

6. Findings pages 47-50 (Final Master Plan Condition 1). These findings are in error. As explained in detail above, Thornburgh must meet its burden of proving compliance with FMP Conditions 10 and 38 whenever it files an application for a new phase of the resort, and has not made the required showing of compliance here. Thornburgh has filed several applications with OWRD for different, previously unreviewed sources of quasi-municipal water supply to make up for its expired OWRD permit. This will in turn result in materially different impacts upon fish and wildlife habitat, giving rise to substantial changes in the required mitigation and to the need for a new or revised WMP and FMWP and new, possibly unobtainable agreements with ODFW. By any measure, these are

substantial changes to the approved master plan under FMP Condition 1, and will require a new application.

Contrary to staff’s implication, these issues did not come before Hearings Officer Olsen or LUBA in the Phase A-1 proceeding. Several facts have changed since LUBA made its decision in the golf course-and-lakes case, as well. Based upon the facts that now exist—in other words, reality—the WMP, FWMP, and related agreements will necessarily change regardless of the proffered assumption that they will not. In addition, Thornburgh has not complied with, and the evidence will show that it *cannot* comply with, the required mitigation in Deep Canyon Creek. This too will effect a substantial change.

7. Findings pages 50-53 (FMP Condition 10). For the reasons explained at length above, Thornburgh has not demonstrated compliance with the requirements of this condition as to either its state water right or the required accounting for mitigation.

Under the now-existing facts, the county Board’s findings in the golf course-and-lakes case are not controlling. The current “information” is that Ms. Gould’s appeal of an extension of the OWRD permit described in Condition 10 is pending and the applicant now seeks different sources of water supply, in turn resulting in this condition *not* being met. In addition, the record will show that the mitigation water described in this portion of the findings is in fact unavailable. LUBA’s

discussion in the golf course-and-lakes case does not assist Thornburgh's position here.

The decision also relies in part upon OWRD's past approval of Pinnacle's Water Management and Conservation Plan. However, Pinnacle has withdrawn that plan!

8. Findings pages 57-58 (FMP Condition 21). Ms. Gould has appealed staff's approval of Thornburgh's "modification" application. The appeal hearing has been scheduled. In the meantime, the requirements of Condition 21 apply, and the applicant has not demonstrated compliance.

At least as importantly, the decision is in error in finding compliance with Condition 21 because the status of Phase A-1 has not been resolved. Without a fully and finally approved Phase A-1, there are no Overnight Lodging Units and Thornburgh cannot comply with this condition.

9. Findings page 60 (FMP Condition 28). As explained, Thornburgh is not in compliance with the portion of Condition 28 relating to implementation of the mitigation plan developed in consultation with ODFW "throughout the life of the resort."

10. Findings page 62 (FMP Condition 33). For the reasons explained with respect to Condition 21, the required number of OLU units is not in fact provided.

11. Findings pages 63-64 (FMP Condition 38). For reasons explained at length above, Thornburgh has not demonstrated compliance with Condition 38, (and the evidence will show the impossibility of such performance). If not now, when will the applicant ostensibly prove compliance?

12. Findings page 64 (FMP Condition 39). Compliance with this condition must be demonstrated in the course of a public process, not by flashing a piece of paper in front of staff at an indeterminate date. This is an essential element of the required mitigation of impacts upon anadromous fish habitat.

13. Findings page 65 (DCC 18.113.080). For the reasons explained above, especially as to water supply and mitigation issues, a substantial change in the approved CMP is in fact effected here. It was error for the Planning Director to decide otherwise.

14. Lot of Record Issue. Contrary to item 16 at page 8 of the decision, the "lot of record" issue, resolved at one time, is no longer resolved but has instead come undone. Under DCC 17.04.02, "[n]o person may subdivide or partition land within the County except in accordance with ORS 92 and the provisions of DCC Title 17." Under ORS 92.012, "[n]o land may be subdivided or partitioned except in accordance with ORS 92.010 to 92.192."

At the end of July 2021, two parcels/lots were conveyed by deed out of one of the existing Thornburgh lots without partitioning or any other required process.

We do not know what the applicant really had in mind when it carried out the conveyancing in question. Regardless, the upshot is that the subject property is undevelopable under county regulations and state land use laws requiring EFU parcels to have been lawfully created in order to be developed.

The county is obligated to verify lot of record status for EFU lands prior to the issuance of any land use permit. DCC 22.24.040. The land use permit requested here has not been issued. The county lacks authority under DCC 22.24.040 to issue a land use permit for any parcel of EFU land that is not a lot of record at the time the permit is issued. The county further lacks authority under DCC 22.20.15(A) to make any land use decision for a property that is in violation of applicable land use regulations. The land use permit for EFU land requested herein must be denied.

15. Incorporation by Reference of Unattached Documents. I object to and assert error in the incorporation by reference of documents not actually attached to the decision. These documents appear in part irrelevant and in part not controlling in this case. However, unless they are attached, no one can be expected to respond to them.

CONCLUSION

The decision is in error for each of the reasons I have set out above. It is time for the county to take off the blinders, grab its own reins, and properly apply its approval standards to the facts as they actually exist.



NOTICE OF DECISION

The Deschutes County Planning Division has approved the land use application(s) described below:

FILE NUMBER: 247-21-000637-TP

SUBJECT PROPERTY/

OWNER: Mailing Name: CENTRAL LAND & CATTLE COMPANY LLC
Map and Taxlot: 1512000007800
Account: 124948
Situs Address: 67555 CLINE FALLS RD, REDMOND, OR 9775

APPLICANTS: Central Land and Cattle Company, LLC
Kameron DeLashmutt

REQUEST: The applicant is seeking tentative plan approval for a portion of Phase A (A-2) of the Thornburgh Destination Resort. The tentative plan ("Tentative Plan") includes 108 single-family residential dwelling lots. The Tentative Plan proposes to plat the subdivision in four phases.

STAFF CONTACT: Angie Brewer, Senior Planner
Email: Angie.Brewer@deschutes.org
Telephone: (541) 385-1704

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

- Final Master Plan (FMP) Approval, file no. M-07/MA-08-6
- Title 17 of The Deschutes County Code, Subdivisions
 - Chapter 17.12, Administration and Enforcement
 - Chapter 17.16, Approval of Subdivision Tentative Plans.
 - Chapter 17.24, Final Plat.
 - Chapter 17.36, Design Standards.
 - Chapter 17.44, Park Development.
 - Chapter 17.48, Design and Construction Specifications.
- Title 18 of the Deschutes County Code, the County Zoning Ordinance:
 - Chapter 18.04, Definitions
 - Chapter 18.113, Destination Resorts Zone
- Title 22, Deschutes County Development Procedures Ordinance

DECISION: Staff finds that the application meets applicable criteria, and approval is being granted subject to the following conditions:

CONDITIONS OF APPROVAL

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The subdivision plat shall substantially conform to the provisions of the tentative plan for the subdivision, as approved.
- C.** Grading of building sites shall conform to the following standards, unless physical conditions demonstrate the property of other standards:
 1. Cut slope ratios shall not exceed one foot vertically to one and one half feet horizontally.
 2. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.
 3. The composition of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.
 4. When filling or grading is contemplated by the subdivider, s/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.
- D.** All exterior lighting must comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the DCC.
- E.** Where construction disturbs native vegetation in open space areas that are to be retained in substantially natural condition, Applicant shall restore the native vegetation in conformance with the Wildlife Mitigation Plan.
- F.** As identified in the CC&Rs required by the FMP, private roadways must be maintained by the Thornburgh Resort Owners Association or a sub-association formed for a particular element of the resort or this tentative plan.
- G.** The first 50 OLU's must be constructed prior to the closure of sales of individual lots or units.

PRIOR TO FINAL PLAT APPROVAL

- H.** The owner shall submit:

1. 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; or
 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county.
- I.** The owner shall submit:
1. 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; or
 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary.
- J.** 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.
- K.** The 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.
- L.** The owner shall submit correspondence from the County Surveyor approving the subdivision name. County Surveyor signature on the plat shall also demonstrate compliance.
- M.** Owner shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, owner shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- N.** Street names and numbers shall conform to the established pattern in the County and shall require approval from the County Property Address Coordinator.

- O.** All roads shall be named in conformance with the provisions of the Deschutes County uniform road naming system set forth in DCC Title 16.
- P.** The following minimum road standards shall apply for private roads:
1. The minimum paved roadway width shall be 20 feet in planned unit developments and cluster developments with two foot wide gravel shoulders;
 2. Minimum radius of curvature, 50 feet;
 3. Maximum grade, 12 percent;
 - a. Table A of DCC 17.48 allows for steeper gradients.
 4. At least one road name sign will be provided at each intersection for each road;
 5. A method for continuing road maintenance acceptable to the County;
 6. Private road systems shall include provisions for bicycle and pedestrian traffic.
 - a. Shoulder bikeways shall be a minimum of four feet wide, paved and striped, with no on street parking allowed within the bikeway, and when private roads are developed to a width of less than 28 feet, bike paths constructed to County standards shall be required.
- Q.** The developer will design and construct the road system in accordance with DCC 17. Road improvement plans shall be approved by the Road Department prior to construction.
- R.** Prior to final plat approval by Road Department: Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
 - The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).
 - Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
 - Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

- S. Fire apparatus access needs identified by Redmond Fire & Rescue’s July 9, 2021 letter shall be addressed on the plat prior to approval. Dead ends and stub streets shall be finished as paved cul-de-sacs.
- T. The owner shall provide a certification by a licensed professional engineer that the drainage facilities have been designed and constructed in accordance with the current Central Oregon Stormwater Manual (COSM) to receive and/or transport at least the design storm for all surface drainage water including stormwater coming to and/or passing through the development.
 - 1. The drainage facilities shall be designed for maximum allowable development.
- U. 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.

PRIOR TO, OR CONCURRENT WITH, FINAL PLAT RECORDING

- V. Codes, Covenants and Restrictions (CC&Rs) required by the CMP/FMP must be recorded concurrently with the recording of the final plat.
- W. The final plat for each phase shall be filed in accordance with DCC 17.24.020 through 17.24.110.
- X. The subdivision plat (file no. 247-21-000637-TP) shall be recorded.

PRIOR TO ISSUANCE OF BUILDING PERMITS

- Y. The owner shall secure confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted July 9, 2021 comment letter have been met.

PRIOR TO CONSTRUCTION OF ROAD IMPROVEMENTS

- Z. Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and the approved master plan

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.

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.

This Notice was mailed pursuant to Deschutes County Code Chapter 22.24.

THORNBURGH RESORT PHASE A-2 TENTATIVE PLAN

DESCHUTES COUNTY, OREGON
LOCATED IN SECTIONS 29 AND 30
TOWNSHIP 15 SOUTH, RANGE 12 EAST
WILLAMETTE MERIDIAN

SHEET NUMBER	SHEET TITLE
TP1.1	COVER SHEET
TP1.2	TYPICAL SECTIONS
TP2.1	EXISTING CONDITIONS
TP2.2	ROCK OUTCROPPINGS
TP3.2	ROADS AND LOTS
TP3.3	ROADS AND LOTS
TP3.4	OPEN SPACE
TP3.5	PHASING PLAN
TP4.1	SEDIMENTATION & EROSION CONTROL PLAN
TP4.2	SEDIMENTATION & EROSION CONTROL PLAN
TP5.1	DRAINAGE PLAN
TP5.2	UTILITY PLAN

DEVELOPMENT DATA:

<p>APPLICANT: CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479</p> <p>OWNER: CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479</p> <p>SURVEYOR/ ENGINEER: HWA, INC. 6205 O RILEY ROAD STE 100 BEND, OR 97703 PH: 541-339-3361</p> <p>PROPERTY ADDRESS: 6753 CLINE FALLS HIGHWAY REDMOND, OR 97756</p> <p>ZONE: EFU / DR</p> <p>ADJOINING ZONES: EFU / DR OPEN SPACE AND CONSERVATION</p> <p>TAX LOT NUMBERS: 1512000007800 1512000007900</p> <p>PREVIOUS GROSS AREA (PHASE A-1): 517+ ACRES</p> <p>PHASE A-2 GROSS AREA: 235+ ACRES</p> <p>TOTAL GROSS AREA: 752+ ACRES</p>	<p>TOTAL NUMBER OF SINGLE FAMILY LOTS: 108</p> <p>PREVIOUS OPEN SPACE (PHASE A-1): 341+ ACRES</p> <p>PHASE A-2 OPEN SPACE: 98+ ACRES</p> <p>PHASE A-2 GOLF OPEN SPACE: 150+ ACRES</p> <p>TOTAL OPEN SPACE: 502+ ACRES</p> <p>EXISTING LAND USE: FARM / RESIDENTIAL</p> <p>PROPOSED LAND USE: DESTINATION RESORT</p> <p>ADJOINING LAND USE: FARM / US GOVERNMENT</p> <p>ACCESS: CLINE FALLS HIGHWAY AND HIGHWAY 126</p> <p>FIRE PROTECTION: DESCHUTES COUNTY RURAL FIRE PROTECTION DISTRICT #1</p> <p>POWER: CENTRAL ELECTRIC COOPERATIVE</p> <p>SEWAGE DISPOSAL: ON-SITE TREATMENT FACILITY</p> <p>SOLID WASTE DISPOSAL: HIGH COUNTRY DISPOSAL</p> <p>TELEPHONE: CENTURY LINK</p> <p>WATER SUPPLY: ON-SITE WELLS</p> <p>IRRIGATION: ON-SITE WELLS</p>
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PERMANENT BENCH MARK USED

ID	DESCRIPTION	NORTHING	EASTING	ELEV.
#19	SET 10" HWA	455072.49	3250095.05	3194.62
#35	SET 10" HWA	451306.11	3259325.10	3189.51



VICINITY MAP SCALE: N.T.S.

SITE MAP SCALE: 1"=100'

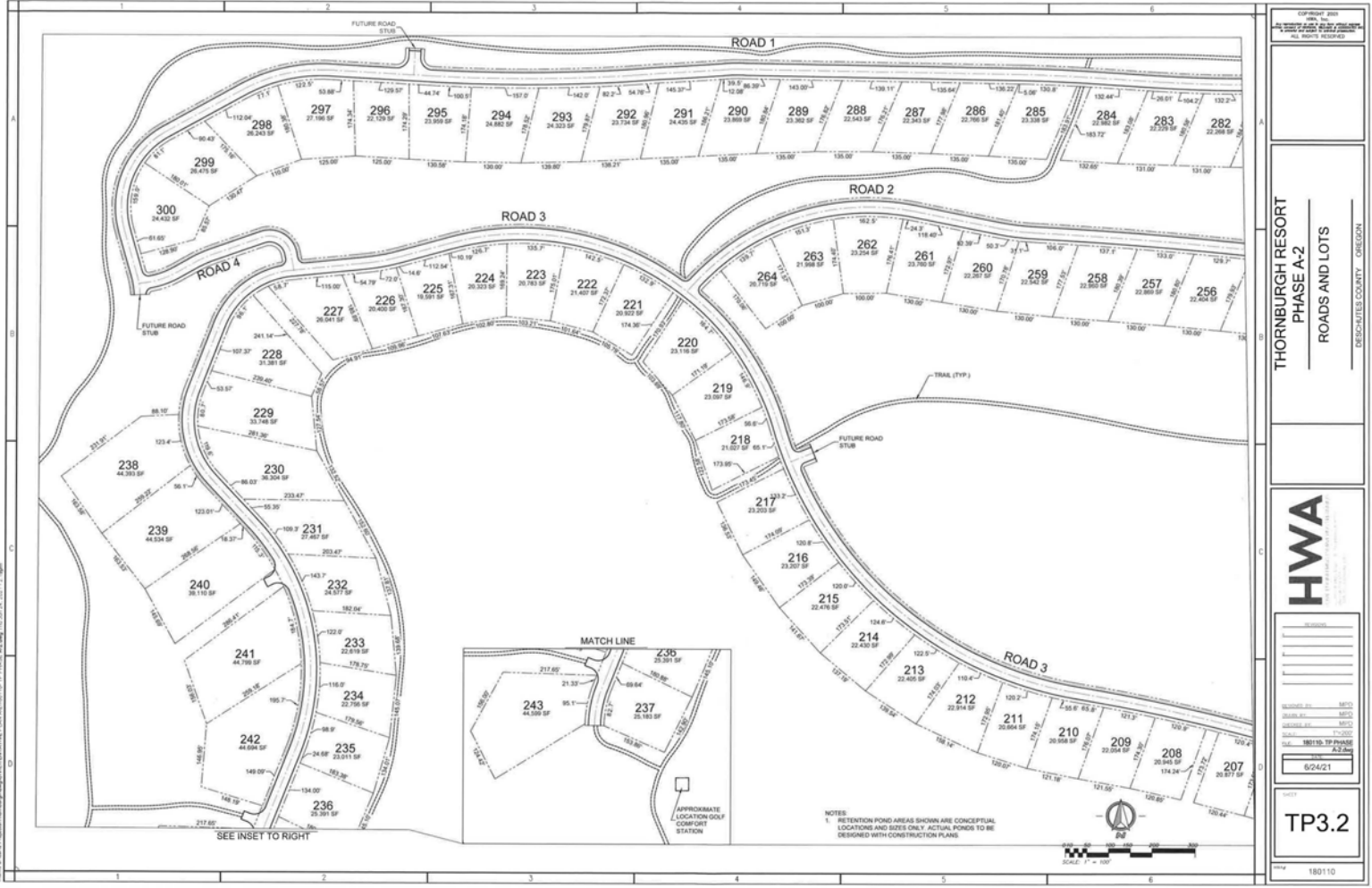
THORNBURGH RESORT
PHASE A-2
COVER PAGE

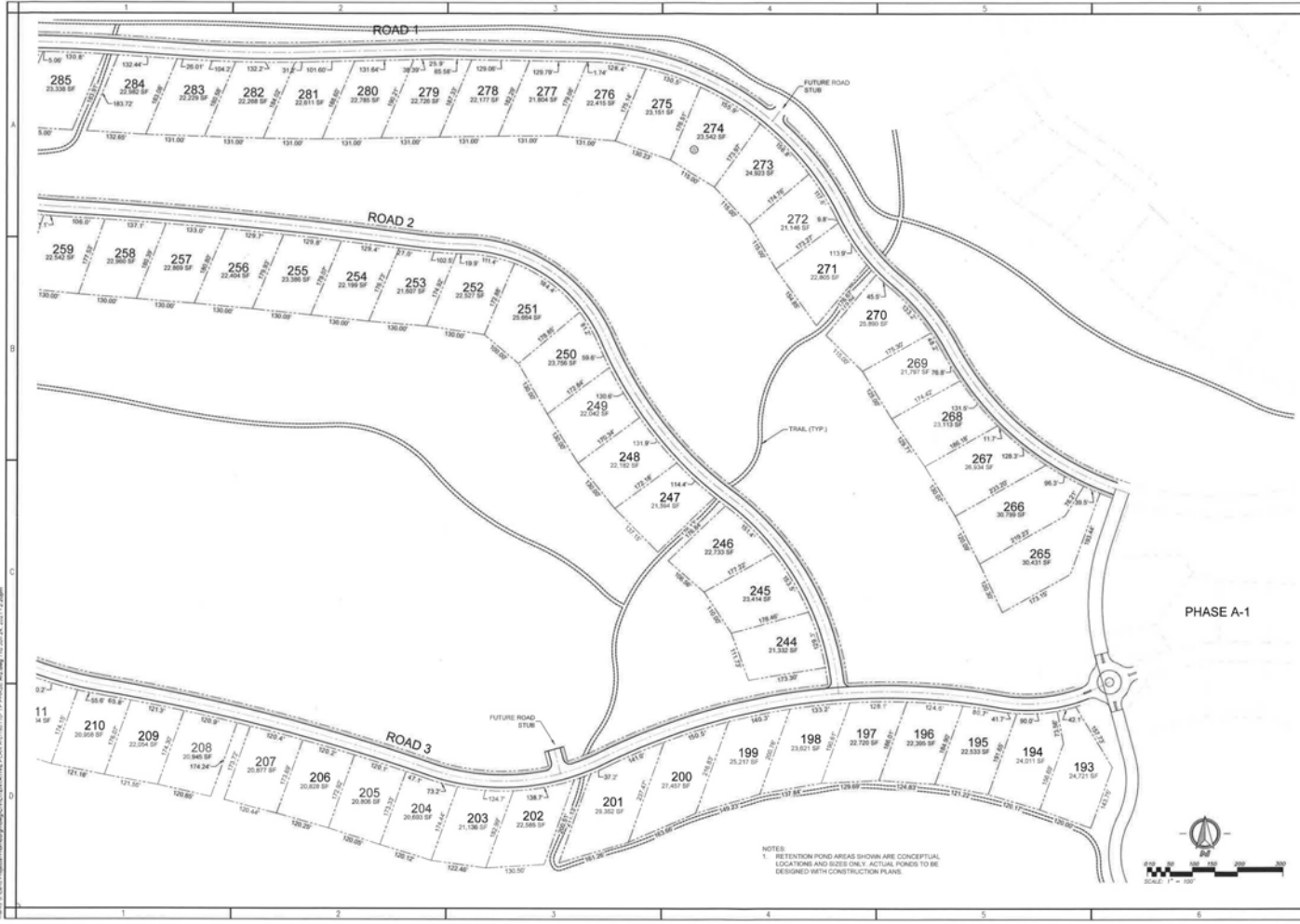
HWA
HWA, INC.
6205 O RILEY ROAD STE 100
BEND, OR 97703
PH: 541-339-3361

6/24/21

TP1.1

180110





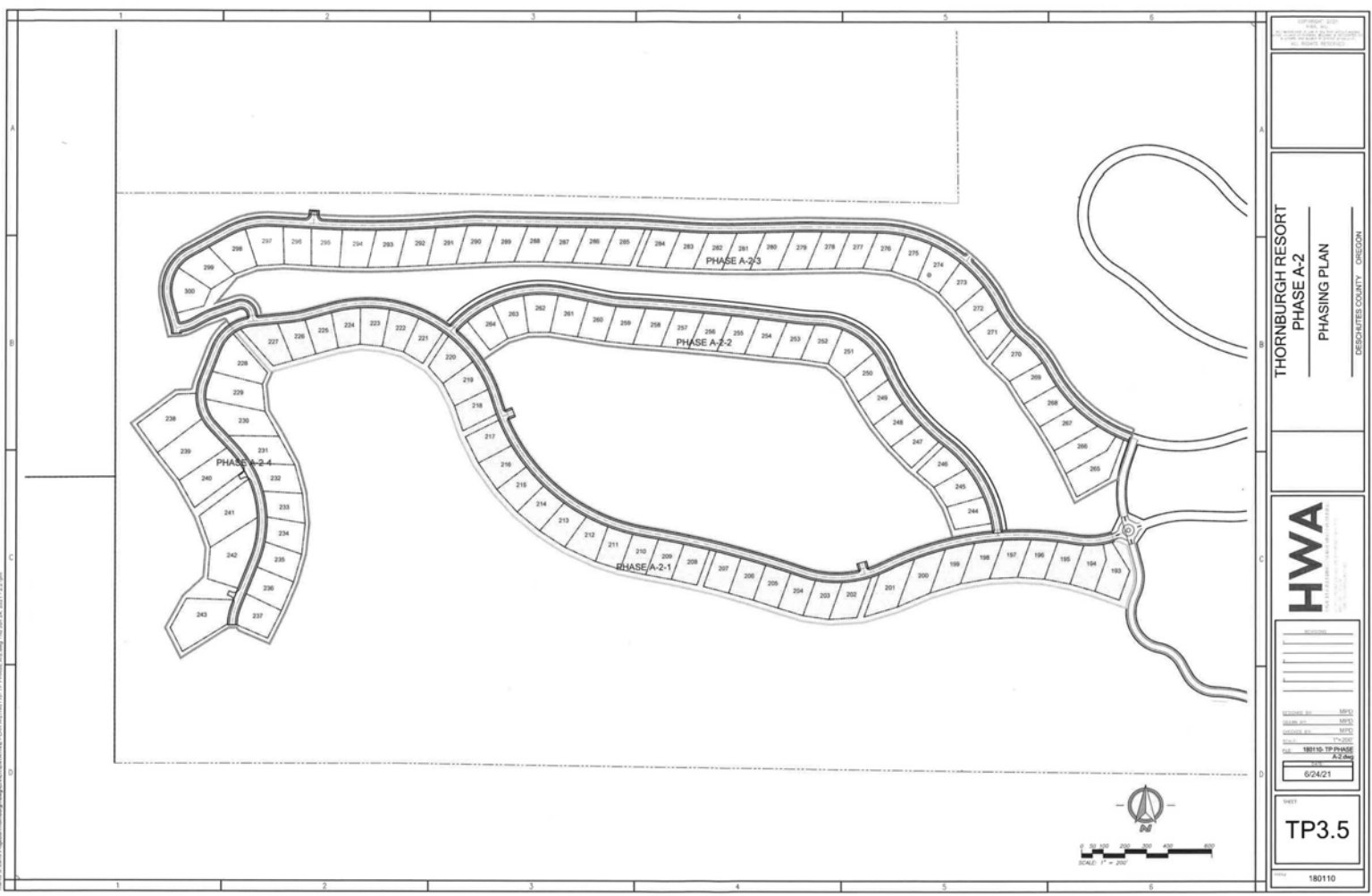
Copyright 2020
 HWA
 ALL RIGHTS RESERVED

THORNBURGH RESORT
 PHASE A-2
 ROADS AND LOTS
 DECATUR COUNTY, OREGON

HWA
 HWA CONSULTANTS, INC.
 1000 NE 10th Street, Suite 200
 Corvallis, OR 97331
 Phone: 541-325-1100
 Fax: 541-325-1101
 Email: hwa@hwaconsultants.com

DATE:	6/24/21
SCALE:	A2
PROJECT:	TP3.3

180110



<p>180110-TP PHASE A-2.dwg 6/24/21</p>	
<p>HWA HWA CONSULTANTS, INC. 1000 NE Oregon Street, Suite 200 Portland, Oregon 97232 503.255.1100 www.hwaconsultants.com</p>	
<p>THORBURGH RESORT PHASE A-2 PHASING PLAN ESCHENFEE COUNTY OREGON</p>	
<p>DATE: 6/24/21</p>	<p>SCALE: 1" = 200'</p>
<p>180110</p>	



FINDINGS AND DECISION

FILE NUMBER: 247-21-000637-TP

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: CENTRAL LAND & CATTLE COMPANY LLC
Map and Taxlot: 1512000007800
Account: 124948
Situs Address: 67555 CLINE FALLS RD, REDMOND, OR 9775

APPLICANTS:

Central Land and Cattle Company, LLC
Kameron DeLashmutt

REQUEST:

The applicant is seeking tentative plan approval for a portion of Phase A (A-2) of the Thornburgh Destination Resort. The tentative plan ("Tentative Plan") includes 108 single-family residential dwelling lots. The Tentative Plan proposes to plat the subdivision in four phases.

STAFF CONTACT:

Angie Brewer, Senior Planner
Email: Angie.Brewer@deschutes.org
Telephone: (541) 385-1704

DOCUMENTS:

Can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

- Final Master Plan (FMP) Approval, file no. M-07/MA-08-6
- Title 17 of The Deschutes County Code, Subdivisions
 - Chapter 17.12, Administration and Enforcement
 - Chapter 17.16, Approval of Subdivision Tentative Plans.
 - Chapter 17.24, Final Plat.
 - Chapter 17.36, Design Standards.
 - Chapter 17.44, Park Development.
 - Chapter 17.48, Design and Construction Specifications.
- Title 18 of the Deschutes County Code, the County Zoning Ordinance:
 - Chapter 18.04, Definitions
 - Chapter 18.113, Destination Resorts Zone
- Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS

LOT OF RECORD: The subject property, in its entirety, was determined to be a lot of record by the Board of Commissioners in its decision approving the Conceptual Master Plan, CU-05-20, DC No. 2006-151. Pursuant to DCC 22.04.040(B)(2), subsequent verification is not required for this decision.

SITE DESCRIPTION: The subject property is a part of a tract of approximately 1,980 acres of land adjacent to Cline Buttes that has been approved for the development of the Thornburgh Destination Resort. The subject property is mostly undeveloped land with sloping terrain, natural vegetation, rock outcroppings and ridge tops. The property adjoins and lies west of Cline Falls Road. Some structures in the southwest part of the property will be removed during development of the resort as noted on the tentative plan.

REVIEW PERIOD: The subject application was submitted on June 25, 2021 and deemed complete by the Planning Division on July 25, 2021. The applicant extended the clock from July 25 to September 15 for a total of 52 days. The 150th day on which the County must take final action on this application is February 22, 2022.

PROPOSAL: The applicant is seeking tentative plan approval for a part of Phase A of the Thornburgh Destination Resort. This specific plat is identified by the applicant as Phase A-2. The Destination Resort Final Master Plan ("FMP") was approved by the County Board of Commissioners in file no. M-07/MA-08-6. The Tentative Plan includes 108 single-family residential dwelling lots. The plan proposes to plat the subdivision in four phases.

Figure 1: Phase A-2 Tentative Plan General Location

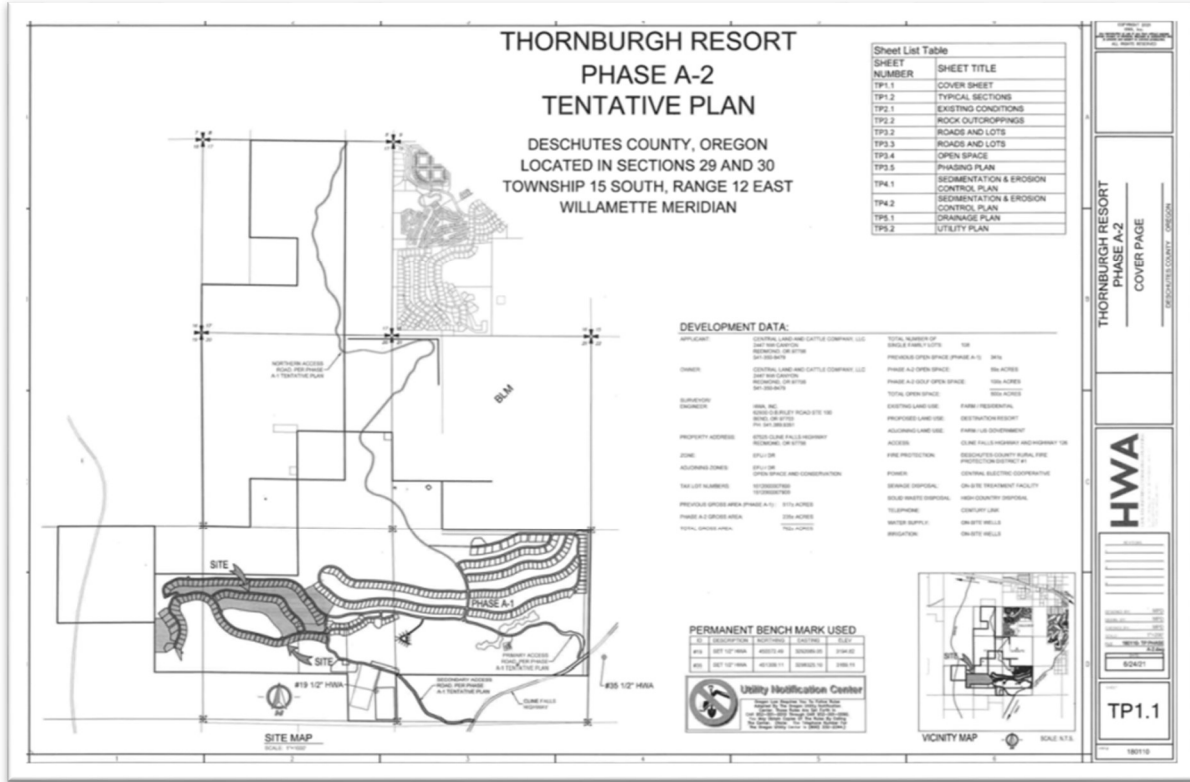
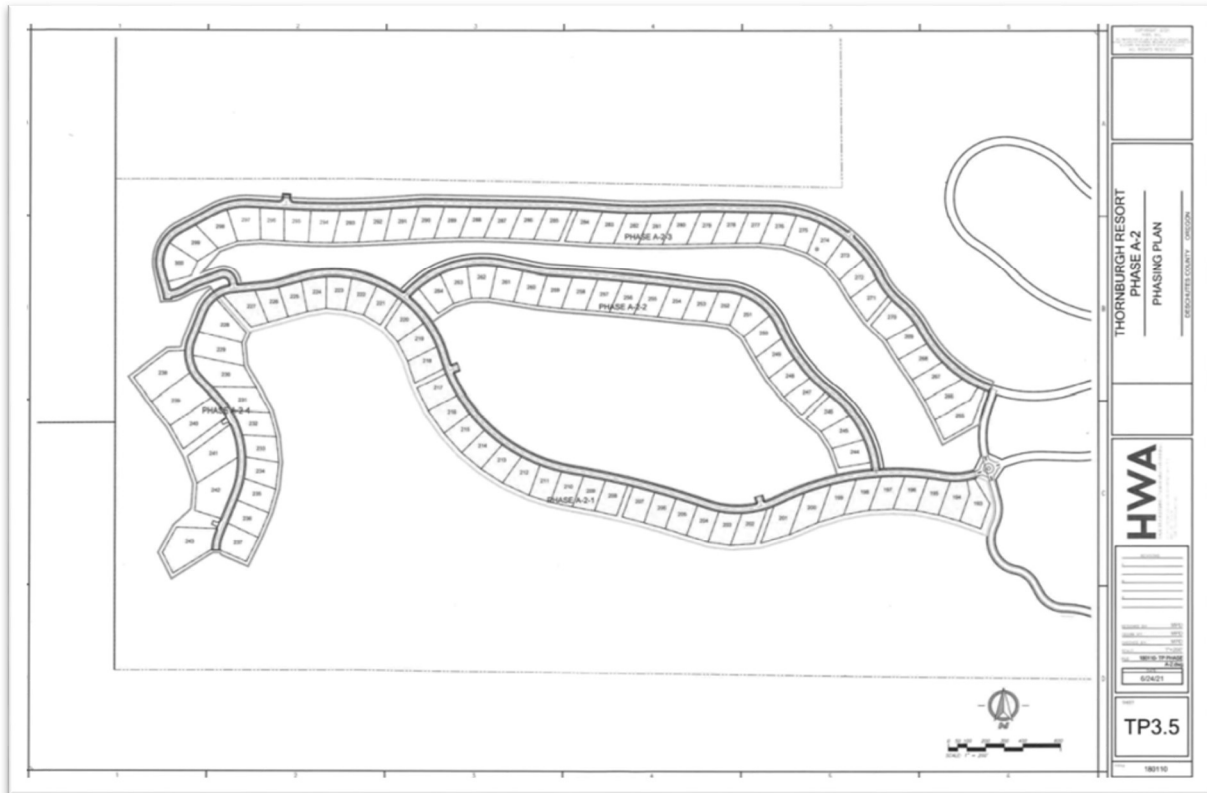


Figure 2: Phase A-2 Tentative Plan Subdivision Phases



SURROUNDING LAND USES: The subject property is surrounded by land zoned Exclusive Farm Use – Sisters/Cloverdale Subzone (“EFU-SC”). The surrounding EFU-SC land owned by Central Land and Cattle Company not included in the tentative plan has received approval to be developed as a destination resort. Land northeast of the subject property zoned EFU-SC is developed as the Eagle Crest Destination Resort, a rural residential subdivision, and as a surface mine. The Surface Mining (SM) zoned property is at least 0.75 mile away from the subject property. An Open Space and Conservation zoned property is located east of the property, south of the SM zoned property, and is owned and managed by the Bureau of Land Management (“BLM”). The remainder of the surrounding land is owned by the USA or State of Oregon. Most public lands are a part of the Cline Butte Recreation Area and are developed for public recreational use and conservation.

LAND USE HISTORY: The applicant has provided the following summary for land use history:

Conceptual Master Plan: Deschutes County approved a conceptual master plan (CMP) for the resort in File CU-05-20 in 2005. The decision was appealed by Annunziata Gould and remanded. The CMP was approved on remand by the Board of Commissioners in April 2008 in County Document No. 2008-151. Ms. Gould unsuccessfully appealed the 2008 approval. Approval of the CMP was final December 9, 2009.

A declaratory ruling process initiated by Loyal Land Company regarding the status of the CMP was filed in 2011. The County approved the application twice. The current status of this matter is that it has been remanded to the County. Loyal Land has not initiated a review on remand. This review is irrelevant to the review of the proposed tentative plan, however, because Deschutes County has approved the final master plan (FMP) for the resort. All unsatisfied requirements of the CMP were made a part of the FMP.

Final Master Plan: Thornburgh Resort Company filed for approval of its FMP in 2007. It amended the application in 2008. The application was approved by the County, appealed by Ms. Gould to Land Use Board of Appeals (LUBA) and remanded. In 2015, the County denied approval of the FMP. Central Land and Cattle Company, LLC appealed to the LUBA, who overturned the Hearing Officer and the remanded FMP. A Deschutes County hearings officer reviewed the application on remand and approved the FMP in a decision dated January 1, 2018. Ms. Gould appealed the approval to the Board of Commissioners (Board) who declined review. Ms. Gould has appealed the decision to the LUBA who denied all of her assignments of error. She did not appeal the FMP to the Oregon Court of Appeals. The approval, therefore, is a final decision of Deschutes County.

Phase A-1 Tentative Plan and Site Plan Review – Through file nos. 247-18-000386-TP, 247-18-000454-SP, and 247-18-000592-MA, the County approved a Tentative Plan for Phase A-1 of the Resort. It also approved a Site Plan Review for utility facilities. The County decision was appealed to LUBA and LUBA remanded (LUBA No. 2018-140) on one issue, Tentative Plan Condition of Approval No. 17. The LUBA decision was appealed to the Court of Appeals (A171603). The appeal was dismissed because the Court concluded Ms. Gould’s attorney had missed the filing deadline. The Oregon Supreme Court accepted review of the dismissal.

Meanwhile, the applicant initiated remand proceedings for LUBA No. 2018-140 on August 2, 2019. The County Hearings Officer found he did not have jurisdiction to issue a decision. Central Land appealed that decision in file no. 247-19-000611-A. The Board of Commissioners heard the appeal and issued a decision that removed Condition of Approval No. 17 from the decision and affirmed the approval of the tentative plan and site plan approvals. The Board's decision was appealed to LUBA (LUBA 2019-136). LUBA stayed the appeal pending the outcome of the Supreme Court decision of case S067074. Central Land has filed a request to consolidate this decision with LUBA No. 2018-140 and to remand the case to Deschutes County. LUBA has not yet acted on Central Land's request¹.

Golf Course and Lakes Site Plan: On December 11, 2019, Applicant submitted a site plan, application #247-19-000881-SP for approval of a Golf Course and Lakes. The application was approved via Administrative Decision on April 1, 2020. Annunziata Gould appealed the decision, and it was heard by the Board of Commissioners. On August 31, 2020, the Board issued a decision affirming the approval of the Golf Course and Lakes site plan. Annunziata Gould appealed this decision to the Oregon Land Use Board of Appeals. LUBA affirmed the Board's decision. A copy of LUBA's decision² is included as Exhibit 22 of this burden of proof.

Impermissible Collateral Attacks: Over the last 15 years the Thornburgh Resort has been the subject of more than 30 appeals by Annunziata Gould in numerous forums. At the time of this application, after 16 years, there are 4 separate appeals pending. In the long history of her appeals, Ms. Gould repeatedly raises issues resolved by the CMP and FMP. The law provides that when multiple, serial land use decisions are required, as they are for the Thornburgh CMP and FMP, issues that were or could have been resolved in an earlier stage review are not subject to collateral attack in a subsequent proceeding. LUBA has explained the rule as follows:

"As a general principle, issues that were conclusively resolved in a final discretionary land use decision, or that could have been but were not raised and resolved in that earlier proceeding, cannot be raised to challenge a subsequent application for permits necessary to carry out the earlier final decision."

Safeway, Inc. v. City of North Bend, 47 Or LUBA 489, 500 (2004).

The Thornburgh FMP is the master plan that establishes the plan to be followed when site plan and partition applications are filed with the County. It is based on issues decided by the CMP. According to LUBA:

"All requirements of the CMP approval are now requirements of the county's FMP approval. The FMP approval has effectively incorporated and displaced the CMP approval."

¹ Staff notes the applicant initiated the remand with Deschutes County and the Hearings Officer approved the Phase A-1 Tentative Plan (247-21-000731-A, 18-386-TP, 18-454-SP, 18-542-MA; LUBA No. 2018-140; Court of Appeals A171603) on October 4, 2021.

² Staff notes on September 15, 2012 the Court of Appeals affirmed without opinion (A176353) LUBA's decision.

Gould v. Deschutes County, 74 Or LUBA 326, 346 (2016).

Central Land and Cattle Company, LLC (CLCC), therefore, is not required to demonstrate compliance with the CMP or FMP approval criteria of DCC Chapter 18.113 during the review of this tentative plan. The informational requirements of DCC 18.113.050 apply to a CMP application only. DCC 18.113.060 and 18.113.070, with limited exceptions, are CMP approval criteria only. The standards of DCC 18.113.090 are FMP approval criteria met by the FMP that are not applicable during the County’s review of a tentative plan.

In *Gould v. Deschutes County, 79 Or LUBA 561 (2019)*, LUBA held that challenges to the first subdivision tentative plan based on issues settled by the CMP and FMP are impermissible collateral attacks on the Thornburgh CMP and FMP. LUBA found that challenges to Resort plans for OLU’s (*dicta*) and the wildlife mitigation plans are not permissible. Additionally, LUBA found that the removal of dams on Deep Canyon Creek and the provision of mitigation water is required by the FMP and is not relevant to the review of the tentative plan as long as the tentative plan does not alter the mitigation plan that is a part of the FMP. *Gould, 79 Or LUBA at 583; See Exhibit A, LUBA TP Opinion, page 37-38.* During the proceedings for the golf course site plan, the Board of Commissioners (“Board” and “BOCC”) agreed with LUBA’s application of the no collateral attack rule.

The same is the case here. This tentative plan does not propose to modify the CMP or FMP. Rather, it proposes development authorized by the CMP/FMP. The applicant is not proposing any change to the mitigation plan, so it is not relevant in this tentative plan review. *See Exhibit 6, LUBA TP Opinion, page 37-38.* LUBA also determined, and the Board agreed (*See Exhibit 4: BOCC TP Decision*), that compliance with the terrestrial wildlife plan will be determined by annual reporting as set out in Condition 38 – not during review of the tentative plan – where the development application does not alter any mitigation requirement of the FMP mitigation plan. The same reasoning applies to this tentative plan. *See, page 37 of LUBA opinion.*

In the Golf Course proceeding the Applicant identified arguments that were impermissible collateral attacks and the specific issues barred by the rule. The Board in that proceeding adopted those findings to support approval of the golf course site plan application. *See Exhibit 1: BOCC Golf SP Dec. Exhibit A.* It found that DCC 18.113.040(C) requires the applicant to address only those parts of DCC 18.113 that are relevant criteria for the review of development applications. This part of the code does not authorize re-litigation of the relevant approval criteria for approval of the CMP and FMP unless the applicant’s plan proposes a revision of the CMP/FMP.

The BOCC’s Exhibit A is divided into 17 separate categories of issues resolved by the CMP/FMP, a summary of which is discussed below:

1. Availability of Water – CMP 18.113.070(K). DCC 18.113.070(K) is a CMP approval criterion, not a site plan criterion. The CMP determined that groundwater and

- mitigation water is available for all resort uses and that there would be no impact to neighboring wells. No relevant site plan/tentative plan criterion requires the applicant to revisit these settled issues.
2. Availability of Mitigation Water – CMP DCC 18.113.070(K). Same as 1.
 3. Condition 10 of the CMP & FMP. This informational condition has very limited requirements as noted by the BOCC. Attempts to expand the limited requirements of this condition to include elements not required by the CMP/FMP are collateral attacks on the CMP.
 4. Availability/Adequacy of Big Falls Ranch Mitigation Water – FMP/FWMP 18.113.070(D). This was resolved by the FMP's approval of the Fish and Wildlife Mitigation Plan ("FWMP") and compliance is dictated with its internal annual reporting requirements.
 5. Liens on Applicant's water assets impairs its ability to use them. Same as #1.
 6. Removal of Deep Canyon Creek Dams – FMP 18.113.070(D). This is a CMP criterion deferred by the BOCC until review of the FMP. This was resolved with the FMP's approval of the FWMP. The applicant isn't proposing any change to the FWMP so this issue is not a relevant issue in the County's review of this application.
 7. Mitigation of Impacts to Wildlife – FMP 18.113.070(D). This was resolved by approval of the terrestrial wildlife mitigation plan ("WMP") by the FMP. Unless there is a change to the WMP, or related plans the Applicant is not required to fill in any details at this time. Compliance is governed by the annual reporting.
 8. Economics, including Affordable Housing – CMP 18.113.070(C)(1-4) & 18.113.050(B)(19). This was resolved in the CMP.
 9. Drainage – CMP 18.113.070(J). DCC 18.113.070(J) is a CMP criterion. Applicant is addressing the related tentative plan criterion below.
 10. Waste-Water Disposal – CMP 18.113.070(L). DCC 18.113.070(L) is a CMP criterion that was resolved in the CMP with the imposition of Condition 15 requiring a Water Pollution Control Facility (WPCF) Permit, which applicant has complied with by obtaining such permit. This tentative plan will comply with the WPCF permit.
 11. Traffic and Access – CMP 18.113.050(B)(2) & 18.113.070(G). These issues were resolved in the CMP, including the imposition of related CMP/FMP Conditions 4, 17 and 29. The Applicant is complying with those conditions.
 12. Fire and Safety Issues – CMP 18.113.070(I). This is a CMP criterion resolved in the CMP, including the imposition of Conditions 4, 17, 19, and 24. According to RRFD, the serving fire district, until combustible materials are delivered for structures there are

- no fire, water or access issues to address. When they are, the applicant will comply with those requirements. Those requirements, however, are not land use approval criteria.
13. Protection, preservation, enhancement and maintenance of Natural Features and Resources – CMP 18.113.050(B)(1,4,5), & 18.113.070(E). The CMP provides a plan that dictates how natural features and resources are to be protected. This plan is now a part of the controlling FMP. Compliance with CMP/FMP Condition 34 and the CMP/FMP’s rock outcrop preservation plan achieve compliance with site plan criterion DCC 18.124.060(B). No rock outcroppings are affected in this application as is shown in the Tentative Plan, TP 2.2.
 14. Lighting/Compliance with DCC Section 15.10. This was resolved in the CMP and FMP by the imposition of Condition #31. This plan is not proposing lighting so this criterion is irrelevant.
 15. Bend Population Exceeds 100,000. This was resolved when Thornburgh applied for CMP approval in 2005, a point in time that the population within the Bend UGB was far less than 100,000. Furthermore, the County’s destination resort map is the sole basis for determining whether land is eligible for resort siting. ORS 197.455(2). The County’s resort map designates Thornburgh for resort development.
 16. Lot of Record. This issue was resolved in the BOCC’s CMP decision.
 17. Well Indemnification. This was resolved in the CMP with the imposition of Condition 11. The 2008 FMP decision found that the requirements of Condition 11 were satisfied. Additionally, well indemnification is not required to achieve compliance with relevant tentative plan criteria.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice of the TP application on July 1, 2021 to several public agencies. Staff received the following responses.

Deschutes County Building Division, Randy Scheid

NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for file 247-21-000637-TP for 108 single-family residential lots as part of Phase A in the Thornburgh destination resort at 67555 Cline Falls Highway, aka County

Assessors Map 15-12-00, Tax Lot 7800. The proposal is consistent with the approved Conceptual Master Plan (CMP) and Final Master Plan (FMP) and no additional traffic analysis is required.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,757 per p.m. peak hour trip. County staff has determined a local trip generation rate for single-family homes of 0.81 trips per home. Therefore the applicable SDC is \$3,853 ($\$4,757 \times 0.81$) per single-family home. The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30, 2022. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

Deschutes County Road Department, Cody Smith, County Engineer

Prior to construction of road improvements:

- Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. . Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and the approved master plan

Prior to final plat approval by Road Department:

- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a register professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
- The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).
- Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
- Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

Central Oregon Irrigation District (COID), Kelly O'Rourke
COID has no facilities or water rights within the project area.

Redmond Fire and Rescue, Wade Gibson, Deputy Fire Marshal
Deputy Fire Marshal Wade Gibson provided comments with regards to (1) water: fire safety during construction, water supply for dwellings, fire hydrants, and sprinkler systems; (2) access: visible addressing, street names, exterior doors, gates and walkways, fire apparatus access roads, fire lanes, aerial access, dead ends, additional access, key boxes, and residential development.

Prineville Bureau of Land Management, Autumn Loewen, Land Law Examiner
At this time, the Prineville BLM has "no comment" on the tentative plan approval for part of Phase A of the Thornburgh Destination Resort. The tentative plan ("Tentative Plan") including 108 single-family residential dwelling lots.

Oregon Department of State Lands
We have completed our review of the Wetland Land Use Notification that was prepared for Kameron DeLashmutt - Kameron DeLashmutt The WLUN form was submitted to the Department for review/response and given the file number WN2021-0757

The results and conclusions from that review are explained in the attached pdf documents. If the attached documents are illegible or difficult to open, you may contact the Department and request paper copies. Otherwise, please review the attachments carefully and direct any questions or comments to Jurisdiction Coordinator, Jessica Imbrie at (503) 986-5250 or Jessica.Imbrie@dsl.state.or.us. Thank you for your interest in the project.

Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#
WN2021-0757

Responsible Jurisdiction

Staff Contact	Jurisdiction Type	Municipality
Will Groves	County	Deschutes
Local case file #	County	
247-21-000637-TP	Deschutes	

A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information

Additional Comments

Based on this site plan, Phase A-1 appears larger than the area approved under WN2021-0609. The site plan that was provided for WN2021-0609 review (pages 192-215 of application) showed a total of 24 cabin lots (#193-216). This site plan includes many more lots and 3 tentative access roads for Phase A-1.

My response below will address potential impacts for both Phases A-1 and A-2, given that WN2021-0609 did not address the entirety of Phase A-1.

Many intermittent streams are mapped on the subject site. Based on aerial imagery, it appears that most or all streams may be ephemeral, but some of them need a site check. Please be aware that if any streams are intermittent, they are probably jurisdictional. Please contact our department to check streams that flow longer than directly following rainfall/snowmelt.

It appears that Phases A-1 and A-2 propose impacts to these mapped streams. A permit is required for any project that totals 50 cubic yards or greater of impacts (fills, removals, or other ground disturbances) below the ordinary high water line of a jurisdictional stream.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

7/30/2021

Response by:

Jessica Imbrie

Response Phone:

(503) 986-5250

The following agencies did not respond to the notice:

US Fish and Wildlife Service; Oregon Department of Fish and Wildlife; Oregon Department of Agriculture; Oregon Department of Transportation Region 4; Water Master District 11; Tumalo Town District Improvement Company; Redmond City Planning; Redmond School District 2J; Redmond Parks and Recreation; Redmond Area Parks and Recreation District; Deschutes County Assessor;

Deschutes County Environmental Health; Deschutes County Environmental Soils Division; and the Deschutes County Surveyor.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the subject property on July 1, 2021. As of the date of this document, comments received are generally summarized here:

- Concerns about limited water being diverted from the planting of crops to recreation while we face long term drought and increase wildfire risks.
- Golf courses should not be a priority under drought conditions.
- Concerns about the lack of water management and planning for the future of water resources.
- Concerns about wasted water.
- Farmers are limited in their use of water under drought conditions, why does a golf course get so much water for non-essential use?
- Concerns that golf course water usage will increase existing problems with drying wells and worsen existing constraints on irrigation.
- More information is needed to understand the health of our aquifers before we approve another destination resort.

III. FINDINGS & CONCLUSIONS

Title 17 of The Deschutes County Code, Subdivisions

Chapter 17.12, Administration and Enforcement

Section 17.12.080, Statement of Water Rights.

All applicants for a subdivision or partition shall be informed by the Planning Director or his designee of the requirement to include a statement of water rights on the final plat.

FINDING: Staff includes this criterion to inform the applicant of the requirement to include a statement of water rights on the final plat.

Section 17.12.100, Sale of Subdivision Lots Prohibited Before Final Approval.

No person shall sell any lot in any subdivision until final approval of the land division has been granted by the County. Final approval occurs when the plat of the subdivision or partition is recorded with the County Clerk. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved.

FINDING: Staff includes this criterion to inform the applicant of these requirements.

Chapter 17.16, Approval of Subdivision Tentative Plans.

Section 17.16.030 Informational Requirements

FINDING: Section 17.06.030 identifies the specific information that must be shown on the tentative plan categorically identified as “general information required”, “information concerning existing conditions”, “Information concerning proposed subdivision”, and “information for lots located in Surface Mining (SMIA) zones.” The applicant provided the following response to this requirement:

The applicant has submitted a Tentative Plan and this burden of proof that provides the information required by (A)(1)-(5) of DCC 17.16.030. The applicant has also submitted a title report, **Attachment B**. Will serve letters were previously obtained from Central Electric Cooperative, Bend Cable Company, High Desert Disposal, Cascade Natural Gas and Century Link and are attached as **Exhibit 26** of this burden of proof.

The resort is within the boundaries of the Deschutes County Rural Fire Protection District #1. See Exhibit 25: RRFD Annexation Approval. The tentative plan is designed with fire hydrants spaced pursuant to relevant code and statutes and will be served by a water system designed to meet the relevant codes and safety requirements.

DCC 18.113.060(G)(1) states that: “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 18.116 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.” No solar setbacks were applied during the county’s review of the CMP.

No street trees are required or planned. A transportation impact analysis was provided and reviewed concurrently with review of the CMP. Exactions were imposed by the County to offset the impact of full development of all parts of the Thornburgh Destination Resort.

Staff concludes the information requirements of Section 17.16.030 are addressed in the Tentative Plan application materials.

Section 17.16.040, Protective Covenants and Homeowner Association Agreements.

Landowner covenants, conditions, and restrictions and homeowner association agreements are not relevant to approval of subdivisions and partitions under DCC Title 17, unless otherwise determined by the County to carry out certain conditions of approval, such as road maintenance or open space preservation. Any provisions in such agreements not in conformance with the provisions of DCC Title 17 or applicable zoning ordinances are void.

FINDING: The CMP/FMP approval included specific CC&R language by condition of approval. No other landowner covenants, conditions, or restrictions have been proposed or considered as part of this application. Staff finds the CC&Rs are necessary to carry out certain requirements, as detailed

in this decision, related to subdivision and destination resort development. For this reason, Staff includes a condition of approval requiring the owner to record the CC&Rs concurrent with final plat recording.

Section 17.16.050, Master Development Plan.

An overall master development plan shall be submitted for all developments affecting land under the same ownership for which phased development is contemplated. The master plan shall include, but not be limited to, the following elements:

- A. Overall development plan, including phase or unit sequence;***
- B. Show compliance with the comprehensive plan and implementing land use ordinances and policies;***
- C. Schedule of improvements, initiation and completion;***
- D. Overall transportation and traffic pattern plan, including bicycle, pedestrian and public transit transportation facilities and access corridors;***
- E. Program timetable projection;***
- F. Development plans for any common elements or facilities;***
- G. If the proposed subdivision has an unknown impact upon adjacent lands or lands within the general vicinity, the Planning Director or Hearings Body may require a potential development pattern for streets, bikeways and access corridors for adjoining lands to be submitted together with the tentative plan as part of the master development plan for the subject subdivision.***

FINDING: The Tentative Plan discussed and reviewed herein implements Phase A-2 of the Final Master Plan (FMP) Approval granted by the Board of County Commissioners in file no. M-07/MA-08-6. A master plan addressing the criteria list above was provided by the applicant and approved by the County in 2007 and amended in 2008. Staff finds this criteria has been satisfied.

Section 17.16.060, Master Development Plan Approval.

The Planning Director or Hearings Body shall review a master development plan at the same time the tentative plan for the first phase is reviewed. The Planning Director or Hearings Body may approve, modify or disapprove the master plan and shall set forth findings for such decision. The Planning Director or Hearings Body may also attach conditions necessary to bring the plan into compliance with all applicable land use ordinances and policies. Any tentative plan submitted for the plan area shall conform to the master plan unless approved otherwise by the County. Master plan approval shall be granted for a specified time period by the Planning Director or Hearings Body, and shall be included in the conditions of approval.

FINDING: Please see the applicant’s summary provided for “Land Use History” above. Staff finds this criterion has been met in prior land use applications and approvals. The proposed Tentative Plan implements Phase A-2 of a previously approved Master Development Plan. Compliance with the conditions of approval applied to the Master Plan approval are discussed herein.

Section 17.16.070, Development Following Approval.

Once a master plan is approved by the County, the plan shall be binding upon both the County and the developer; provided, however, after five years from the date of approval of the plan, the County may initiate a review of the plan for conformance with applicable County regulations. If necessary, the County may require changes in the plan to bring it into conformance. .

FINDING: The FMP was approved in 2007 and amended in 2008. The County has not initiated a review of the plan for conformance with applicable regulations. The applicant voluntarily pursued land use application 247-21-000553-MC to amend the CMP/FMP to conform to changes in State and County Destination Resort Rules regarding Overnight Lodging Units to State and County Destination Resort Rules. The appeal period for the administrative decision approving file 247-21-000553-MC ends October 12, 2021; the decision is not yet final.

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 CMP/FMP approval is the master plan for the subject property. The applicant proposes to develop the tentative plan in 4 separate sub-phases as shown on page TP 3.5 of the application. The applicant notes the phasing sequence will be in numerical order but that Phase A-2-3 may be developed prior to Phase A-2-2, and some or all of the phases may be developed and platted together. The applicant has stated their intention to file the initial final plat within two years of the date the tentative plan approval is final unless an extension is granted. Subsequent phases will be filed within three years of the recording dates of the final plat for the first phase. As noted under subsection (C), each phase must be filed in accordance with DCC 17.24.020 through 17.24.110. Staff includes a condition of approval to ensure compliance.

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:

FINDING: This decision addresses the requirements of Chapters 17 and 18, as well as compliance

with the FMP. The requirements of the Comprehensive Plan are codified within the Zoning Ordinance. Because no change to the Comprehensive Plan is sought by this application, conformance with Chapters 17 and 18 also indicates conformance with the Comprehensive Plan.

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: Previous Deschutes County approvals of the CMP and FMP for the destination resort demonstrated general compliance with the criteria for orderly development and land use patterns in the area. In response to this criterion, the applicants stated:

Compliance with Title 17 is addressed in proposed findings in this burden of proof. The development facilitated by approval of the subdivision has been determined to meet the requirements of DCC Title 18 by approval of the CMP and FMP. Additionally, the subject property and adjoining property owned by the State of Oregon is mapped by the County's comprehensive plan for development for destination resort development, as well as approved for such development by the CMP/FMP.

The requirements of the comprehensive plan are general and have been codified in the County's development ordinances. No amendment of the plan is proposed. Compliance with the subdivision code and CMP/FMP achieves compliance with the comprehensive plan. In addition, the proposed subdivision complies with the FMP that incorporates all relevant provisions of the CMP. It was approved, in part, because it was consistent with the comprehensive plan. The CMP and FMP approval process assured that future development, including this subdivision, will be orderly and that it will fit the land use pattern of the area. The resort is located in close proximity to the Eagle Crest destination resort and will continue that pattern of development.

As noted above, and in Exhibit C, issues related to access, water, sewer and utilities were fully analyzed and resolved through the CMP and FMP approval process ensuring they would be provided in an orderly fashion to accommodate the uses allowed within the resort. These approvals also ensure pedestrian, vehicular and bicycle access throughout the resort. With similar evidence, the hearing officer, in the approval of the tentative plan for phase A-1 found that this criterion had been met.

In addition, approval of the CMP required the preservation of natural features and resources through compliance with 18.113.050(B)(1), (B)(4), (B)(5), and 18.113.070(E). During the CMP the applicant provided numerous reports and documents relevant to the above criteria, including: The Natural Characteristics and Geology Report from Newton Consultants, The Wildlife and Habitat report from Tetra Tech and the Open Space Management Plan.

During the CMP applicant provided extensive details how it would use a concerted effort and a "light touch" to preserve and maintain the features and feel of the property and take efforts

to preserve and encourage old growth juniper woodlands, and that rock outcrops would be preserved wherever possible. The CMP showed the topography of the site, that the buttes themselves provide the Thornburgh property 700 feet of elevation change, that golf and lakes are located on the lower lands and that the homesites above are largely reached by single loaded roads to protect the views. In the CMP, the BOCC found that while there are resources worth preserving the site didn't have any important natural features, that tree and rock outcrops didn't qualify under the definition. With the addition of Condition 34 to protect disturbed open space areas the BOCC found the criterion to be met and the issues resolved.

In the appeal for the Golf Course and Lakes Site Plan the BOCC found the CMP criterion to be broader than the related requirements of DCC 18.124.060(B) and; that an attack on issues related to the protection and preservation of natural resources and features was an impermissible collateral attack on the CMP. See Exhibit 1: BOCC Golf Decision, Exhibit A. The CMP requirements are far broader than the requirements of this section 17.16.100 so achieve compliance with the CMP.

The criterion has been met for this tentative plan.

Staff concurs. Additionally, while the subject property is zoned for agricultural use, the Destination Resort Combining Zone allows for the establishment of the proposed use. Lastly, the FMP approval will require the preservation of a significant portion of the overall resort as undeveloped open space. For these reasons, Staff finds this criterion will be met.

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

FINDING: The applicant provides the following statement:

The impacts from the entire 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. The CMP included an Economic Report by Peterson Economics (See Exhibit 28, pages 12-15 Excerpts of the Peterson Report) as required by DCC 18.113.050(B)(19) that addressed this issue. The report shows that the resort will provide an overwhelming financial benefit to public facilities and services as a result of the substantial new taxes generated versus the minimal use of any public services and facilities created.

The resort will not use public sewage or water utilities and will not create any demand whatsoever on public utilities that provide those services. The FMP authorized the development of water and sewer facilities to serve the resort. The applicant received approval from the Department of Health and Human Services (DHS) in 2006 to develop a drinking water system to serve the resort which was approved by the FMP and is resolved. Consistent with the CMP and FMP approvals, a site plan that included one reservoir and two wells needed to serve this development was approved.

The CMP required that the applicant obtain a permit for a Water Pollution Control Facility to serve the resort's sewage needs. This was applied for and approved by DEQ in 2007. This plan was accepted and approved by the FMP. Permit #977607 is in good standing. The permit included authorization for a drainfield to be used until the resort would generate sufficient sewage volume to require the treatment plant. The general location planned for the community sewage treatment plant was shown on the FMP map, A-3. The drainfield which was approved as part of the Phase A-1 tentative plan and site plan mentioned above will be located in the same area.

The primary access point to the development will be from Cline Falls Road. Secondary emergency access will be provided by two roads shown on approved FMP map A.7.1. One accesses Cline Falls Highway and the other accesses Eagle Crest Drive to the north. Both roads are shown on the tentative plan. If not developed earlier under the authority of a prior land use approval such as the Phase A-1 or Golf Course site plan, the applicant will improve these roads. Roads will be improved as approved by the Phase A-1 tentative plan and the Golf Course site plan. See, TP Sheets 3.2 and 3.3 Attachment A.

The property is served by the Redmond Fire and Rescue and by the Deschutes County Sheriff's office. Electricity is currently being supplied and will continue to be provided by Central Electric Cooperative. Will serve letters from CEC and the resort's other utilities are included in Exhibit 26. The adequacy of these services and the demands placed on them by the resort was determined to be acceptable by the approval of the CMP/FMP.

In the previous proceedings for the phase A-1 tentative plan numerous parties raised concerns about the overall impacts of a development the size of the Thornburgh Resort on natural resources. Those issues were resolved by the CMP/FMP and further attacks are impermissible collateral attacks on those prior approvals. See Exhibit 1: BOCC SP Dec., Exhibit A. Further it is not relevant to the review of this tentative plan. These criteria are met.

A comment letter was provided by Redmond Fire and Rescue with regards to fire safety during construction, fire hydrant access, property accessibility, and visible addressing; no concerns were expressed regarding their ability to serve the proposed development so long as their requirements were addressed. No comments expressing concern were received from the Sheriff's Office. The applicant has indicated in application materials they received will-serve letters from Central Electric Cooperative. As noted by the applicant, the FMP authorized the development of water and sewer facilities to serve the resort. As such, the resort will not use public sewage or water utilities and will not result in new demand on existing public utilities that provide those services. For these reasons, Staff finds this criterion will be met.

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.

ORS 92.090(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.

FINDING: A condition of approval is included to ensure compliance with this criterion.

ORS 92.090(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.**
- (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.**
- (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.**

FINDING: The roads in this subdivision have been laid out to conform to the roads approved in the adjoining property, Phase A-1, and the golf course site plan. The roads within this Tentative Plan are private roads and are clearly indicated on the tentative plan. All reservations or restrictions associated with these private roads are detailed in the associated CC&Rs. The plan complies with ordinances and regulations adopted under ORS 92.044 for Deschutes County; criterion (2) is met.

ORS 92.090(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 roadways are private roads. Therefore, section (a) does not apply. The private streets and roads within the proposed subdivision have been approved by the subject land use approval, complying with section (b). Compliance with the zoning ordinance is addressed herein, demonstrating compliance with section (c). Section (d) is addressed with a condition of approval to be satisfied and approved upon final plat, as was done under the approval of the Phase A-1 tentative plan. No public sewage or water systems are proposed, therefore sections (e) and (f) do not apply.

ORS 92.090(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;***
- (b) ***A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county;***
or
- (c) ***In lieu of paragraphs (a) and (b) of this subsection, a statement that no domestic water supply facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, even though a domestic water supply source may exist. A copy of any such statement, signed by the subdivider and indorsed by the city or county, shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in any public report made for the subdivision under ORS 92.385 (Examination). If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the***

commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

FINDING: The applicant provides the following response to this criteria:

The tentative plan shows the layout of the water system that will serve each lot within the tentative plan. As noted in the FMP approval, the applicant has received all approvals needed to provide water to the Thornburgh Resort. The applicant will provide a certification from the owner of the PUC-regulated, privately-owned domestic water supply system that water will be available to the lot line of every lot depicted in the proposed subdivision plat when it files the final plat. Compliance with this requirement can be assured by the imposition of a condition of approval as was done in the Phase A-1 tentative plan.

Because the developer proposes to provide domestic water via a private water system, Staff finds section (c) is not available to the owner. With a condition of approval to ensure compliance with either section (a) or (b), and the requirements of the FMP, Staff finds this criterion to be satisfied.

ORS 92.090(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;***
- (b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary; or***
- (c) In lieu of paragraphs (a) and (b) of this subsection, a statement that no sewage disposal facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755 (Fees for certain reports on sewage disposal) (1)(b). A copy of any such statement, signed by the subdivider and indorsed by the city or county shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in the public report made for the subdivision under ORS 92.385 (Examination). If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement***

to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

FINDING: The applicant provides the following response:

“The applicant received approval for the Water Pollution Control Facility (WPCF) to construct and operate a sewage treatment facility serving the Thornburgh Resort. No change is being proposed to the WPCF or the CMP/FMP. The tentative plan shows the layout of the sewer system that will serve each lot within the tentative plan. The applicant will provide a certification required by (5)(a) when it files the final plat. Compliance with this requirement can be assured by the imposition of a condition of approval as was done in the approval of the phase A-1 tentative plan.”

Staff concurs; a condition of approval is included to this effect. Staff finds section (c) is not available because the applicant proposes a private wastewater treatment system.

(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.

D. For subdivision or portions thereof proposed within a Surface Mining Impact Area (SMIA) zone under DCC Title 18, the subdivision creates lots on which noise or dust sensitive uses can be sited consistent with the requirements of DCC 18.56, as amended, as demonstrated by the site plan and accompanying information required under DCC 17.16.030.

FINDING: This criterion does not apply.

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

FINDING: This requirement has already been added as a condition of approval under subsection (C) above.

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 under one of the following conditions:

- A. Public roads with maintenance responsibility accepted by a unit of local or state government or assigned to landowners or homeowners association by covenant or agreement; or**
- B. Private roads, as permitted by DCC Title 18, with maintenance responsibility assigned to landowners or homeowners associations by covenant or agreement pursuant to ORS 105; or**
- C. 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 that maintenance responsibility for the roads has been assigned as required by this section.**

FINDING: This criterion is met as the subdivision has direct access to Cline Falls Road, an improved rural arterial road, in two locations. A third northern access road will connect to Eagle Crest Boulevard, which is a private road that then connects to Highway 126 to the north. Private roads are allowed and permitted in destination resorts and this configuration complies with the FMP. All private roads will be maintained by the homeowners association, as detailed in the CC&Rs. This criterion will be met.

Section 17.16.115. Traffic Impact Studies.

- A. The traffic studies will comply with DCC 18.116.310.**

18.116.310 Traffic Impact Studies

- A. For purposes of DCC 18.116.310, the transportation system includes public and private roads, intersections, sidewalks, bike facilities, trails, and transit systems.**
- B. The applicant shall meet with County staff in a pre-application conference to discuss study requirements, then generate the traffic study and submit it concurrently with the land use application.**
- C. Guidelines for Traffic Impact Studies**
 - 1. All traffic impact studies shall be stamped and signed by the registered professional engineer who is licensed in the State of Oregon and is otherwise qualified to prepare traffic studies. Chapter 18.116 (4/2021)**
 - 2. The County Engineer shall determine when the report has satisfied all the requirements of the development's impact analysis. Incomplete reports shall be returned for completion.**
 - 3. The following vehicle trip generation thresholds shall determine the level and scope of transportation analysis required for a new or expanded development.**

- a. **No Report is required if there are fewer than 50 trips per day generated during a weekday.**
- b. **Site Traffic Report (STR): If the development or change in use will cause the site to generate 50-200 daily trip ends, and less than 20 peak hour trips, a Site Traffic Report may be required at the discretion of the County Engineer.**
- c. **Traffic Impact Analysis (TIA): If the development or change in use will generate more than 200 trip ends and 20 or more peak hour trips, then a Traffic Impact Analysis (TIA) shall be required.**

FINDING: The applicant has provided the following statement:

A traffic impact analysis (TIA) covering the entire Resort was submitted and approved by Deschutes County as part of the CMP/FMP approval process. This is a tentative plan application for an approved development; not a “new or expanded” development. As a result, a second traffic impact analysis is not required.

Based on the approved traffic impact analysis and the conditions of approval contained in the CMP/FMP decisions, the Applicant is bound to mitigate for the transportation impacts of the full development of the Resort and has entered into an agreement with ODOT to provide the required mitigation. As discussed above, condition 29 requires the Applicant to comply with the MOU with ODOT. No additional traffic study and no additional exactions are warranted unless and until the resort’s traffic counts exceed the amount accounted for by the TIA filed with the CMP. This position is consistent with the way the county has applied this requirement to other resorts.

The Applicant hired Clemow and Associates to analyze the trip count generated by the phase A-1 tentative plan and to prepare a debiting letter to ensure the resort’s trips are no greater than anticipated by the TSP for the CMP. The original TIA established a trip cap of 517 PM peak hour trips. The debiting letter prepared by Clemow Associates shows for the Phase A-1 tentative plan will only generate 54 PM peak hour trips, whereas the Golf Course and Lake site plan once under use will generate an additional 9 peak hour trips for a total of 63 peak hour trips, 454 less than allowed by the TIA. Clemow Associates also analyzed the trip counts generated by this phase A-2 tentative plan, and found it only generates 36 PM peak hour trips, leaving an additional 409 pm peak hour trips allowed under the TIA. See Exhibit 19: Clemow A-2 Trip Debit Letter.

In both the Phase A-1 tentative plan and the Golf Course and Lakes site plan several parties argued the original TIA was too old, that conditions have changed making the debit letter insufficient, or that the criterion requires a new TIA. In proceedings on the appeal of the Golf Course site plan the BOCC found the issues pertaining to traffic and the adequacy of the TIA were resolved in the CMP and that any further attack was an impermissible collateral attack on the CMP that was barred. See Exhibit 1: BOCC TP Dec. Exhibit A. Any similar attack is barred here as well.

As to the merits, both ODOT and the County Road department disagreed with opponents, believing that the debit letter was sufficient and is the method that has been used in other resorts in Deschutes County. In his September 25th letter, Chris Clemow, PE analyzed the current traffic counts versus those from 2005 and the anticipated counts in the TIA for 2015, the TIA's study period. He found that the recession resulted in decreased traffic growth, and that as recently as 2018 the intersection background traffic volumes remain below the TIA estimates for 2015. In Mr. Clemow's opinion, volumes will remain less for the five years following 2019. See Exhibit 20: Clemow 9/25/18 letter.

The Phase A-1 hearing officer found that nothing in DCC 17.16.115 or 18.116.310 imposes an age limit on TIAs and that the passage of time alone isn't enough to warrant a new TIA, stating:

"I think the better conclusion is that the debit letter approach is consistent with the code provisions and FMP approval and that a new TIA is not required. A subdivision application that is within the scope of the FMP approval and TIA does not trigger a new analysis. I find that for this application there are no significant unanticipated changes in circumstances that would warrant concluding that reliance on the 2005 TIA approved in the CMP/FMP is inconsistent with DCC 17.16.115." Exhibit 4: 2018 TP Decision, Page 54.

Like Phase A-1 this tentative plan proposes no significant change that would dictate that reliance on the TIA is inconsistent with DCC 17.16.115. This criterion is met.

Deschutes County Senior Transportation Planner examined the applicant's Site Traffic Report, and its methodologies, conclusions, and recommendations. He found the proposal to be consistent with the approved CMP and FMP, and concluded that no additional traffic analysis is required. Given this information, Staff finds the application complies with the applicable provisions of 18.116.310. This criterion is met.

Chapter 17.24, Final Plat.

Section 17.24.030, Submission for Phased Development.

- A. *If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within two years of the approval date for the tentative plan.***
- B. *The final plats for any subsequent phase shall be filed within three years of the recording date of the final plat for the first phase.***
- C. *The applicant may request an extension for any final plat under DCC 17.24 in the manner provided for in DCC 17.24.020(B).***
- D. *If the applicant fails to file a final plat, the tentative plan for those phases shall become null and void.***

FINDING: The applicant has stated that it understands it must file the final plat within two years of the date the tentative plan approval is final unless an extension is granted. Subsequent phases will be filed within three years of the recording dates of the final plat for the first phase.

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 on[e] 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:***
...

FINDING: The applicant is not requesting an Improvement Agreement at this time. Any such request will need to comply with the applicable criteria for improvement agreements.

Chapter 17.36, Design Standards.

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.***
- 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: The applicant has provided the following response:

The roads described in this tentative plan are private roads within a destination resort. The tentative plan meets or exceeds the standards of DCC 17.36 and those outlined in Table A for private roads. The tentative plan also meets the standards for emergency access as outlined in condition 4 of the FMP, set out above. The tentative plan shows trails that provide for the movement of pedestrians and bicycle traffic as well. All the streets within the destination resort are private. There are no adjoining subdivisions.

Staff concurs and adds the subdivision will be located in a destination resort, exempting the private roads from public dedication.

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.

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: All the streets within this tentative plan are private. The only connections are to roads that may be constructed within the resort, that are also private and have been sized to meet the criterion and to be of adequate size. The Road Department did not identify any existing streets which require additional dedication of right-of-way. This criterion has been addressed.

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: This tentative plan has a single street that is the continuation of an existing street which was planned to connect. This criterion will be met.

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 applicant provides the following finding:

The tentative plan shows the proposed locations and widths of the private roads which in all cases, meet or exceed the standards required for private roads in 17.48 and in Table A. All the roads in this tentative plan are private roads which do not require a right of way so that portion of this criterion is not applicable.

The street right-of-way and surfacing widths comply with the standards of DCC 18.48, as reviewed below. All road designs will be reviewed and approved by the County Road Department prior to approval of the final plat. Staff includes a condition of approval to ensure compliance. This criterion will be met.

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: Most of the proposed lots contain less than one acre but there are a few that exceed one acre. The applicant acknowledges this and notes lots exceeding one acre are single lots for a single residence and are not allowed to be further divided; Staff agrees and finds it unnecessary to modify the arrangement of lots and/or streets to permit a future re-subdivision.

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: The applicant states:

This issue was addressed and resolved by the CMP/FMP. No roads within the area to be platted were extended to the boundary of the subdivision to facilitate future division of adjoining land. Additionally, the roads in the subdivision are private roads so would not provide public access for future subdivisions or partitions.

Staff disagrees that the CMP/FMP absolves the applicant of compliance with Title 17 standards. However, staff finds that no extension of streets is necessary to give access to or permit a satisfactory future division of adjoining land.

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: Residential lots proposed by this plan are accessed by private roads and not a collector or arterial street. As well, no collector or arterial streets are proposed. Staff finds this rule does not apply.

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. Access to Highway 126 will be for emergency use only. This criterion is not applicable to the proposed subdivision.

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: This criterion will be met by condition of approval.

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. Sidewalks are not required for this subdivision pursuant to subsection (C) above.

Section 17.36.140. Bicycle, Pedestrian and Transit Requirements.

Pedestrian and Bicycle Circulation within Subdivision.

A. 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:

- 1. Minimize such interference from automobile traffic that would discourage pedestrian or cycle travel for short trips;**
- 2. Provide a direct route of travel between destinations within the subdivision and existing or planned neighborhood activity centers, and**
- 3. Otherwise meet the needs of cyclists and pedestrians, considering the destination and length of trip.**

B. Subdivision Layout.

- 1. 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 applicant has provided the following statement of compliance:

While the CMP/FMP approved the use of cul-de-sacs in the destination resort due to topography. This tentative plan has a single dead-end street in a location approved by the CMP/FMP. The tentative plan provides bicycle and pedestrian connections from the end of the street into other areas and activity centers.

Staff agrees and notes application materials illustrate a bicycle and pedestrian trail system connecting the proposed lots to the rest of the resort, including the proposed commercial hubs identified in Phase A-1 on application pages TP 3.2 and 3.3. Staff also notes conditions of the FMP require the development to comply with the requirements of Redmond Fire and Rescue. In their July 9, 2021 comment letter, Deputy Fire Marshal Wade Gibson specifically identifies compliance requirements for dead end streets to ensure adequate access for fire apparatus. Staff notes there are four temporary dead end streets labeled as "stubs for future roads". With a condition of approval to ensure coordination and compliance with Redmond Fire & Rescue access needs for the dead end and temporary stubs for future roads, Staff finds this criterion has been addressed.

- 2. ***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: The applicant states:

The general location of bicycle and pedestrian connections between streets is set by the FMP. Adding connections would not reduce the cycling and walking distance to an existing or planned neighborhood activity center by over 400 feet or 50 percent or more. For this reason, no connections are required. Even though this is the case, the tentative plan shows connections in the residential roads for trail access to connect to the parallel roads above and/or below.

Staff agrees; this criterion has been addressed.

- 3. ***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.***
- 4. ***Connections shall not be more than 400 feet long and shall be as straight as possible.***

FINDING: This criterion doesn't apply because there are no local roads located across Cline Falls Road from the entrance to the resort. Connections to existing and proposed streets and undeveloped properties were addressed by the CMP and FMP. Approved wildlife plans discourage access between the properties to protect the natural environment in the resort's open space area.

C. Facilities and Improvements.

- 1. ***Bikeways may be provided by either a separate paved path or an on-street bike lane, consistent with the requirements of DCC Title 17.***
- 2. ***Pedestrian access may be provided by sidewalks or a separate paved path, consistent with the requirements of DCC Title 17.***
- 3. ***Connections shall have a 20 foot right of way, with at least a 10 foot usable surface.***

FINDING: All of the proposed roads within the subdivision are private local roads with very low anticipated traffic volumes due to the project location and scope of development. The applicant states:

...Separate bikeways are not needed, nor required for local private roads as long as they are at least 28' wide. Even though the private roads in the tentative plan meet or exceed that standard such that additional bikeways are not needed the tentative plan shows additional trails for cycling and pedestrian travel.

Sidewalks and separated paved paths are allowed but are not required. This code section does not apply because the applicant is not proposing sidewalk or separated paved paths along roadways.

Roads are proposed to be 28 feet wide; Staff agrees and notes application pages TP 3.2 and 3.3 illustrate the separate path proposed for pedestrian and bicycle access. Staff finds this criterion has been met.

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 subject property is not located within an urban growth boundary so subsection (B) of this criterion doesn't apply. The tentative plan shows roads traversing the hillside with block lengths and shapes that will fit the severe topography while allowing for adequate residential building sites within each lot. The tentative plan also provides connections between the roads to allow for travel routes for pedestrians and cyclists through the subdivision to comply with this criterion. See Tentative Plan ("TP") sheets 3.2 and 3.3.

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: Criterion (B) does not apply because the subdivision is not traversed by a watercourse. Regarding Criterion (A), Staff agrees with and confirms the applicant's statement:

All utilities will be trenched and buried within the roadway and in the easements, as shown on the Tentative Plan. Compliance with this criterion can be assured with the addition of a condition of approval of the final plat.

Section 17.36.170. Lots, Size and Shape.

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 DCC Title 18 through 21, with the following exceptions:

FINDING: The CMP/FMP decisions require that all lots meet the dimensional and setback standards of the CMP/FMP. As shown on the tentative plan, proposed lots appear to meet the dimensional standards of the FMP and therefore comply with this criterion.

- A. In areas not to be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and the County Sanitarian, and shall be sufficient to permit adequate sewage disposal. Any problems posed by soil structure and water table and related to sewage disposal by septic tank shall be addressed and resolved in the applicant's initial plan.***

FINDING: Each lot will be served by a private sewer system, so this criterion is not applicable.

- B. Where property is zoned and planned for business or industrial use, other widths and areas may be permitted by the Hearings Body. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off street service and parking facilities required by the type of use and development contemplated.***

FINDING: Subsection (B) above does not apply to this proposal.

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 lots meet the dimensional standards of the CMP/FMP. Those standards will be met as addressed throughout this report.

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

FINDING: Although the subject property has severe topographical challenges, the applicant has attempted to the maximum extent possible to design the tentative plan such that the side lot lines are at right angles or radial to curved streets, and has done so wherever practical. This criterion is met.

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: No proposed lots contain double frontage; this criterion does not apply.

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.

Section 17.36.210. Solar Access Performance.

- A. As much solar access as feasible shall be provided each lot or parcel in every new subdivision or partition, considering topography, development pattern and existing vegetation. The lot lines of lots or parcels, as far as feasible, shall be oriented to provide solar access at ground level at the southern building line two hours before and after the solar zenith from September 22nd to March 21st. If it is not feasible to provide solar access to the southern building line, then solar access, if feasible, shall be provided at 10 feet above ground level at the southern building line two hours before and after the solar zenith from September 22nd to March 21st, and three hours before and after the solar zenith from March 22nd to September 21st.**
- B. This solar access shall be protected by solar height restrictions on burdened properties for the benefit of lots or parcels receiving the solar access.**
- C. If the solar access for any lot or parcel, either at the southern building line or at 10 feet above the southern building line, required by this performance standard is not feasible, supporting information must be filed with the application.**

FINDING: These criteria do not apply. Pursuant to the approved setbacks for residential buildings in the CMP/FMP, no solar setbacks other than those reflected in the lot setbacks set by the CMP are required for residential buildings.

Section 17.36.220. Underground Facilities.

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

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

Section 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: To ensure compliance, Staff includes a condition of approval.

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 criterion does not apply.

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 applicant states:

The approved CMP/FMP provides three points of access to the resort. At the appropriate times, as required by the FMP and Redmond Fire Department, the applicant will construct the emergency access roads. This criterion will be met.

The Redmond Fire & Rescue Department replied to the Notice of Application with specific guidelines regarding fire safety and access. With a condition of approval to address the requirements of Redmond Fire & Rescue needed for emergency vehicle access and resident evacuation, Staff finds the application to comply with this requirement.

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: No street trees have been proposed by the applicant.

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: The applicant provides the following:

As documented and approved in the CMP/FMP, and discussed herein, the resort will be served by private sewer and water services that provide service to each lot. This tentative plan shows mains in the streets in front of each lot that will provide those services to each lot. The applicant will submit construction drawings showing the installation of water and sewer lines and the services to each lot meeting County standards. Compliance with this criterion can be assured with the addition of a condition of approval of the final plat that services will be installed to County standards prior to the paving of new residential streets serving those lots with water and sewer.

Staff finds this criterion will be met and includes a condition of approval to ensure compliance.

Section 17.36.290. Individual Wells.

In any subdivision or partition where individual wells are proposed, the applicant shall provide documentation of the depth and quantity of potable water available from a minimum of two wells within one mile of the proposed land division. Notwithstanding DCC

17.36.300, individual wells for subdivisions are allowed when parcels are larger than 10 acres.

FINDING: The TP does not include any individual wells. This criterion does not apply.

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: The applicant provided the following:

As discussed herein the applicant has applied for and received approval for a drinking water system from the Department of Health and Human Services, which was presented and approved as part of the FMP approval. In compliance with this criterion the applicant will construct the water system and extend water lines to each lot line so that the system is operational prior to final plat approval.

Staff finds this criterion has been met and adds a condition of approval to ensure compliance.

Chapter 17.44, Park Development.

Section 17.44.010. Dedication of Land.

- A. *For subdivisions or partitions inside an urban growth boundary, the developer shall set aside and dedicate to the public for park and recreation purposes not less than eight percent of the gross area of such development, if the land is suitable and adaptable for such purposes and is generally located in an area planned for parks.***
- B. *For subdivisions or partitions outside of an urban growth boundary, the developer shall set aside a minimum area of the development equal to \$350 per dwelling unit within the development, if the land is suitable and adaptable for such purposes and is generally located in an area planned for parks.***
- C. *For either DCC 17.44.010 (A) or (B), the developer shall either dedicate the land set aside to the public or develop and provide maintenance for the land set aside as a private park open to the public.***
- D. *The Planning Director or Hearings Body shall determine whether or not such land is suitable for park purposes.***
- E. *If the developer dedicates the land set aside in accordance with DCC 17.44.010 (A) or (B), any approval by the Planning Director or Hearings Body shall be subject to***

the condition that the County or appropriate park district accept the deed dedicating such land.

- F. DCC 17.44.010 shall not apply to the subdivision or partition of lands located within the boundaries of a parks district with a permanent tax rate.***

FINDING: The subject property is located within the boundaries of the Redmond Area Park and Recreation District, which has a permanent tax rate. Pursuant to section (F), these criteria do not apply.

The applicant states:

Dedication or payment of the park fee is due at the time of final plat review. The land being platted is not generally located in an area planned for public parks. Instead, it is located in an area planned for the development of destinations that, instead, provide 50% private open space areas that function as parks. Additionally, the CMP/FMP does not call for the resort to provide a public park area.

Section 17.44.020. Fee in Lieu of Dedication.

- A. In the event there is no suitable park or recreation area or site in the proposed subdivision or partition, or adjacent thereto, then the developer shall, in lieu of setting aside land, pay into a park acquisition and development fund a sum of money equal to the fair market value of the land that would have been donated under DCC 17.44.010 above. For the purpose of determining the fair market value, the latest value of the land, unplatted and without improvements, as shown on the County Assessor's tax roll shall be used. The sum so contributed shall be deposited with the County Treasurer and be used for acquisition of suitable area for park and recreation purposes or for the development of recreation facilities. Such expenditures shall be made for neighborhood or community facilities at the discretion of the Board and/or applicable park district.***
- B. DCC 17.44.020 shall not apply to subdivision or partition of lands located within the boundaries of a parks district with a permanent tax rate.***

FINDING: The subject property is located within the boundaries of the Redmond Area Park and Recreation District, which has a permanent tax rate. Pursuant to section (B), these criteria do not apply.

Section 17.44.030. Annexation Agreement.

No partition or subdivision of land lying within the Bend Urban Growth Boundary, including the urban reserve areas, but outside the boundaries of the Bend Metro Park and Recreation District, shall be approved unless the landowner has signed an annexation agreement with the Bend Metro Park and Recreation District.

FINDING: The subject property is not located within one of the identified areas. This criterion does not apply.

Chapter 17.48, Design and Construction Specifications.

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: Table A does not require the dedication of right-of-way for private streets. As such, this criterion does not apply.

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: The main entrance road includes a turn lane that was approved as part of the Phase A-1 Tentative plan. No change is being proposed to that approval. This criterion is met.

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.

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: A condition of approval is included to ensure compliance with this criterion.

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: The applicant provided the following statement:

The new roads proposed by the tentative plan are private roads that are at least 28' wide. Bikeways are required for collector and arterial streets only. None of the private roads are arterials or collectors. Criterion A-D, therefore, are not applicable. Mountain bike trails will meet the standard in criterion E.

Staff finds this criterion has been addressed.

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 a road or cross over a road are proposed or required.

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 roadways proposed by the tentative plan are private. The design of the proposed roadways comply with the standards for private roads identified in Table A. The applicant confirms in the application materials that all of the private roadways will be maintained by the Thornburgh Resort Owners Association or a sub-association formed for a particular element of the resort or this tentative plan. Recordation of the CC&Rs, which requires maintenance of subdivision roadways by the homeowners association, will ensure compliance. As noted previously, this decision includes a condition of approval.

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.

FINDING: There are no public rights of way in the tentative plan. This criterion is not applicable.

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: The applicant provides the following:

The issue of access roads was a criterion for approval of the CMP which was met and resolved at that time. The primary access road, which enters the property from Cline Falls Highway was approved in the CMP and was further included and approved in the Phase A-1 Tentative Plan. This application is not proposing any change to that. This road meets or exceeds the standards set forth in Table A. This criterion is met.

Staff disagrees that the CMP/FMP absolves the applicant of compliance with Title 17 standards. However, staff agrees this criterion is met.

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: The applicant states:

The issue of secondary access roads was a criterion for approval of the CMP which was met and resolved at that time with the inclusion of two secondary access roads required by the CMP/FMP across BLM lands to the resort. Secondary access will be developed as required by the CMP/FMP and the Redmond Fire Department. These roads will be built, at the minimum, to the standards required by the CMP/FMP, specifically, at least 20 feet in width with an all-weather surface that is capable of supporting a 60,000 lb. fire vehicle. See condition 4 above. The secondary access roads required by the CMP/FMP for Phase A were included and approved in the Phase A-1 Tentative Plan. If this plat is filed before Phase A-1, the applicant will build the secondary access roads required by Condition 4 of the CMP/FMP prior to filing of the final plat or issuance of the first building permit, whichever occurs first. No change is being proposed. This criterion applies by virtue of being imposed by the CMP/FMP and, therefore, need not be imposed as a condition of approval of the tentative plan.

Staff disagrees that the CMP/FMP absolves the applicant of compliance with Title 17 standards. However, staff agrees this criterion is met.

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

FINDING: One dead end is proposed between lots 243 and 237 at the southwest edge of the subdivision. Four stubs are also proposed for future road development. Staff finds the dead end and all four stubs must be constructed with a paved cul-de-sac or hammerhead design satisfactory to Redmond Fire & Rescue, in compliance with their July 9, 2021 comment letter.

- 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: The plan implements cul-de-sacs approved by the CMP, it does not propose new ones. As such, Staff finds (F) was satisfied by the CMP. In their July 9, 2021 letter, Redmond Fire & Rescue does not object to the cul-de-sacs, but does provide specific requirements for effective access. With a condition of approval, Staff finds the proposed plan to comply with this requirement.

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.

Section 17.48.180, Private Roads.

The following minimum road standards shall apply for private roads:

- A. The minimum paved roadway width shall be 20 feet in planned unit developments and cluster developments with two foot wide gravel shoulders;**
- B. Minimum radius of curvature, 50 feet;**
- C. Maximum grade, 12 percent;**
- D. At least one road name sign will be provided at each intersection for each road;**
- E. A method for continuing road maintenance acceptable to the County;**
- F. Private road systems shall include provisions for bicycle and pedestrian traffic.**
 - 1. In cluster and planned developments limited to ten dwelling units, the bicycle and pedestrian traffic can be accommodated within the 20-foot wide road.**
 - 2. In other developments, shoulder bikeways shall be a minimum of four feet wide, paved and striped, with no on street parking allowed within the bikeway, and when private roads are developed to a width of less than 28 feet, bike paths constructed to County standards shall be required.**

FINDING: Private roads are proposed as part of this application. The applicant provides the following:

This tentative plan shows that:

- A. The minimum paved roadway width will be at least 20' with most roadways being at least 28'.
- B. The minimum radius of curvature is at least 50'.
- C. The maximum grade shown on this tentative plan is 12 percent or less. Note 6 of Table A of DCC Chapter 17.48 allows for an additional 2 percent in unusually steep areas, which would allow grades of up to 14 percent on much of this tentative plan. This and other County road specifications and standards supercede specifications and standards for roads and streets in the uniform fire code. ORS 368.039.
- D. The applicant will install at least one road name sign at each intersection.
- E. As noted above the roadways will be maintained by the Thornburgh Resort Owner's association or a sub-association formed for this purpose.
- F. As noted above, this tentative plan provides bike and pedestrian access in accordance with the CMP/FMP.

While the tentative plan shows the resort’s private road system complies with the above standards, a condition of approval could further ensure compliance upon review of the final plat.

As proposed, the private roads comply with these requirements. A condition of approval is included to ensure compliance. Staff notes the Road Department will review the development plans prior to final plat approval to ensure compliance.

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 tentative plan, sheets 4.1, 4.2 and 5.1 shows the erosion control and preliminary drainage system for the subdivision. The drainage system will be composed of road side swales with rock check dams to control velocities, reduce erosion, and provide retention storage. Drainage ponds are proposed in areas to provide additional storage required by the Central Oregon Stormwater Manual (“COSM”) standards. The applicant states the retention ponds shown are conceptual in size and location at this point, and will be designed with the construction drawings. Culverts are also shown on the tentative plan, which will allow existing drainage paths to continue to flow down the hill, away from the new home sites. The applicant also notes sizing and design of these features will take place with the construction drawings.

The applicant proposes the following condition:

As a condition of approval, the applicant should be required to provide a certification by a licensed professional engineer that the drainage facilities have been designed and constructed in accordance with the current Central Oregon Stormwater Manual (COSM) to receive and/or transport at least the design storm for all surface drainage water including stormwater coming to and/or passing through the development.

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

FINDING: The drainage system is being designed for the maximum development in the specific areas being served by it. Compliance with this criterion can be assured through the imposition of a condition of approval.

B. Curbed Sections.

...

FINDING: A system of flush curbs, road side swales, rock check dams, culverts, and retention ponds will be designed to control runoff. As illustrated on application sheet TP1.2, typical cross sections of proposed flush curbs do not appear to channel or divert storm water. Staff finds the proposal is non-curbed. Storm drains and catch basins are not proposed in the streets at this time.

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

FINDING: A condition of approval is included to ensure compliance with section (C) at the time of the review of the final plat. As discussed previously, Staff includes a condition of approval to ensure compliance with section (D). Drainage plans will be reviewed by the Road Department as part of their review of 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 no public rights of way; this criterion does not apply.

As conditioned, Staff finds the proposal to comply with the drainage requirements of DCC 17.48.190.

Section 17.48.210. Access.

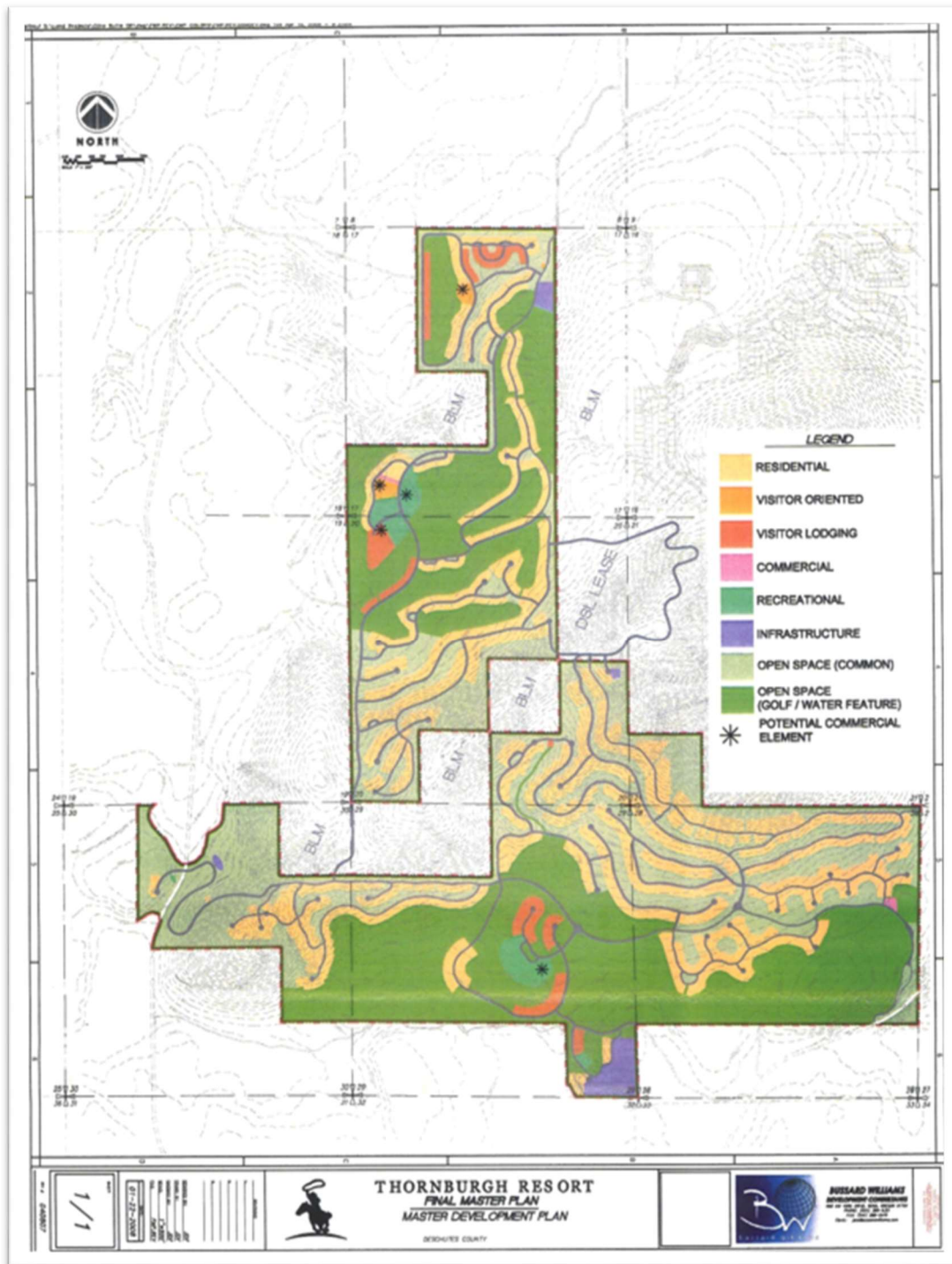
- A. Permit Required. Access onto public right of way or change in type of access shall require a permit. Permits are applied for at offices of the Community Development Department.**
- B. Access Restrictions and Limitations. The creation of access onto arterials and collectors is prohibited unless there is no other possible means of accessing the parcel. In any event, residential access onto arterials and collectors shall not be permitted within 100 feet of an intersection or the maximum distance obtainable on the parcel, whichever is less.**

FINDING: No access to a public right-of-way, or to arterial or collector roads, from a proposed subdivision lot is proposed. Therefore, these criteria do not apply.

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6

FINDING: The applicant has obtained final approval of an FMP from Deschutes County which approved the lots included in this tentative plan. The applicant is required to demonstrate compliance with the relevant conditions of approval imposed by the FMP. Each condition is set out in full and is addressed below.

Figure 3: Approved Final Master Plan



1. Approval is based upon the submitted plan. Any substantial change to the approved plan will require a new application.

FINDING: Staff finds this condition is different than the DCC 18.113.080 criterion, which instead pertains to modifications of the CMP. This criterion is addressed to substantial changes to the proposal on which the FMP approval was based. Unlike DCC 18.113.080, substantial change is not defined for the purposes of this condition of approval. The applicant argues that no substantial change is proposed as follows:

Changes that are not substantial are allowed without modification of the CMP/FMP. Exhibit 3: FMP A3.1-Master Development Plan and Exhibit 21: FMP G-1 Residential Development Plan of the FMP shows residential development, in virtually the same location this Tentative Plan application proposes development. It is not proposing a substantial change to the approved plan.

In prior land use actions and more than 30 appeals, Ms. Gould has repeatedly claimed some issue or change is substantial and requires the Applicant to file a new CMP/FMP or to modify the existing CMP/FMP. Ms. Gould has consistently lost that argument, including in the recent Phase A-1 Tentative Plan review. During the proceedings for the Phase A-1 tentative plan, Ms. Gould argued there were substantial changes to numerous elements, including: i) the location, timing and phasing of improvements, ii) the open space, and, iii) the Incremental Development & Mitigation Plan. In his tentative plan decision Hearing Officer Olsen addressed these issues in detail and rejected Ms. Gould's argument. Ms. Gould appealed this decision on this issue but LUBA affirmed the hearings officer on that point. This is no longer an open issue in that case.

Location and Phasing

Hearings Officer Olsen (Exhibit 4, pg 21-22) noted:

"The Board's CMP decision CU-05-20, readopted in relevant parts on April 9, 2008, and consistent with the prior Hearings Officer decision, recognizes that 'there will be some fluidity between and among development phases, depending on market demand, weather and economic conditions.' (Page 2). *** The Board read DCC 18.113 as not requiring specificity, but only the general location of proposed development uses. (emphasis in original). *** This appears to be consistent with the Hearings Officer decision which states that the resort will be developed in seven phases (A-G) but that 'significant flexibility is required in the scheduling and phasing of improvements' to accommodate changed conditions 'beyond the control of the applicant.' p. 21 It notes that 'some commercial and recreational facilities at the resort may be deferred until the resort population warrants their construction.'"

The Hearings Officer's findings recognize that the documents are largely conceptual and provide flexibility if the elements of each Phase are met in the general locations shown. This

appears to be consistent with Board of Commissioner's reading of the Code in other cases. See generally, Eagle Crest III, (Exhibit 29: BOCC Eagle Crest). It is also consistent with LUBA's determination that neither the statutes nor the CMP requires specificity about the ultimate mix and location of recreational facilities if the statutory financial investment requirements are met. *Gould v Deschutes County*, 59 Or LUBA 435, 462-463.

Open Space

The tentative plan proposes open space in the same general locations shown on Exhibit 30: FMP A.1.1 - Open Space Map. This can be confirmed by a comparison of the exhibit and the tentative plan. location of open space in this Phase A-2 Tentative Plan is consistent with the FMP. The County's code requires that at least 50% of the resort be maintained as permanent open space. Open space includes both developed and undeveloped open space. With the filing of this tentative plan there are 500 acres of open space of the total developed area of approximately 752 acres. This is equal to approximately 66.5%. This is more than the 50% required by code and the 66% open space shown on Exhibit 30: FMP A.1.1.

Wildlife Mitigation Plan

Thornburgh's Mitigation Plan (TMP) is comprised of two plans, the Wildlife Mitigation Plan which includes the monitoring plan (WMP) and, the April 2008 Fish and Wildlife Mitigation Plan (FWMP). The development in the location depicted on the submitted site plan will not cause any change in the terrestrial mitigation plan. The WMP spells out the monitoring and reporting requirements that applicant is required to perform, and the enforcement measures afforded the County, the BLM, and the ODFW. The WMP was found to be sufficient by approval of the FMP after numerous challenges by Gould. The site plan does not propose or require any change to the WMP. Under the WMP, mitigation is not required until such time that impacts are created, the timing of which is discussed under condition #38 below. As the applicant is not proposing any change to the WMP, no action is necessary. Further the issue is settled and barred from further attack as determined by LUBA and the BOCC in earlier proceedings. Condition 38 of the FMP also makes it clear that compliance with the wildlife plan is assured by annual County Staff and wildlife agency reviews of the mitigation plans and measures undertaken by the Resort; not during the review of a site plan or tentative plan.

Fish and Wildlife Mitigation Plan (FWMP)

In its decision regarding Gould's appeal of the Phase A-1 tentative plan, LUBA determined that as long as a development application does not alter the FWMP, conditions of approval assuring compliance with the FWMP are not required. In rejecting Gould's claim that conditions of approval were needed to assure CLCC would do what is required by the FWMP, LUBA held:

"Intervenor responds, and we agree, that removal of the dams [on Deep Canyon Creek] and provision of mitigation water is required by the FMP approval and the

tentative plan does not alter the mitigation plan. *** The hearings officer was not required to impose additional condition to the approval of the tentative plan [to assure compliance with the FWMP].”

Gould v. Deschutes County, 79 Or LUBA 561, 583 (2019). The same holds true for the current site plan – the approval of the site plan will not alter the mitigation promised by the FWMP and the requirements of the FWMP remain self-executing. When mitigation is required for this site plan, the applicant will be using water from Big Falls Ranch to mitigate for water quantity and quality impacts of the golf course and lake development proposed under this application as well as for the development approved under the Phase A-1 tentative plan. The applicant entered into a contract with Big Fall Ranch to purchase an initial 175 acres of irrigation water rights for use as mitigation water. See: Exhibit 5: Big Falls-Pinnacle Memo. This is 315 acre-feet of cold-water mitigation water rights – more water than needed for all Phase A development. Since the Big Falls Ranch water is an allowable source in the FWMP, and the source provides “cold water” mitigation there is no change. As with the tentative plan, the site plan is not proposing any change to the FWMP because it will be complying with the FWMP by using Big Falls Ranch irrigation water rights for mitigation. Nothing further is required.

For the reasons detailed above, this application is not a substantial change from the approved FMP and does not require a new application. This condition is met.

Staff concurs that no substantial change to the approved FMP is proposed.

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 18 of the County Code, the Subdivision Ordinance.***

FINDING: The applicant is seeking tentative plat approval as required by this Condition 2.

3. ***Applicant shall provide a signed grant of right-of-way from the U.S. Department of the Interior Bureau of Land Management for an access easement connection to U.S. Highway 126, prior to submission of a Final Master Plan application.***

FINDING: This requirement has been satisfied. Furthermore, BLM was provided notice of the application and submitted formal comment expressing no concerns or needs.

4. ***Subject to US Department of the Interior-Bureau of Land Management (BLM) approval, any secondary emergency ingress/egress across the BLM-owned land or roadways shall be improved to a minimum width of 20 feet with all-weather resort access surface capable of supporting a 60,000-lb. fire vehicle. Emergency secondary resort access roads shall be improved before any Final Plat approval or issuance of a building permit, whichever comes first.***

FINDING: The applicant argues this condition applies during the county’s review of the final plat or

issuance of a building permit, whichever comes first and asserts this condition is not a relevant approval criterion for the current application. Staff includes a condition of approval requiring emergency secondary resort access roads be improved in compliance with FMP Condition #4 prior to issuance of any final plat or building permit under this approval.

5. The developer will design and construct the road system in accordance with DCC 17. Road improvement plans shall be approved by the Road Department prior to construction.

FINDING: As described in this decision, the developer has proposed a road system in accordance with DCC 17. As a condition of approval, the applicant shall receive Road Department approval of road designs prior to construction.

6. All easements of record or rights-of-ways shall be shown on any final plat. Plans shall be approved by the Road Department prior to construction.

FINDING: This requirement applies during the County’s review of the final plat. It is not a requirement of tentative plan approval. Staff includes a condition of approval to ensure compliance.

7. All new proposed road names must be reviewed and approved by the Property Address Coordinator prior to final plat approval.

FINDING: This requirement applies during the County’s review of the final plat. It is not a requirement of this site plan approval. As noted previously, Staff includes a condition of approval to ensure compliance.

8. Plan review and approval of water supply plans for phase 1 will be required by Oregon Department of Human Services-Drinking Water Program (DHS-DWP) prior to Final Master Plan approval.

9. Applicant shall designate the location of all utility lines and easements that burden the property on the FMP.

FINDING: These requirements have been satisfied.

10. Applicant shall provide, at the time of tentative plat/site plan review for each individual phase of the resort development, updated documentation for the state water rights permit and an accounting of the full amount of mitigation, as required under the water right, for that individual phase.

FINDING: The Applicant responded to this condition as follows:

In the tentative plan decision Hearing Officer Olsen determined that “Condition 10 appears primarily to be an informational requirement requiring documentation of the state water permit and an accounting of mitigation under the water right.” LUBA affirmed that decision. See Exhibit 6: LUBA TP A-1. In a subsequent proceeding, for approval of the Golf Course and

Lakes Site Plan, opponents argued that the Applicant needed to show it had an enforceable contract with Big Falls Ranch and that its water rights permit had not expired. Applicant argued the first was not required because the issue had been settled during review of the CMP and that the water rights permit had not expired.

The Board agreed with Applicant stating:

“The BOCC agrees this was resolved in the CMP with an intent consistent with Hearing Officer Olsen’s interpretation, that it is an “informational requirement”. The language of Condition 10 requires “updated documentation of the state water right permit.” It doesn’t require that the documentation show any particular status, for example, that the permit is free of protest, or the extension is pending, etc... It just requires updated documentation which the Applicant provided. It shows the Applicant has a water rights permit, that the permit has not been cancelled, and that it is in good standing. Condition 10 does not require the Applicant to provide an agreement, or any form of proof of an agreement or contract for mitigation water. It just requires Applicant to provide an accounting of the mitigation water for the uses in this site plan. Opponent attempts to expand the scope beyond that is a collateral attack on the CMP.”

See Exhibit 1: BOCC Golf SP Decision, Exhibit A: Pg. 5.

LUBA upheld the Board's interpretation of Condition 10 in its decision approving the golf course site plan application. LUBA determined the following:

“Condition 10 requires ‘an accounting of the full amount of mitigation, as required under the water right.’ (Emphasis added.) Condition 10 is imposed to ensure compliance with DCC 18.113.070(K), which is concerned with the availability of water for resort use and mitigation for the resort’s consumptive use of water, which is related to but distinct from the fish and wildlife mitigation plan that is required in order to satisfy DCC 18.113.070(D). *** Satisfaction of the no net loss standard [of DCC 18.113.070(D)] is ensured through compliance with Condition 38, not Condition 10. *** Condition 10 is concerned only with satisfaction of DCC 18.113.070(K) regarding the availability of water for resort use and mitigation for the volume of consumptive use, as required by OWRD under the water right.”

Gould v. Deschutes County, __ OR LUBA __ (LUBA No. 2020-095, June 11, 2021) Exhibit 22, p. 12 slip opinion.

LUBA continued to find that Central Land had met the requirements of Condition 10 by documenting the full amount of water needed for the use proposed by the site plan and by providing documentation for the state water right permit. It affirmed the County's determination that “Permit G-17036 remains an effective and valid water right ‘unless and until cancelled by OWRD’ and observed that OWRD’s water rights information query showed the status of the permit as ‘non-cancelled.’” Gould at p. 15 slip opinion, Exhibit 22.

In this case, in compliance with the BOCC’s direction and LUBA’s decision, the applicant is

providing updated documentation similar to what it provided in the golf course site plan case noted above. The documentation shows that Pinnacle Utilities, LLC owns water rights permit # G-17036 (See Exhibit 7: OWRD Pinnacle Transfer). This is a permit for a quasi-municipal use of water granted by Oregon Water Resources Department for this project. See Exhibit 8: Water Rights Permit. Pinnacle also has an approved Incremental Mitigation Plan. See Exhibit 9: OWRD Water Rights IDP.

Opponents routinely argue that the Applicant's water rights permit is void, or expired, or that Applicant cannot pump water under its permit. The applicant's water rights permit is not, however, void. The Applicant filed a timely request to extend the permit and the permit remains in effect unless and until the permit is not extended. Under Oregon law, permit G-17036 remains in place during the review of the extension unless and until cancelled by OWRD. See OAR 690-320-0020 (providing for OWRD to send a certified letter of intent to cancel a permit, with 60 days to respond). OWRD has taken no action against the permit and said it has no intentions to do so. The Applicant has submitted an OWRD query that shows that the Water Rights Permit is not cancelled. See Exhibit 12: OWRD Water Rights Query. This and an accounting of the amount of mitigation water required for this phase of development is all that must be shown to comply with Condition 10.

On May 7, 2021, OWRD issued an Order on Reconsideration Approving the Resort's Water Management and Conservation Plan ("WMCP"). It found, among other things, that Pinnacle's future water needs "are reasonable and consistent with available land use plans and Pinnacle Utilities, LLC has demonstrated a need to divert water under Permit G-17036 during the next 20 years." The approval ordered the following: (a) the WMCP will remain in effect until May 7, 2031; and (b) that by November 7, 2030, Pinnacle shall submit an updated plan; and (c) by May 7, 2026, it shall submit a progress report. See Exhibit 13: Neuman letter w/Order on Reconsideration Approving the WMCP.

To further refute Opponents' "void permit" argument, the Applicant is providing communications from the OWRD Watermaster that state that the water rights permit is in good standing, that Pinnacle has done more than is required of them at this point, and that Applicant has provided mitigation before pumping any water. See Exhibit 11: Jeremy Giffin Emails dated 12/24/19 and 8/24/18. Pinnacle submitted an application to extend its water rights permit. It was approved by OWRD by the issuance of a Proposed Final Order (PFO). See Exhibit 10: OWRD PFO. Gould filed a protest of OWRD's approval and requested a contested hearing. On October 29 2018 OWRD denied Gould's request and issued the Final Order granting the extension. When Gould appealed the Final Order to both the Oregon Court of Appeals and the Circuit Court of Marion County, OWRD withdrew the Final Order, instead sending the case to a contested case hearing, which is pending.

As required by Condition 10, the Applicant is providing an accounting of the amount of mitigation needed for the development of the single-family home sites allowed under this tentative plan. This amount is approximately 29 acre-feet of mitigation. The total mitigation for this tentative plan and all prior approved and pending development applications is 216.1 acre-feet of mitigation as set out on Exhibit 14: Mitigation Debit Table. This is the only

information required regarding mitigation by Condition 10.

Additionally, the applicant has a contract with Big Falls Ranch to purchase 175 acres of irrigation water rights for use as mitigation water. See: Exhibit 5: Big Falls-Pinnacle Memo. This is 315 acre-feet of cold-water mitigation water rights – more water than needed for all Phase A development. These water rights assure compliance with the water quality (temperature) elements of the FWMP.

Staff concurs that this condition has been met with regard to the present application.

- 11. *At the time of submission for Final Master Plan (FMP) approval, Applicant shall include a written plan for entering into cooperative agreements with owners of existing wells within a two-mile radius of Applicant's wells. The plan shall include a description of how Applicant will provide notice to affected well owners and of the terms and conditions of an option for well owners to enter into a written agreement with Applicant under which Applicant will provide indemnification to well owners in the event of actual well interference as a result of Applicants water use. The plan shall remain in effect for a period of five years following full water development by Applicant. Specific terms and conditions of the plan shall be developed in cooperation with County Staff and the Oregon Water Resources Department.***

FINDING: These requirements have been satisfied.

- 12. *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.***

FINDING: The condition is not relevant to the County's review of this Tentative Plan as no such uses are proposed.

- 13. *Applicant shall specify all recreational facilities within the proposed resort as part of final master plan submittal.***

FINDING: This requirement has been satisfied.

- 14. *Applicant and its successors shall do the following to ensure that all open space used to assure the 50% open space requirement of Section 18.113.060 (D)(1) is maintained in perpetuity:***

FINDING: This tentative plan includes a total of 235 +/-acres of which 59+/- acres will be platted as open space and 100+/- acres as a golf course open space tract. This means that approximately 67.7% of the land to be platted by Phase A-2 will be open space. The tentative plan for phase A-1 included 514+/- acres and provided approximately 341 +/-acres of open space. Combined, this

results in a total acreage of approximately 752+/- acres of land, of which 500 are open space, equal to approximately 66.5% open space, complying with the 50% open space required by DCC 18.113.060(D)(1). This requirement is met.

- A. Applicant shall submit for approval, as part of the Final Master Plan, a delineation of the Open Space that is substantially similar to the area shown in the Open Space plan submitted as Ex. 9, B-14 to the "Memorandum of Applicant, in response to public comments dated September 28, 2005, Open Space shall be used and maintained as "open space areas" as that term is used in DCC 18.113.030(E).**

FINDING: This requirement has been satisfied.

- B. The CC&Rs, as modified and submitted to the County on December 20, 2005, shall be further revised such that, Section 3.4 retains the first two sentences, but then the balance of 3.4 is replaced with the following:**

At all times, the Open Space shall be used and maintained as "open space areas." The foregoing sentence is a covenant and equitable servitude, which runs with the land in perpetuity and is for the benefit of all of the Property, each Owner, the Declarant, the Association, and the Golf Club. All of the foregoing entities shall have the right to enforce covenant and equitable servitude. This Section 3.4 may not be amended except if approved by an affirmative vote of all Owners, the Declarant, the Golf Club and the Association.

FINDING: This requirement has been satisfied. As discussed in this decision, the owner will be required to record the CC&Rs.

- C. All deeds conveying all or any part of the subject property shall include the following restriction:**

This property is part of the Thornburgh Resort and is subject to the provisions of the Final Master Plan for Thornburgh Resort and the Declaration of Covenants, Conditions and Restriction of Thornburgh Resort. The final Master Plan and the Declaration contain a delineation of open space area that shall be maintained as open space areas in perpetuity.

FINDING: This requirement applies when the applicant conveys land in the resort. It is not an applicable approval criterion during review of the tentative plan.

- D. All open space areas shall be clearly delineated and labeled on the Final Plat.**

FINDING: This requirement applies during the County's review of each final plat. Staff includes Exhibit A.1.1 from the FMP for reference. Staff finds this condition is met.

Figure 4: Final Master Plan – Open Space Figure A.1.1

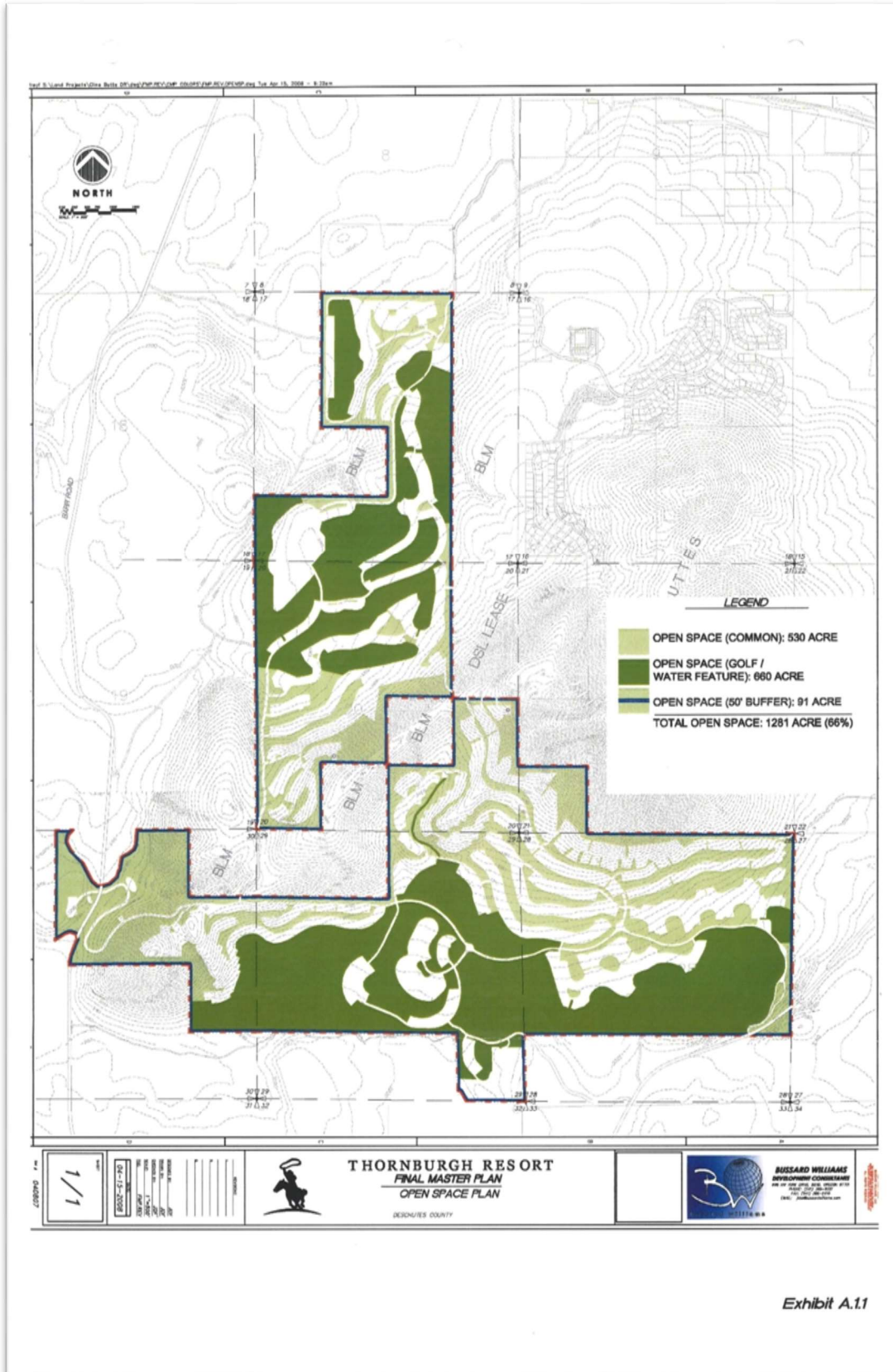


Exhibit A.11

E. Any substantial change to the open space approved under this section will require a new land use permit.

FINDING: As noted above for condition no. 1, Staff finds that this proposal does not include any substantial changes.

15. Applicant shall obtain an approved Water Pollution Control Facility (WPCF) permit (as described in DCC 18.113.070(L)) prior to application for Final Master Plan.

FINDING: This requirement has been satisfied.

16. All temporary structures shall be limited to a maximum of 18 months on the resort site.

FINDING: This is not relevant to the approval of a tentative plan. It applies if and when a temporary structure is approved on the resort property.

17. All development within the proposed resort shall meet all fire protection requirements of the Redmond Fire Department. Fire protection requirements shall include all minimum emergency roadway improvements.

FINDING: The Applicant responded to this condition as follows:

All development will meet fire protection requirements imposed by code or as a condition of approval based on the requirements of the Redmond Fire Department. The entire property has been annexed into the Redmond Rural Fire District, which was a requirement of Condition 15, which as noted above is satisfied. According to the RFD, the minimum emergency roadway improvements are required at such time as combustible materials are being delivered to the site for the construction of structures. See Exhibit 23: Clara Butler, RRFD email.

Staff includes a condition of approval requiring the applicant to secure confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted July 9, 2021 comment letter have been met, prior to issuance of building permits. Staff finds emergency access is also addressed under Condition #4 as it applies to final plat approval and issuance of building permits.

18. No development shall be allowed on slopes of 25% or more on the site.

FINDING: The Applicant is not proposing development on slopes of 25% or more.

19. Applicant shall implement a Wildfire/Natural Hazard Protection Plan for the resort as identified in Ex. 15, B-29 of the CMP burden of proof statement. Prior to approval of each subdivision and site plan, Applicant shall coordinate its evacuation plans through that development phase with the Deschutes County Sheriff's Office and the Redmond Fire Department. At the same time, Applicant shall also coordinate its plans for the movement

of evacuees over major transportation routes with the Oregon State Police and the Oregon Department of Transportation.

FINDING: The Applicant responded to this condition as follows:

A Wildfire/Natural Hazard Protection Plan was adopted as a part of the FMP. It provides recommended actions but does not impose mandatory approval criteria for reviews of tentative plans. As part of the filing of this tentative plan the applicant met with and discussed the tentative plan with the Redmond Fire Department and informed the Deschutes County Sheriff of its filing. The Redmond Fire Department provided an email stating the section of the most westerly road that has a grade of between 10-12% is acceptable to them. See Exhibit 24: Deputy Fire Marshall Gibson, RRFD, 12% Email. Applicant previously coordinated with the Oregon State Police and ODOT to develop its evacuation plans. The requirement to implement the Wildfire & Natural Hazard Protection Plan is a requirement of the FMP but is not a requirement of the tentative plan review, particularly when this application requests no roads on which to evacuate. This condition is met.

Staff finds that this condition has been met.

20. The cumulative density of the development at the end of any phase shall not exceed a maximum density of 0.72 dwelling units per acre (including residential dwelling units and excluding visitor-oriented overnight lodging).

FINDING: Hearing Officer Olsen found that Phase A-1 included 514 acres with 192 single family dwelling units. This tentative plan includes 235 acres, with 108 dwelling units, for a total of 752+/- acres and 300 units, or approximately .40 units/acre. This is far below the allowable density of .72 residential dwelling units per acre. This condition is met.

21. Each phase of the development shall be constructed such that the number of overnight lodging units meets the 150 overnight lodging unit and 2:1 ratio of individually owned units to overnight lodging unit standards set out in DCC 18.113.060 (A)(1) and 18.113.060 (D)(2). 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. As required by ORS 197.445 (4)(b)(B), at least 50 units of overnight lodging must be constructed in the first phase of development, prior to the closure of sale of individual lots or units.

In addition to complying with the specific requirements of DCC 18.113.70(U), 1-5, Applicant, its successors and assigns, shall at all times maintain (1) a registry of the individually owned units subject to deed restriction under DCC 18.113.070 (U)(2), requiring they be available for overnight lodging purposes; (2) an office in a location reasonably convenient to resort visitors as a reservation and check-in facility at the resort; and (3) a separate telephone reservation line and website in the name of "Thornburgh Resort", to be used by members of the public to make reservations. As an alternative to or in addition to (3), Applicant may enter into an agreement with a firm (booking agent) that specializes in the

rental of time-sharing of resort property, providing the Applicant will share the information in the registry required by (1) and cooperate with the booking agent to solicit reservations for available overnight lodging at the resort. If applicant contracts with a booking agent, Applicant and the booking agent shall cooperate to ensure compliance with the requirements of DCC 18.113.070 (U)(5), by filing a report on January 1 of each year with the Deschutes County Planning Division.

FINDING: The Applicant responded to this condition as follows:

The applicant is currently seeking site plan approval for 80 units of overnight lodging in a separate land use application. It will build at least the first 50 OLU's prior to the closure of sales of individual lots or units (single-family lots). It will provide financial assurances that any of the 150 units not built will be constructed, as allowed by Condition 33 of the CMP/FMP as written or, if modified, as modified. The applicant has filed a separate application to modify this condition to apply current code requirements for bonding to its CMP/FMP. This modification responds to arguments by Ms. Gould's former attorney that the duration of bonding must be that set by the current law rather than by the CMP/FMP.

In the phase A-1 application Ms. Gould argued that all the additional submittals were required for the initial phase A. Applicant argued that was not correct, and the hearing officer agreed. The applicant understands, however, that no sales will be permitted until after it has built the required 50 units of overnight lodging. All OLU's will meet the criteria of this condition and Condition 33 of the CMP/FMP. This condition will be met. The applicant has filed an amendment to the CMP/FMP to recognize the fact that DCC 18.113.060(D)(2)(a) now provides that 2.5:1 ratio applies to resorts approved under a different standard. As a result, the ratio that applies to the Thornburgh resort is 2.5:1.

Staff finds that the proposed modification of the CMP/FMP has not been approved as of the writing of this decision and that the condition remains in force as written. The applicant proposes 108 dwelling units in Phase A-2, with 80 OLU's concurrently under review. If OLU application is approved, it would allow up to 200 dwelling units (80 * 2.5 = 200). Staff finds the 2.5:1 ratio will be met if the OLU subdivision is recorded prior to, or concurrent with, the Phase A-2 residential subdivision. Additionally, at the time of each building permit for a single-family residence in this subdivision, the resort must continue to meet the 2.5:1 ratio. For the purposes of this review, Staff finds the OLU's can be used to demonstrate compliance with the 2.5:1 ratio if they are constructed and available for rental. For this reason, Staff includes a condition of approval to ensure compliance. Staff finds the 2:1 ratio remains in effect until such time as the modification to a 2.5:1 ratio receives final approval.

As noted in Condition 21, the first 50 OLU's must be constructed prior to the closure of sales of individual lots or units. Staff includes a condition of approval to ensure compliance.

22. The final covenants, conditions and restrictions adopted by the developer and amendments thereto shall conform in all material respects to this decision and the requirements of the DCC.

FINDING: The Applicant responded to this condition as follows:

This requirement applies to CC&Rs. The applicant has agreed to this requirement of the FMP. It is not a condition of approval of the tentative plan.

Staff concurs.

23. No permission to use or improve Barr Road as access to the Resort is given or implied by this decision.

FINDING: The tentative plan does not propose access to Barr Road.

24. Applicant shall complete annexation of the property in any area of development into Deschutes County Rural Fire Protection District No. 1 before commencing combustible construction in the area.

FINDING: This requirement has been satisfied.

25. Applicant shall submit a detailed erosion control plan with the first Tentative Plat or Site Plan, whichever comes first.

FINDING: The applicant met this condition by submitting a detailed erosion control plan with the first tentative plan application as required. While not required, it also submitted the erosion control plan with the golf course and lakes site plan. Nothing further is needed.

26. Lot size, width (frontage), coverage, off-street parking and setbacks, including solar setbacks, are permitted as described in Applicant’s Exhibit 8, B-24a in the Burden of Proof document [for the CMP] subject to review during the subdivision approval process to confirm that there will be safe vehicle access to each lot. Compliance with the dimensional standards shall be confirmed during subdivision approval for each development phase. All multi-family units, commercial structures, and other resort facilities are exempted from meeting the solar setback standards.

FINDING: The applicant provides the following statement of compliance:

Safe vehicle access will be provided to each lot in this tentative plan. Each of the single-family lots meet the standards as noted in Exhibit B-24a of the CMP (see below).

DCC 18.113.060(G)(1) states: “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 18.116 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.” See Exhibit 15: Lot Standards, (CMP exhibit 8, B-24a), as approved by the Board of Commissioners on remand of the CMP, sets the lot standards and solar setbacks. No solar setbacks were imposed.

Exhibit B-24a – Residential Lot Standards

EXHIBIT B-24a – RESIDENTIAL LOT STANDARDS								
ITEM	Type A	Type B	Type C	Type D	Type E	Type F	Type G	Type H
Lot Area (Minimum)	15,000	12,500	10,000	8,000	6,000	4,500	3,200	3,200
Lot Width Average (Minimum)	100	90	80	70	60	40	30	25
Lot Frontage – Regular	60	55	50	45	40	40	30	25
Lot Frontage – Cul-de-sac	50	40	40	35	35	30	25	25
Lot Coverage – Footprint (Maximum)	65%	65%	65%	70%	70%	75%	80%	80%
Lot Setbacks								
Front	30	30	30	30	25	25	20	20
Back	25	25	25	20	20	15	15	15
Side	15	15	10	10	10	5	5	0
Building Height* (Maximum)	26	26	26	26	26	26	26	26
*depends on location								

Staff finds the standards of CMP Exhibit 8, B-24a, Exhibit 15, Lot Standards, are addressed in findings related to setback requirements of the DR overlay zone. As proposed, the required lot area, width, and frontage requirements will be met. Lot setbacks and building height will be addressed during permit review at the time of development.

27. Road width shall be consistent with the requirements set forth in the County's subdivision ordinance, DCC Chapter 17.36.

FINDING: The proposed road widths appear to comply with the requirements of DCC Chapter 17.36, specifically those standards that pertain to private roads as shown in Table A of the Deschutes County Minimum Road Design Standards. County Road Department approval is required prior to recording of the final plat as well as the construction or improvement of roads as a condition of approval.

28. Applicant shall abide at all times with the MOU with BLM, dated September 28, 2005, regarding mitigation of impacts on surrounding federal lands, to include wildlife mitigation and long-range trail planning and construction of a public trail system. The mitigation plan adopted by Applicant in consultation with Tetra Tech, ODFW and the BLM shall be adopted and implemented throughout the life of the resort.

FINDING: The Memorandum of Understanding (MOU) with the BLM supports the implementation of the BLM's Upper Deschutes Resource Management Plan. The Thornburgh Resort has agreed to several things involving long-range trail planning and construction, which includes establishing a resource mitigation fund of up to \$350,000, as needed by BLM for one-time and long-term mitigation, to help fund the items described in the MOU. In addition, the applicant has previously stated the following regarding long-range trail planning that is addressed in the Wildlife Mitigation Plan for offsite actions (Measure C, Reduction of Off Road Vehicle Use³):

³ Off Road Vehicle Use (ORV or OHV)

This measure has been completed by BLM by completion of the Cline Buttes Recreation Area Plan by segregating the use of various areas into different user groups. As a result, the incidence of trespass ORV travel on the Resort property has diminished significantly. Currently there is very little OHV use on BLM lands adjacent to the resort. The applicant will continue to work with the BLM on trail development in the area to further reduce unwanted use and improve the interactions between the public and private lands. This measure requires nothing further than this ongoing collaboration.

In addition, the MOU required the establishment of a Wildlife Mitigation Plan, which has been completed. The WMP is further discussed below under FMP Conditions 38 and 39. Based on the WMP, there are action items that are no longer pertinent in the MOU in part because they have either been completed and/or the measures within the WMP replace it. However, overall, there are ongoing compliance requirements as noted below.

29. Applicant shall abide at all times with the MOU with ODOT, regarding required improvements and contributions to improvements on ODOT administered roadways.

FINDING: The applicant previously submitted an executed Cooperative Improvement Agreement (CIA) with ODOT (Exhibit 16: ODOT CIA) that implements the intent of the MOU. Hearing Officer Olsen imposed a condition of approval of the tentative plan that applicant is required to comply with the CIA now and through the end of the resort. Nothing further is required for this tentative plan.

30. Applicant shall submit a detailed traffic circulation plan, delineating resort access roads, resort internal circulation roads and resort secondary emergency ingress/egress roads, prior to Final Master Plan approval.

FINDING: This requirement has been satisfied.

31. All exterior lighting must comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the DCC.

FINDING: The Applicant responded to this condition as follows:

While this requirement is not applicable to the review of the tentative plan the Applicant will comply with it at all times.

Staff finds that this condition applies to the proposed development and includes a condition of approval to ensure compliance.

32. No permission to install a helicopter landing zone (helipad) at the Resort is given or implied by this decision.

FINDING: The applicant is not seeking approval of a helicopter landing zone. This requirement is

not applicable to the review of the site plan.

- 33. The Resort shall, in the first phase, provide for the following:**
 - A. At least 150 separate rentable units for visitor-oriented lodging.**
 - B. Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide eating for at least 100 persons.**
 - C. The aggregate cost of developing the overnight lodging facilities and the eating establishments and meeting rooms required in DCC 18.113.060(A)(1) and (2) shall be at least \$2,000,000 (in 1984 dollars);**
 - D. At least \$2,000,000 (in 1984 dollars) shall be spent on developed recreational facilities.**
 - E. The facilities and accommodations required by DCC 18.113.060 must be physically provided or financially assured pursuant to DCC 18.113.110 prior to closure of sales, rental or lease of any residential dwellings or lots.**

FINDING: The Applicant responded to these conditions as follows:

Compliance with #33(A) was discussed under condition #21 above so will not be repeated. The applicant has recently filed a site plan seeking approval of the golf clubhouse with eating facilities for 100 and a community hall that will provide a meeting room for at least 100 persons. The cost of developing and constructing the OLU's along with the eating and meeting facilities required by condition 33C will exceed the required amount of financial investment required by this condition of approval.

The BOCC previously approved a site plan for a golf course that will provide the initial recreation facilities. Parking for the golf course is proposed with the golf clubhouse site plan. The applicant intends to construct the golf course, lakes, and golf parking prior to the closure of sale, rental or lease of any residential dwellings or lots. The cost of these amenities will far exceed \$2,000,000 (in 1984 dollars) which will meet this criterion. In the event the applicant changes its plans and does not build the amenities up front as noted herein it will financially assure their construction as allowed under the DCC.

Staff agrees and finds the proposal to be consistent with Condition 33.

- 34. Where construction disturbs native vegetation in open space areas that are to be retained in substantially natural condition, Applicant shall restore the native vegetation. This requirement shall not apply to land that is improved for recreational uses, such as golf courses, hiking or nature trails or equestrian or bicycle paths.**

FINDING: The Applicant responded to this criterion as follows:

This condition requires the applicant to restore open space areas if they are disturbed by development of a subdivision. The Wildlife Mitigation Plan (WMP) provides details what activities are to take place and when they are to be completed following disturbance. The WMP also provides the compliance and enforcement protocol by requiring annual reporting

of the measures the Applicant has taken to comply with the WMP. This condition will be met.

Staff finds, as proposed, this condition will be met. Staff includes a condition of approval to ensure compliance.

- 35. *The contract with the owners of units that will be used for overnight lodging by the general public shall contain language to the following effect: "[Unit Owner] shall make the unit available to [Thornburgh Resort/booking agent] for overnight rental use by the general public at least 45 weeks per calendar year through a central reservation and check-in service.***

FINDING: This requirement does not apply to the review of the tentative plan. The current legal requirement is that overnight rentals be available for use by the general public at least 45 weeks per year. The applicant has filed an application to change this condition to 38 weeks per year.

- 36. *Applicant shall coordinate with the Sheriff's Office and its designated representative to address all public safety needs associated with the resort and the development process.***

FINDING: The applicant has informed the Sheriff that it is filing this tentative plan. In response to a staff request for additional information on this notice the applicant replied:

Prior to the filing of this application the Applicant placed calls to other Authorities to inform them of the filing of this application, that it was consistent with the prior plans for evacuation, to ask if they needed further information, or wanted a copy of this plan to review. No authority needed further materials. The Sheriff informed Applicant nothing was needed as he would get information directly from the County.

Staff finds this condition is met.

- 37. *Applicant shall demonstrate compliance with DCC 18.113.070(D) by submitting a wildlife mitigation plan to the County as part of its application for Final master plan approval. The County shall consider the wildlife mitigation plan at a public hearing with the same participatory rights as those allowed in the CMP approval hearing.***

FINDING: This requirement has been satisfied.

- 38. *The applicant shall abide by the April 2008 Wildlife Mitigation Plan, the August 2008 Supplement, and agreements with the BLM and ODFW for management of off-site mitigation efforts. Consistent with the plan, the applicant shall submit an annual report to the county detailing mitigation activities that have occurred over the previous year. The mitigation measures include removal of existing wells on the subject property and coordination with ODFW to model stream temperatures in Whychus Creek.***

FINDING: The applicant responded to this condition as follows:

This condition states an ongoing obligation of the resort. It is enforceable by virtue of being a condition of the FMP, and as has already been found is reasonably certain to succeed. There are numerous elements that require further and ongoing approvals that ensure compliance and allow for enforcement to proceed. LUBA ruled the WMP/FWMP, when followed fully mitigates for the impacts to fish and wildlife. The Applicant is not proposing any change to the Resort's mitigation plans. As noted by LUBA the Applicant is not required to fill in any details at this time. See Exhibit 6: LUBA TP A-1 Decision, Page 37. As noted above, the Applicant is required to file an annual report describing the mitigation measures that it has taken to comply with the Resorts mitigation plans. Nothing is required at this time. This condition is met.

Staff concurs.

39. The applicant shall provide funding to complete a conservation project by the Three Sisters Irrigation District to restore 106 acre-feet of instream water to mitigate potential increase in stream temperatures in Whychus Creek. The restoration shall occur as described in the applicant's submittals. The mitigation water shall be placed in stream no later than the date that groundwater pumping to serve the development commences (not testing). The applicant shall provide a copy of an agreement with the irrigation district detailing funding agreement prior to the completion of Phase A.

FINDING: This condition is tied to pumping groundwater; not to site plan review. As a result, it does not apply to the review of the site plan. Applicant has indicated that it will provide a copy of the agreement with TSID prior to the commencement (not testing) of groundwater pumping, as required by this condition.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.113, Destination Resorts (DR) Zone

Section 18.113.040. Application Submission.

The authorization of a permit for a destination resort shall consist of three steps.

...

C. Site Plan Review. Each element or development phase of the destination resort must receive additional approval through the required site plan review (DCC 18.124) or subdivision process (DCC Title 17). In addition to findings satisfying the site plan or subdivision criteria, findings shall be made that the specific development proposal complies with the standards and criteria of DCC 18.113 and the FMP.

FINDING: In compliance with this criterion, the applicant submitted a tentative plan application for a 108-lot subdivision. The applicable criteria in Title 17, DCC 18.113 and the FMP are addressed in this decision.

Section 18.113.080, 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 18.113.080, 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 “substantial change” is proposed, as determined by the Planning Director. No alteration to the “type, scale, location, phasing, or other characteristics of the proposed development”, thereby materially affecting the original findings of fact, is proposed.

Section 18.113.110. 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.***
- 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: The applicant intends to physically provide all streets and utilities associated with the subject subdivision. Completion of streets and utilities will be confirmed prior final plat approval via review by the Road Department. Criterion A will be met. Criterion B does not apply.

SYSTEM DEVELOPMENT CHARGE

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,757 per p.m. peak hour trip. County staff has determined a local trip generation rate for single-family homes of 0.81 trips per home. Therefore the applicable SDC is \$3,853 (\$4,757 X 0.81) per single-family home. The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30, 2022. DESCHUTES COUNTY’S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

IV. CONCLUSION

Based on the foregoing findings, Staff concludes that the proposed use can comply with the applicable standards and criteria of the Deschutes County zoning ordinance if conditions of approval are met.

Other permits may be required. The applicants are responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Environmental Soils Division as well as any required state and federal permits.

V. DECISION

APPROVAL, subject to the following conditions of approval.

VI. CONDITIONS OF APPROVAL

AT ALL TIMES

- A. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B. The subdivision plat shall substantially conform to the provisions of the tentative plan for the subdivision, as approved.
- C. Grading of building sites shall conform to the following standards, unless physical conditions demonstrate the property of other standards:
 - 1. Cut slope ratios shall not exceed one foot vertically to one and one half feet horizontally.
 - 2. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.
 - 3. The composition of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.
 - 4. When filling or grading is contemplated by the subdivider, s/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.
- D. All exterior lighting must comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the DCC.
- E. Where construction disturbs native vegetation in open space areas that are to be retained in substantially natural condition, Applicant shall restore the native vegetation in conformance with the Wildlife Mitigation Plan.

- F.** As identified in the CC&Rs required by the FMP, private roadways must be maintained by the Thornburgh Resort Owners Association or a sub-association formed for a particular element of the resort or this tentative plan.
- G.** The first 50 OLU's must be constructed prior to the closure of sales of individual lots or units.

PRIOR TO FINAL PLAT APPROVAL

- H.** The owner shall submit:
 1. 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; or
 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county.
- I.** The owner shall submit:
 1. 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; or
 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary.
- J.** 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.
- K.** The 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.
- L.** The owner shall submit correspondence from the County Surveyor approving the subdivision name. County Surveyor signature on the plat shall also demonstrate compliance.

- M.** Owner shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a register professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, owner shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- N.** Street names and numbers shall conform to the established pattern in the County and shall require approval from the County Property Address Coordinator.
- O.** All roads shall be named in conformance with the provisions of the Deschutes County uniform road naming system set forth in DCC Title 16.
- P.** The following minimum road standards shall apply for private roads:
1. The minimum paved roadway width shall be 20 feet in planned unit developments and cluster developments with two foot wide gravel shoulders;
 2. Minimum radius of curvature, 50 feet;
 3. Maximum grade, 12 percent;
 - a. Table A of DCC 17.48 allows for steeper gradients.
 4. At least one road name sign will be provided at each intersection for each road;
 5. A method for continuing road maintenance acceptable to the County;
 6. Private road systems shall include provisions for bicycle and pedestrian traffic.
 - a. Shoulder bikeways shall be a minimum of four feet wide, paved and striped, with no on street parking allowed within the bikeway, and when private roads are developed to a width of less than 28 feet, bike paths constructed to County standards shall be required.
- Q.** The developer will design and construct the road system in accordance with DCC 17. Road improvement plans shall be approved by the Road Department prior to construction.
- R.** Prior to final plat approval by Road Department: Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a register professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
 - The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or

that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).

- Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
- Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

S. Fire apparatus access needs identified by Redmond Fire & Rescue’s July 9, 2021 letter shall be addressed on the plat prior to approval. Dead ends and stub streets shall be finished as paved cul-de-sacs.

T. The owner shall provide a certification by a licensed professional engineer that the drainage facilities have been designed and constructed in accordance with the current Central Oregon Stormwater Manual (COSM) to receive and/or transport at least the design storm for all surface drainage water including stormwater coming to and/or passing through the development.

1. The drainage facilities shall be designed for maximum allowable development.

U. 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.

PRIOR TO, OR CONCURRENT WITH, FINAL PLAT RECORDING

V. Codes, Covenants and Restrictions (CC&Rs) required by the CMP/FMP must be recorded concurrently with the recording of the final plat.

W. The final plat for each phase shall be filed in accordance with DCC 17.24.020 through 17.24.110.

X. The subdivision plat (file no. 247-21-000637-TP) shall be recorded.

PRIOR TO ISSUANCE OF BUILDING PERMITS

Y. The owner shall secure confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted July 9, 2021 comment letter have been met.

PRIOR TO CONSTRUCTION OF ROAD IMPROVEMENTS

z. Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and the approved master plan

VII. DURATION OF APPROVAL, NOTICE, AND APPEALS

The applicant shall initiate the use for the proposed development within two (2) years of the date this decision becomes final, or obtain approval of an extension under Title 22 of the County Code, or this approval shall be void.

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.

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.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Angie Brewer, Senior Planner



Reviewed by: Peter Gutowsky, Planning Manager

- Attachments:
- Phase A-2 Tentative Plan TP1.1
 - Phase A-2 Phasing Plan TP 3.5
 - Phase A-2 Roads and Lots TP3.2 and 3.3

THORNBURGH RESORT PHASE A-2 TENTATIVE PLAN

DESCHUTES COUNTY, OREGON
LOCATED IN SECTIONS 29 AND 30
TOWNSHIP 15 SOUTH, RANGE 12 EAST
WILLAMETTE MERIDIAN

SHEET NUMBER	SHEET TITLE
TP1.1	COVER SHEET
TP1.2	TYPICAL SECTIONS
TP2.1	EXISTING CONDITIONS
TP2.2	ROCK OUTCROPPINGS
TP3.2	ROADS AND LOTS
TP3.3	ROADS AND LOTS
TP3.4	OPEN SPACE
TP3.5	PHASING PLAN
TP4.1	SEDIMENTATION & EROSION CONTROL PLAN
TP4.2	SEDIMENTATION & EROSION CONTROL PLAN
TP5.1	DRAINAGE PLAN
TP5.2	UTILITY PLAN

DEVELOPMENT DATA:

<p>APPLICANT: CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479</p> <p>OWNER: CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479</p> <p>SURVEYOR/ ENGINEER: HWA, INC. 6205 O RILEY ROAD STE 100 BEND, OR 97703 PH: 541-339-3381</p> <p>PROPERTY ADDRESS: 6753 CLINE FALLS HIGHWAY REDMOND, OR 97756</p> <p>ZONE: EFU / DR ADJOINING ZONES: EFU / DR OPEN SPACE AND CONSERVATION</p> <p>TAX LOT NUMBERS: 1512000007800 1512000007900</p> <p>PREVIOUS GROSS AREA (PHASE A-1): 517+ ACRES</p> <p>PHASE A-2 GROSS AREA: 235+ ACRES</p> <p>TOTAL GROSS AREA: 752+ ACRES</p>	<p>TOTAL NUMBER OF SINGLE FAMILY LOTS: 108</p> <p>PREVIOUS OPEN SPACE (PHASE A-1): 341+ ACRES</p> <p>PHASE A-2 OPEN SPACE: 98+ ACRES</p> <p>PHASE A-2 GOLF OPEN SPACE: 150+ ACRES</p> <p>TOTAL OPEN SPACE: 350+ ACRES</p> <p>EXISTING LAND USE: FARM / RESIDENTIAL</p> <p>PROPOSED LAND USE: DESTINATION RESORT</p> <p>ADJOINING LAND USE: FARM / US GOVERNMENT</p> <p>ACCESS: CLINE FALLS HIGHWAY AND HIGHWAY 126</p> <p>FIRE PROTECTION: DESCHUTES COUNTY RURAL FIRE PROTECTION DISTRICT #1</p> <p>POWER: CENTRAL ELECTRIC COOPERATIVE</p> <p>SEWAGE DISPOSAL: ON-SITE TREATMENT FACILITY</p> <p>SOLID WASTE DISPOSAL: HIGH COUNTRY DISPOSAL</p> <p>TELEPHONE: CENTURY LINK</p> <p>WATER SUPPLY: ON-SITE WELLS</p> <p>IRRIGATION: ON-SITE WELLS</p>
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PERMANENT BENCH MARK USED

ID	DESCRIPTION	NORTHING	EASTING	ELEV.
#19	SET 10" HWA	455072.49	3250095.05	3194.82
#35	SET 10" HWA	451306.11	3259325.10	3189.51



VICINITY MAP SCALE: N.T.S.

SITE MAP SCALE: 1"=100'

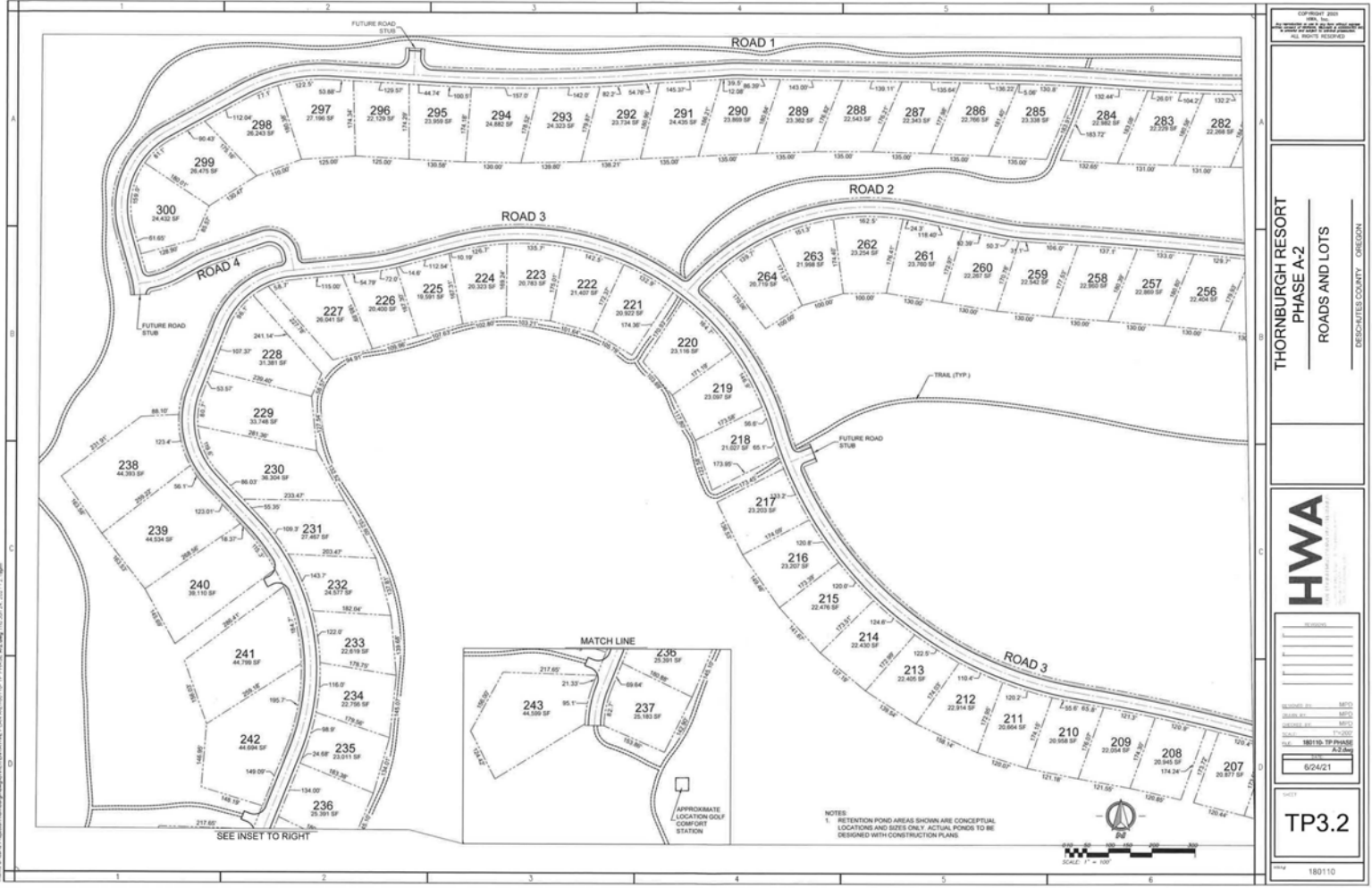
THORNBURGH RESORT
PHASE A-2
COVER PAGE

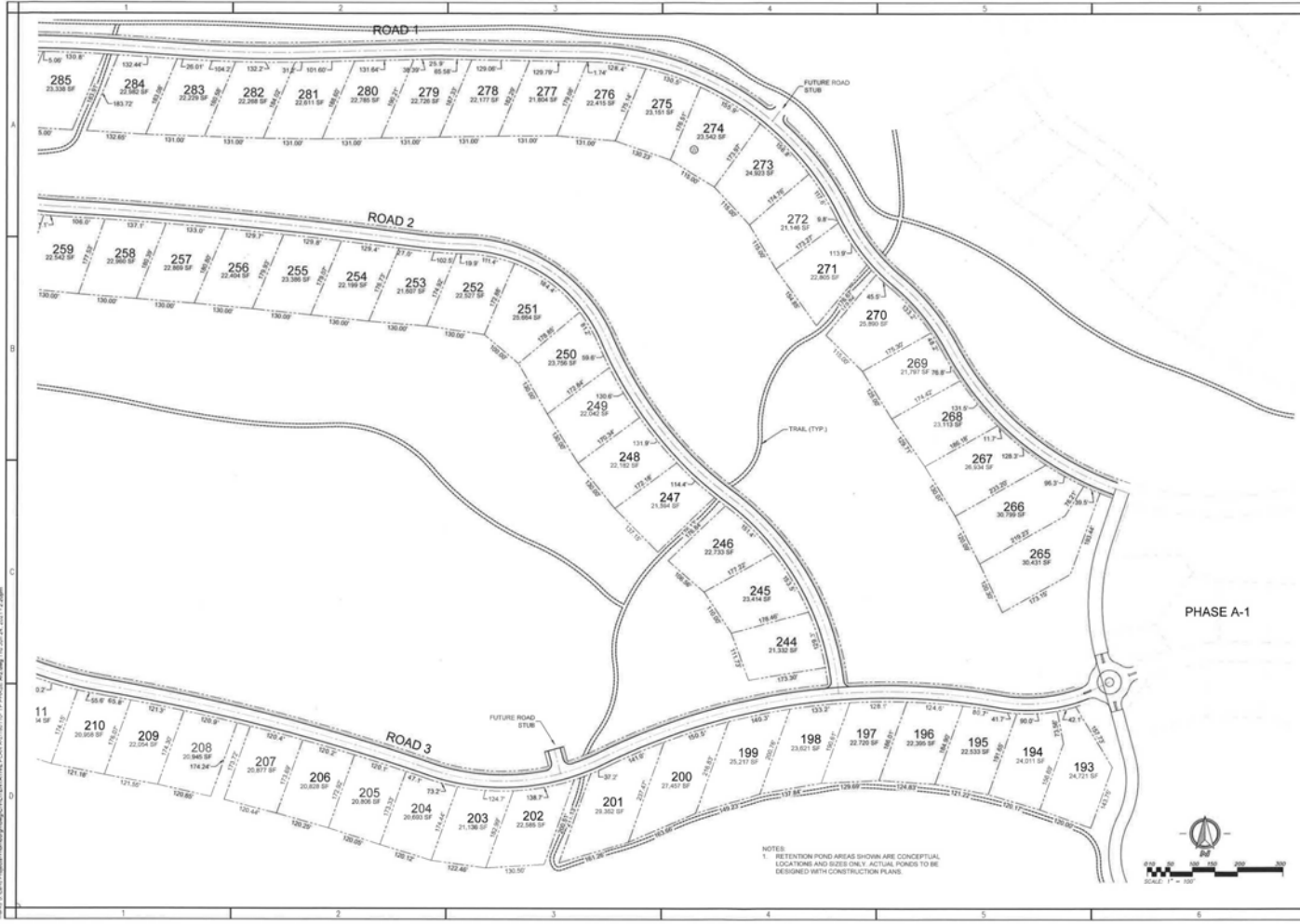
HWA
HWA, INC.
6205 O RILEY ROAD STE 100
BEND, OR 97703
PH: 541-339-3381

6/24/21

TP1.1

180110





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 HWA
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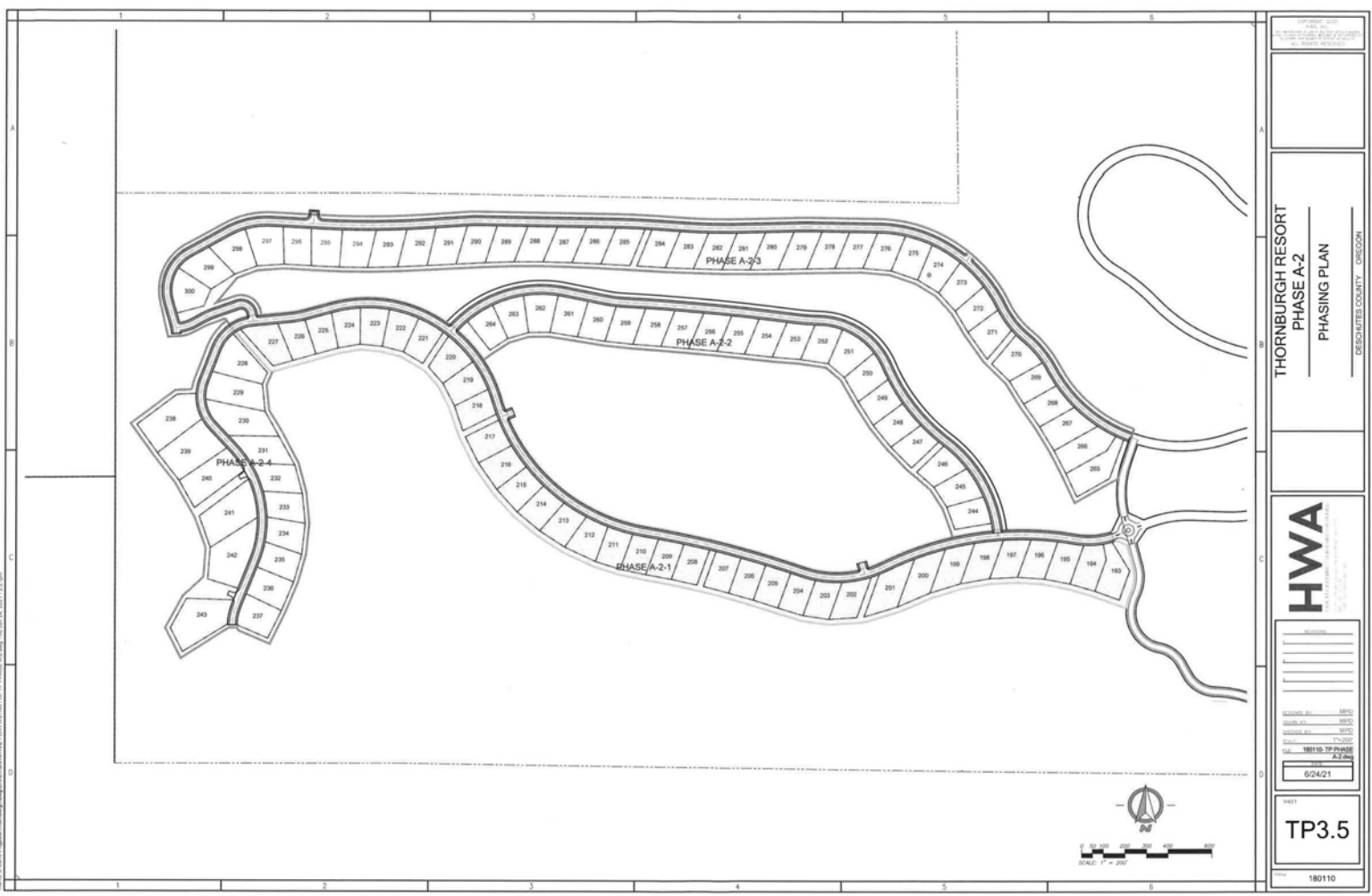
THORNBURGH RESORT
 PHASE A-2
 ROADS AND LOTS
 DESCHUTES COUNTY, OREGON

HWA
 HWA CONSULTANTS, INC.
 1000 NE Oregon Street, Suite 200
 Portland, Oregon 97232
 Phone: 503.251.1000
 Fax: 503.251.1001
 Email: hwa@hwaconsultants.com

6/24/21

TP3.3

180110



THORNBURGH RESORT
 PHASE A-2
 PHASING PLAN
 DEBONTEE COUNTY OREGON

HWA
 HWA CONSULTANTS, INC.
 18010-10 PHASE A-2.dwg
 6/24/21
 TP3.5
 180110



NOTICE OF PUBLIC HEARING

MEETING FORMAT

In response to the COVID-19 public health emergency, Oregon Governor Kate Brown issued Executive Order 20-16 (later enacted as part of HB 4212) directing government entities to utilize virtual meetings whenever possible and to take necessary measures to facilitate public participation in these virtual meetings. Since May 4, 2020, Deschutes County public hearings have been conducted primarily in a virtual format. Additionally, on August 13, 2021, the Public Health Division of the Oregon Health Authority adopted into Administrative Rule requirements that all persons 5 years of age or older must wear face coverings and/or masks in indoor spaces (OAR 333-019-1025).

The Deschutes County Hearings Officer will conduct the public hearing described below by video and telephone. If participation by video and telephone is not possible, in-person testimony is available. Options for participating in the public hearing are detailed in the Public Hearing Participation section.

PROJECT DESCRIPTION

FILE NUMBERS:	247-21-000537-SP and 247-21-000998-A
OWNER:	Central Land and Cattle Company, LLC
APPLICANT:	Central Land and Cattle Company, LLC Kameron DeLashmutt
PROPOSAL:	Site Plan Review of Welcome Center, Gatehouse, Golf Clubhouse and Community Hall
LOCATION:	Map and Tax Lots: 7700, 7800 Assessor's Map 15-12-00
HEARING DATE:	December 8, 2021
HEARING START:	6:00 pm
STAFF CONTACT:	Angie Brewer, Senior Planner Email: Angie.Brewer@Deschutes.org Telephone: 541-385-1704

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov

STANDARDS AND APPLICABLE CRITERIA:

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6
Title 18 of the Deschutes County Code, the County Zoning Ordinance:
Chapter 18.16, Exclusive Farm Use Zones (EFU)
Chapter 18.113, Destination Resorts Zone (DR)
Chapter 18.116, Supplementary Provisions
Chapter 18.124, Site Plan Review
Title 22, Deschutes County Development Procedures Ordinance

PUBLIC HEARING PARTICIPATION

- If you wish to provide testimony during the public hearing, please contact the staff planner by 5 pm on December 7, 2021. Testimony can be provided as described below.
- Members of the public may listen, view, and/or participate in this hearing using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link: <https://us02web.zoom.us/j/81170396115>
Using this option may require you to download the Zoom app to your device.
- Members of the public can access the meeting via telephone, dial 1-312-626-6799. When prompted, enter the following: Webinar ID: 811 7039 6115.
- Written comments can also be submitted to the record. Please see the Document Submission section below for details regarding written submittals.
- If participation during the hearing by video and telephone is not possible, the public can provide testimony in person at 6 pm in the Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend. Please be aware County staff will enforce the 6-foot social distancing standard in the hearing room. Additionally, all participants attending in person must wear a face covering at all times.

All documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost at the Deschutes County Community Development Department (CDD) at 117 NW Lafayette Avenue. Seven (7) days prior to the public hearing, a copy of the staff report will be available for inspection at no cost at CDD. Copies of all documents, evidence and the staff report can be purchased at CDD for (25) cents a page.

ALL INTERESTED PERSONS MAY APPEAR, BE HEARD, BE REPRESENTED BY COUNSEL, OR SEND WRITTEN SIGNED TESTIMONY. ANY PARTY TO THE APPLICATION IS ENTITLED TO A CONTINUANCE OF THE INITIAL EVIDENTIARY HEARING OR TO HAVE THE RECORD LEFT OPEN IN ACCORDANCE WITH SECTION 22.24.140 OF THE DESCHUTES COUNTY CODE.

Failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.

Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please contact the staff planner identified above.

DOCUMENT SUBMISSION

Any person may submit written comments on a proposed land use action. Documents may be submitted to our office in person, U.S. mail, or email.

In Person

We accept all printed documents.

U.S. Mail

Deschutes County Community Development
 Planning Division, Angie Brewer
 P.O. Box 6005
 Bend, OR 97708-6005

Email

Email submittals should be directed to angie.brewer@descutes.org and must comply with the following guidelines:

- Submission is 20 pages or less
- Documents can be printed in black and white only
- Documents can be printed on 8.5" x 11" paper

Any email submittal which exceeds the guidelines provided above must be submitted as a paper copy.

Limitations

- Deschutes County does not take responsibility for retrieving information from a website link or a personal cloud storage service. It is the submitter's responsibility to provide the specific information they wish to enter into the record. We will print the email which includes the link(s), however, we will not retrieve any information on behalf of the submitter.

- Deschutes County makes an effort to scan all submittals as soon as possible. Recognizing staff availability and workload, there is often a delay between the submittal of a document to the record, and when it is scanned and uploaded to Accela Citizen Access (ACA) and Deschutes County Property Information (DIAL). For this reason, the official record is the file that resides in the Community Development office. The electronic record in ACA and DIAL is not a substitute for the official record.
- To ensure your submission is entered into the correct land use record, please specify the land use file number(s).
- For the open record period after a public hearing, electronic submittals are valid **if received by the County's server** by the deadline established for the land use action.
- IF YOU WISH TO BE NOTIFIED OF ANY DECISION RELATED TO THIS APPLICATION, YOU MUST PROVIDE A MAILING ADDRESS.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

This Notice was mailed pursuant to Deschutes County Code Chapters 22.20 and 22.24.

THORNBURGH RESORT PHASE A-1 FACILITIES SITE PLAN

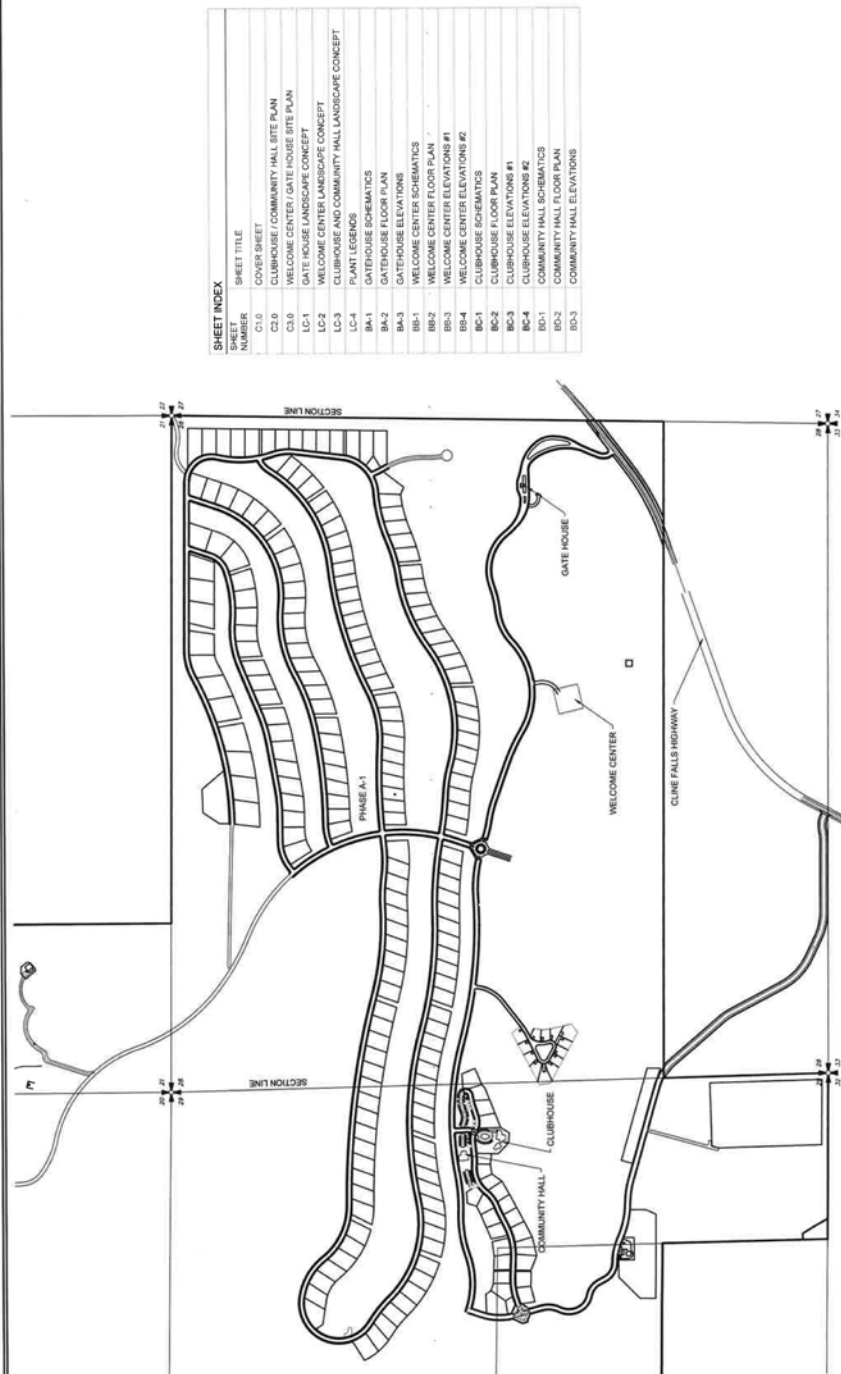
LOCATED AT TOWNSHIP 15 SOUTH, REGION 12 EAST SECTIONS 28 & 29
DESCHUTES COUNTY, OREGON



VICINITY MAP - SCALE: 1" = 10,000'

OWNER/DEVELOPER
CENTRAL LAND AND CATTLE COMPANY
2447 NW CANYON DR
REDMOND, OR 97756
PH: (541) 350-8479

SURVEYOR/ENGINEER
HICKMAN WILLIAMS & ASSOCIATES INC.
62930 O.B. RILEY ROAD, SUITE 100
BEND, OR 97703
P: (541) 389-9351



SITE MAP
SCALE: 1" = 500'

LEGEND

	CURB OF PAVEMENT
	WATER LINE (SIZE AS NOTED)
	SANITARY SEWER LINE (SIZE AS NOTED)
	STORM CHASE (SIZE AS NOTED)
	DRAINAGE BASIN
	COMMON UTILITY LINE
	UTILITY SERVICE
	ASPHALT PAVING
	CONCRETE
	FIRE HYDRANT
	WATER VALVE (G.V. / B.F.V.)
	WATER METER
	ELECTRICAL SERVICE
	SECTIONALIZING CABLE TRANSFORMER
	CLUSTER POSTAL DELIVERY BOX
	SIGN
	SEWER MANHOLE
	ELECTRICAL MANHOLE
	CONTOUR LINE (5' INTERVAL)
	CLEAR WOOD
	PROPERTY BOUNDARY
	EDGE OF PAVEMENT
	SANITARY SEWER LINE (SIZE AS NOTED)
	FIRE HYDRANT
	WATER VALVE (G.V. / B.F.V.)
	WATER METER
	ELECTRICAL SERVICE
	TELEPHONE RISER
	TRANSFORMER
	SECTIONALIZING CABLE TRANSFORMER
	LIGHT
	CLUSTER POSTAL DELIVERY BOX
	SEWER MANHOLE
	CONTOUR LINE (5' INTERVAL)
	DECIDUOUS TREE (SIZE AS NOTED)
	JUMPED TREE (SIZE AS NOTED)

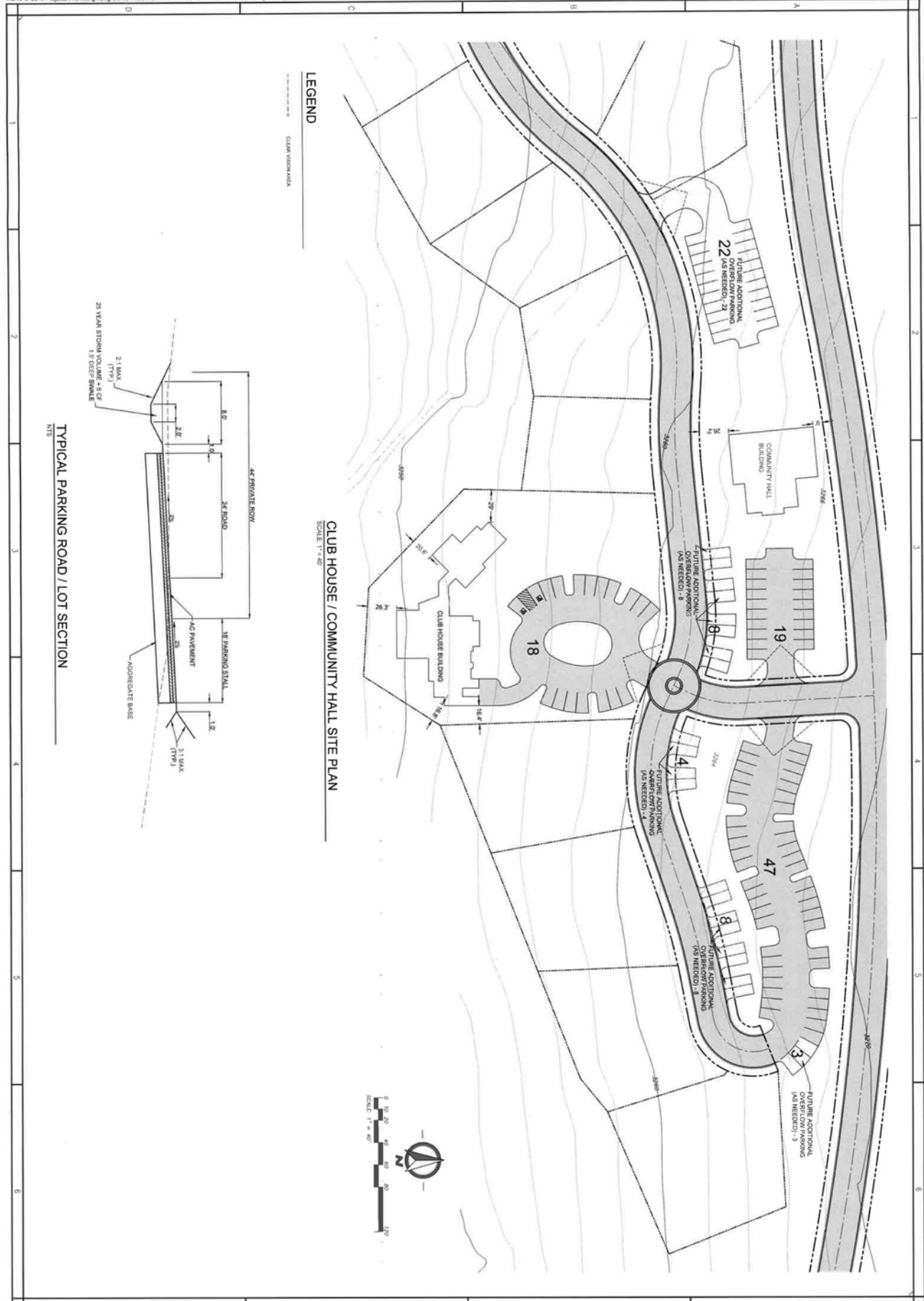
SHEET INDEX

SHEET NUMBER	TITLE
C1.0	COVER SHEET
C2.0	CLUBHOUSE / COMMUNITY HALL SITE PLAN
C3.0	WELCOME CENTER / GATE HOUSE SITE PLAN
LC-1	GATE HOUSE LANDSCAPE CONCEPT
LC-2	WELCOME CENTER LANDSCAPE CONCEPT
LC-3	CLUBHOUSE AND COMMUNITY HALL LANDSCAPE CONCEPT
LC-4	PLANT LEGENDS
BA-1	GATEHOUSE SCHEMATICS
BA-2	GATEHOUSE FLOOR PLAN
BA-3	GATEHOUSE ELEVATIONS
BR-1	WELCOME CENTER SCHEMATICS
BR-2	WELCOME CENTER FLOOR PLAN
BR-3	WELCOME CENTER ELEVATIONS #1
BR-4	WELCOME CENTER ELEVATIONS #2
BC-1	CLUBHOUSE SCHEMATICS
BC-2	CLUBHOUSE FLOOR PLAN
BC-3	CLUBHOUSE ELEVATIONS #1
BC-4	CLUBHOUSE ELEVATIONS #2
BD-1	COMMUNITY HALL SCHEMATICS
BD-2	COMMUNITY HALL FLOOR PLAN
BD-3	COMMUNITY HALL ELEVATIONS

THORNBURGH RESORT PHASE A-1 FACILITIES
COVER SHEET
DESCHUTES COUNTY OREGON

COASTAL ENGINEERING & SURVEYING
1401 S. WASHINGTON ST. SUITE 100
BEND, OREGON 97701
TEL: (541) 339-9351

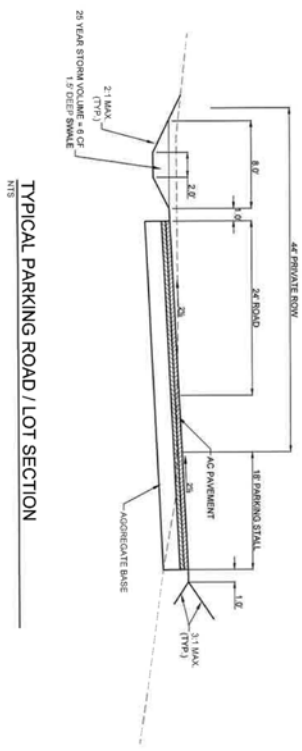
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SHEET: C1.0
180110



LEGEND

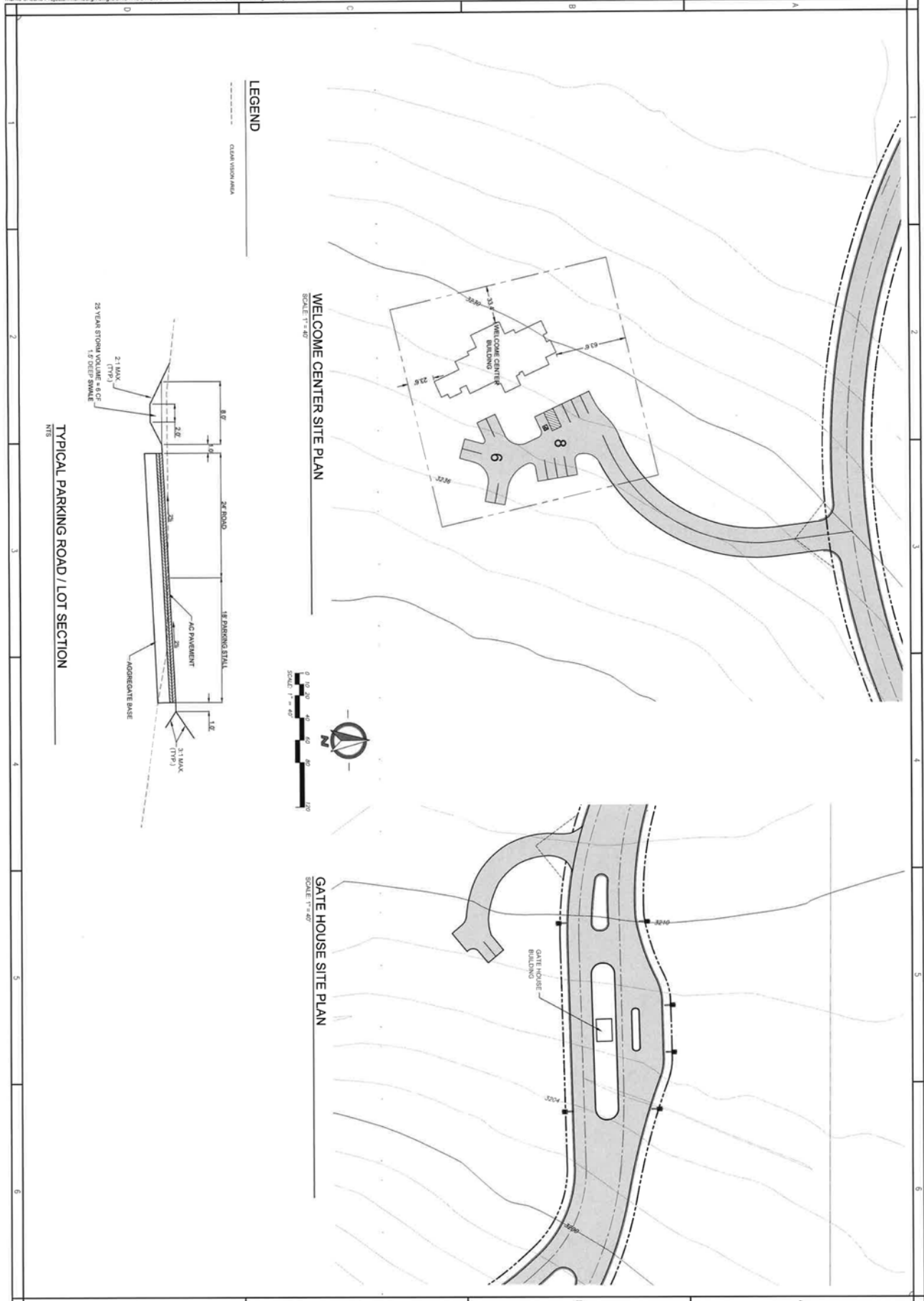
CLEAR VISION AREA

CLUB HOUSE / COMMUNITY HALL SITE PLAN
SCALE: 1" = 40'



TYPICAL PARKING ROAD / LOT SECTION
NTS

<p>CONTRACT NO. 180110</p>	<p>THORNBURGH RESORT PHASE A-1 PHASE A-1 FACILITIES CLUB HOUSE AND COMMUNITY HALL SITE PLAN DESCHUTES COUNTY OREGON</p>	<p>HWA CIVIL, ENGINEERING & SURVEYING CONSULTANTS 1000 NE 10th Street, Suite 100, Bend, OR 97701 503.325.4600</p>
<p>DATE: 05/28/2021</p>	<p>C2.0</p>	<p>DESIGNED BY: MFC CHECKED BY: MFC SCALE: AS SHOWN DATE: 05/28/2021</p>

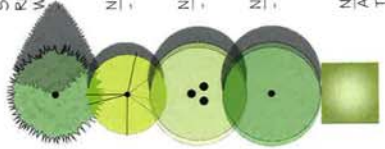


<p>CONTRACT NO. 180110</p> <p>DATE 180110</p>	<p>THORNBURGH RESORT PHASE A-1</p> <p>PHASE A-1 FACILITIES</p> <p>WELCOME CENTER AND GATE HOUSE</p> <p>SITE PLAN</p> <p>DESCHUTES COUNTY OREGON</p>	<p>HWA</p> <p>CIVIL ENGINEERING SURVEYING PLANNING</p> <p>200 S. BROADWAY, SUITE 200, ASTORIA, OREGON 97103</p> <p>503.325.4600</p>	<p>DESIGNED BY: MFD</p> <p>DRAWN BY: MFD</p> <p>CHECKED BY: AS/STW</p> <p>SCALE: AS SHOWN</p> <p>DATE: 05/28/2021</p>
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SPECIFICATIONS	
SHEET#	BOOK#
PROJ. MOR.	KA
DRAWN:	DF
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PROJ. NO.:	PT222
DATE:	05-27-21
SCALE:	1" = 50'-0"
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CONCEPT PLANT SCHEDULE GATE HOUSE

EXISTING HERITAGE JUNIPER TREES TO BE SAVED THESE TREES ARE THE "HERITAGE" JUNIPERS THAT HAVE BEEN STAKED IN THE FIELD FOR THE PURPOSE OF SAVING IN PLACE. THESE TREES HAVE SIGNIFICANT CHARACTER AND/OR SIZE, RELATIVE TO OTHER TREES IN THE WORK AREA.



NEW ACCENT TREES - TALL

NEW ACCENT TREES - LARGE

NEW NATIVE TREES

NATIVE REVEG ZONE
AREAS OF DISTURBANCE TO BE TREATED WITH NATIVE VEGETATION TO BLEND IN SEAMLESSLY WITH THE ADJACENT UNDISTURBED NATIVE

TRANSITIONAL ZONE
TRANSITIONAL LANDSCAPING BETWEEN NATIVE REVEG/UNDISTURBED NATIVE AND ORNAMENTAL LANDSCAPING - TO INCLUDE SOME NATIVES AND SOME NON-NATIVES

ORNAMENTAL LANDSCAPING
HIGH DENSITY ACCENTED OR ORNAMENTAL LANDSCAPING NEAR BUILDINGS

SEE LEGENDS ON SHEET LC-4 FOR PLANTS FOR EACH ZONE AND TREE TYPE

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE OF THE TREES.



CONCEPT PLANT SCHEDULE WELCOME CENTER

EXISTING HERITAGE JUNIPER TREES TO BE SAVED
THESE TREES ARE THE "HERITAGE" JUNIPERS THAT HAVE BEEN STAKED IN THE FIELD FOR THE PURPOSE OF HAVING SIGNIFICANT CHARACTER AND/OR SIZE, RELATIVE TO OTHER TREES IN THE WORK AREA.

NEW ACCENT TREES - LARGE

NEW NATIVE TREES

NATIVE REVEG ZONE
AREAS OF DISTURBANCE TO BE TREATED WITH NATIVE VEGETATION TO BLEND IN SEAMLESSLY WITH THE ADJACENT UNDISTURBED NATIVE

TRANSITIONAL ZONE
TRANSITIONAL LANDSCAPING BETWEEN NATIVE REVEG AND UNDISTURBED NATIVE TO INCLUDE SOME NATIVES AND SOME NON-NATIVES

ORNAMENTAL LANDSCAPING
HIGH DENSITY ACCENT OR ORNAMENTAL LANDSCAPING NEAR BUILDINGS

LAWN

SEE LEGENDS ON SHEET LC-4 FOR PLANTS FOR EACH ZONE AND TREE TYPE

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

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SHEETS	BOOK	KA
PROJ. MGR.	DF	DF
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PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE OF THE TREES.

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

Tracy Griffin

From: Katzaroff, Kenneth <KKatzaroff@SCHWABE.com>
Sent: Tuesday, November 16, 2021 10:39 AM
To: Angie Brewer
Cc: William Groves; 'Kameron DeLashmutt'; liz@lizfancher.com
Subject: Appeal of File No. 247-21-000537-SP [IWOV-pdx.FID4723617]
Attachments: Appeal of 247-21-000537-SP.pdf

[EXTERNAL EMAIL]

Please find the attached appeal form and statement. I understand that the fee has been paid over the phone. Please let me know if you have questions.

Thanks,
Ken

Schwabe Williamson & Wyatt

Kenneth Katzaroff

Attorney

Direct: 206-405-1985

kkatzaroff@schwabe.com

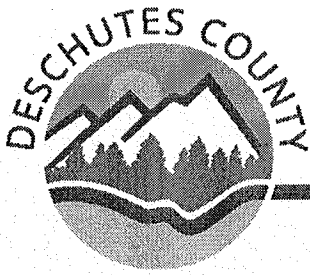
Admitted in Washington and Oregon.

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INNOVATING IN THEIR INDUSTRIES:**

<https://smex->

[ctp.trendmicro.com:443/wis/clicktime/v1/query?url=www.schwabe.com%2ffueling%2dchange&umid=fbcd4754-a068-4509-868c-e10130249997&auth=b6e5f914caa071e97c22b57421b394cc38777e44-cb8fb98a6c829255d7fc7f870c8cff8aa06952f7](https://smex-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=www.schwabe.com%2ffueling%2dchange&umid=fbcd4754-a068-4509-868c-e10130249997&auth=b6e5f914caa071e97c22b57421b394cc38777e44-cb8fb98a6c829255d7fc7f870c8cff8aa06952f7)

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APPEAL APPLICATION

FEE: \$250.00

EVERY NOTICE OF APPEAL SHALL INCLUDE:

1. A statement describing the specific reasons for the appeal.
2. If the Board of County Commissioners is the Hearings Body, a request for review by the Board stating the reasons the Board should review the lower decision.
3. If the Board of County Commissioners is the Hearings Body and *de novo* review is desired, a request for *de novo* review by the Board, stating the reasons the Board should provide the *de novo* review as provided in Section 22.32.027 of Title 22.
4. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.

It is the responsibility of the appellant to complete a Notice of Appeal as set forth in Chapter 22.32 of the County Code. The Notice of Appeal on the reverse side of this form must include the items listed above. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on the Notice of Appeal.

Staff cannot advise a potential appellant as to whether the appellant is eligible to file an appeal (DCC Section 22.32.010) or whether an appeal is valid. Appellants should seek their own legal advice concerning those issues.

Appellant's Name (print): Kameron Delashmuth Phone: () 541 350 8479
 Mailing Address: 2447 NW Canyon City/State/Zip: Redmond, OR 97756
 Land Use Application Being Appealed: 247-21-000537-SP
 Property Description: Township 15S Range 12E Section 00 Tax Lot 7700, 7800
 Appellant's Signature: [Signature] Attorney for Appellant

EXCEPT AS PROVIDED IN SECTION 22.32.024, APPELLANT SHALL PROVIDE A COMPLETE TRANSCRIPT OF ANY HEARING APPEALED, FROM RECORDED MAGNETIC TAPES PROVIDED BY THE PLANNING DIVISION UPON REQUEST (THERE IS A \$5.00 FEE FOR EACH MAGNETIC TAPE RECORD). APPELLANT SHALL SUBMIT THE TRANSCRIPT TO THE PLANNING DIVISION NO LATER THAN THE CLOSE OF THE DAY FIVE (5) DAYS PRIOR TO THE DATE SET FOR THE DE NOVO HEARING OR, FOR ON-THE-RECORD APPEALS, THE DATE SET FOR RECEIPT OF WRITTEN RECORDS.

(over)

NOTICE OF APPEAL

Precautionary appeal to consolidate hearing dates on/of other Thornburgh matters; given that Gould has indicated she will appeal this decision.

Appellant has paid the fee over the phone.

(This page may be photocopied if additional space is needed.)



RECEIVED

NOV 19 2021

Item #.1.

Deschutes County CDD
COMMUNITY DEVELOPMENT

APPEAL APPLICATION

FEE: \$250

EVERY NOTICE OF APPEAL SHALL INCLUDE:

- 1. A statement describing the specific reasons for the appeal.
2. If the Board of County Commissioners is the Hearings Body, a request for review by the Board stating the reasons the Board should review the lower decision.
3. If the Board of County Commissioners is the Hearings Body and de novo review is desired, a request for de novo review by the Board, stating the reasons the Board should provide the de novo review as provided in Section 22.32.027 of Title 22.
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Staff cannot advise a potential appellant as to whether the appellant is eligible to file an appeal (DCC Section 22.32.010) or whether an appeal is valid. Appellants should seek their own legal advice concerning those issues.

Appellant's Name (print): Annunziata Gould Phone: (541) 420-3325
Mailing Address: 19845 J W Brown Rd. City/State/Zip: Bend, OR 97703
Land Use Application Being Appealed: 247-21-000537-SP, Central Land and Cattle Company, LLC
Kameron Delashmutt
Property Description: Township Range Section Tax Lot See Exhibit A.
Appellant's Signature: Annunziata Gould

EXCEPT AS PROVIDED IN SECTION 22.32.024, APPELLANT SHALL PROVIDE A COMPLETE TRANSCRIPT OF ANY HEARING APPEALED, FROM RECORDED MAGNETIC TAPES PROVIDED BY THE PLANNING DIVISION UPON REQUEST (THERE IS A \$5.00 FEE FOR EACH MAGNETIC TAPE RECORD). APPELLANT SHALL SUBMIT THE TRANSCRIPT TO THE PLANNING DIVISION NO LATER THAN THE CLOSE OF THE DAY FIVE (5) DAYS PRIOR TO THE DATE SET FOR THE DE NOVO HEARING OR, FOR ON-THE-RECORD APPEALS, THE DATE SET FOR RECEIPT OF WRITTEN RECORDS.

Appellant's attorney is Jeffrey L. Kleinman, (over)
1207 SW 6th Av., Portland, OR 97204.

EXHIBIT A

Map and Tax Lots: 7700, 7800 Assessor's Map 15-12-00

NOTICE OF APPEAL

PLEASE SEE EXHIBIT B, ATTACHED HERETO AND BY THIS REFERENCE
INCORPORATED HEREIN.

Multiple horizontal lines for text entry.

(This page may be photocopied if additional space is needed.)

**EXHIBIT B—STATEMENT OF REASONS FOR APPEAL
OF ANNUNZIATA GOULD**

As a preliminary matter, appellant hereby requests a de novo hearing of this appeal before the county's land use hearing officer.

Statement of Reasons

1. The original tentative plan and site plan for this subphase ("Phase A-1") of the Thornburgh Resort remain under review. The proposed site plan herein is inextricably linked to the above Phase A-1 application. It is entirely dependent upon the ultimate outcome of the proceedings in question and cannot be adjudicated now.

Specifically, the county's approval of Phase A-1 in File Nos. 247-18-000386-TP, 247-18-000454-SP, and 247-18-000592-MA, Order No. 2018-073, was returned to the county on remand from LUBA in LUBA No. 2018-140. Following remand, it was decided by the county hearings officer under File No. 247-21-000731-A. That decision was appealed to the board of commissioners, who declined to hear the appeal. A further appeal is now pending before LUBA in LUBA No. 2021-109.

The proposed welcome center, gatehouse, clubhouse, and community hall (collectively, "structures") are proposed to be situated on farmland and cannot be approved independently of a destination resort and its approved master plan. A freestanding recreational development would be impermissible. Until the issues

pending in the new LUBA appeal are fully resolved and there is a finally approved phase or subphase of the resort of which the structures are a part, the proposed site plan cannot be approved.

Proceeding any earlier would effect a substantial change in the CMP and FMP. Under DCC 18.113.080, the development of the structures on lots created or existing outside the framework of any phase or “subphase” of the resort, especially on EFU land, would be a substantial change to the approved Conceptual Master Plan and must “be reviewed in the same manner as the original CMP.”

2. To the extent that subdivision or partitioning is proposed here, the application cannot be approved. Under DCC 17.04.02, “[n]o person may subdivide or partition land within the County except in accordance with ORS 92 and the provisions of DCC Title 17.” Under ORS 92.012, “[n]o land may be subdivided or partitioned except in accordance with ORS 92.010 to 92.192.”

At the end of July 2021, two parcels/lots were conveyed by deed out of one of the existing lots without partitioning or any other required process. The county is obligated to verify lot of record status for EFU lands prior to the issuance of any land use permit. DCC 22.24.040. The requested land use permit for the structures has not been issued. The county lacks authority under DCC 22.24.040 to issue a land use permit for any parcel of EFU land that is not a lot of record at the time the permit is issued. The county further lacks authority under DCC 22.20.15(A) to

make any land use decision for a property that is in violation of applicable land use regulations. Thornburgh's effort to correct its ostensible mistake does not cure anything. The land use permit for the subject EFU land requested herein must be denied.

3. The applicant has failed to meet its burden of proving compliance with FMP Conditions 10 and 38, regarding its OWRD permit and its obtaining the required water for mitigation, for this subphase of the resort. The needed extension of the OWRD permit to withdraw ground water is subject to a challenge under the Oregon Administrative Procedures Act which remains unresolved.

The record will also show that Thornburgh does not in fact possess and may not in the future possess "water from Big Falls Ranch to mitigate for water quantity and quality impacts of the golf course and lake development proposed under this application as well as for the development approved under the Phase A-1 tentative plan." In any event, Thornburgh has not met its burden of proof in this regard.

FMP Condition 38 provides:

38. The applicant shall abide by the April 2008 Wildlife Mitigation Plan, the August 2008 Supplement, and agreements with the BLM and ODFW for management of off-site mitigation efforts. Consistent with the plan, the applicant shall submit an annual report to the county detailing mitigation activities that have occurred over the previous year. The mitigation measures include removal of existing wells on the subject property and coordination with ODFW to model stream temperatures in Whychus Creek.

The applicant has not met its burden of proving that it has abided by the

April 2008 Wildlife Mitigation Plan, the August 2008 Supplement, and agreements with the BLM and ODFW for management of off-site mitigation efforts. This is most particularly a result of (1) the absence of a useable state water right permit (OWRD Permit G-17036), the extension of which is the subject of a contested case proceeding, and (2) Thornburgh's failure to prove up an enforceable contract to procure Big Falls Ranch (BFR) water, and to prove that BFR's transfer of its surface water rights in Deep Canyon Creek to ground water on its ranch has been effectively reversed; that those rights have in fact been transferred to surface water; and that the cold surface water in question has been permanently placed instream in the creek as required.

We would note here that the "August 2008 Supplement" to the Wildlife Mitigation Plan *is* in fact the "Thornburgh Resort Fish and Wildlife Mitigation Plan Addendum Relating to Potential Impacts of Ground Water Withdrawals On Fish Habitat," dated April 21, 2008. This is the document setting out Thornburgh's agreement with ODFW as to preservation of anadromous fish habitat, including the above requirement to place the right to the cold spring water in Deep Canyon Creek permanently instream. Thus, Condition 10 is not the only one setting out the obligations in question.

In light of Thornburgh's failure to maintain the required source of water for

its quasi-municipal use; its failure to comply with its obligations under the FWMP; and its four recently filed applications with OWRD showing its intent to source water from elsewhere, with different ensuing impacts upon fish and wildlife resources, there has in fact been a “substantial change from the approved FMP.” Thus, Condition 38 is not met and a new master plan application is indeed required.

4. Relatedly, the decision is in error in not conditioning issuance of building permits upon a demonstration of full compliance with Conditions 10 and 38, with the necessary final, fully useable OWRD permit in hand, and an unequivocal showing that the necessary mitigation water has been obtained; that it is available in sufficient quality and quantity; and that it can now be permanently placed instream in Dep Canyon Creek. Further, based upon the record regarding this resort, the review of any such showing will entail the exercise of discretion and must allow for public participation.

5. The applicant is not in compliance with the portion of FMP Condition 28 relating to implementation of the mitigation plan developed in consultation with ODFW “throughout the life of the resort.” At the present time, Thornburgh is not in compliance.

6. The applicant has not yet demonstrated compliance with requirements for use of the proposed access road over property owned by BLM.



NOTICE OF DECISION

The Deschutes County Planning Division has approved the land use application(s) described below:

FILE NUMBER: 247-21-000537-SP

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: Central Land and Cattle Company, LLC
Map and Tax Lots: 7700, 7800 Assessor's Map 15-12-00.

APPLICANTS:

Central Land and Cattle Company, LLC
Kameron DeLashmutt

REQUEST:

Site Plan Review of Welcome Center, Gatehouse, Golf Clubhouse and
Community Hall

STAFF CONTACT:

Angie Brewer, Senior Planner
Email: Angie.Brewer@deschutes.org
Telephone: (541) 385-1704

DOCUMENTS:

Can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6
Title 18 of the Deschutes County Code, the County Zoning Ordinance:
Chapter 18.16, Exclusive Farm Use Zones (EFU)
Chapter 18.113, Destination Resorts Zone (DR)
Chapter 18.116, Supplementary Provisions
Chapter 18.124, Site Plan Review
Title 22, Deschutes County Development Procedures Ordinance

DECISION: Staff finds that the application meets applicable criteria, and approval is being granted subject to the following conditions:

CONDITIONS OF APPROVAL

A. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will

require review through a new land use application.

- B.** The applicant shall obtain any necessary permits from the Deschutes County Building Division and Environmental Soils Division.
- C.** This approval is based on the specific mapped locations shown in the application materials and that any substantial change to road, right-of-way, parking, structure configurations, or structure locations is not approved under this decision.
- D.** Emergency secondary resort access roads shall be improved in compliance with FMP Condition #4 prior to final plat approval or issuance of any building permit under this site plan, whichever comes first.
- E.** The applicant shall receive confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted June 21, 2021 comment letter have been met, prior to issuance of building permits.
- F.** Clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- G.** The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.
- H.** Off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
- I.** Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- J.** Prior to issuance of building permits, revisions to shading and labeling on the site plan must be provided to confirm 96 paved parking spaces will serve the core resort area. Labeling must include location of ADA parking and unloading spaces.
- K.** Required areas used for standing and maneuvering of vehicles shall be paved surfaces.
- L.** Prior to issuance of building permits, the applicant shall submit an engineer's certification that the development areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all weather use and will be "so drained as to contain any flow of water on the site".
- M.** Service drives shall be marked and defined through the use of rails, fences, walls or other barriers or markers. Reflective pavement markers shall be placed at no less than 40-foot intervals will comply with this requirement.

- N.** Service drive clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- O.** Bicycle parking surfaces shall be maintained in a smooth, durable, and well-drained condition. The bicycle parking facilities be surfaced in the same manner as the motor vehicle parking area or with a minimum of one-inch thickness of aggregate material.
- P.** Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object (i.e., a "rack") upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary). All bicycle racks, lockers, or other facilities shall be permanently anchored to the surface of the ground or to a structure.
- Q.** Prior to initiation of use and/or issuance of building, provide a statement from a licensed professional engineer that the surface drainage systems have been designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality. The property owner shall maintain any such systems in good working condition.
- S.** All exterior lighting shall be shielded so that direct light does not project off site.
- T.** The landscaping in a parking area shall have a width of not less than five feet.
- U.** The applicant shall provide for watering planting areas where such care is required.
- V.** Required landscaping shall be continuously maintained and kept alive and attractive.
- W.** Walkways shall be provided in accordance with 18.124.070(C)(2), as shown on a revised site plan, prior to issuance of building permits.
- X.** To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings.
- Y.** Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible. A revised site plan must be provided to illustrate compliance prior to building permit sign off.
- Z.** Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.

- AA.** Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.
- BB.** All lighting will be shielded and directed downward and will otherwise comply with the requirements of Section 15.10 of Title 15.

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.

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.

This Notice was mailed pursuant to Deschutes County Code Chapter 22.24.

THORNBURGH RESORT PHASE A-1 FACILITIES SITE PLAN

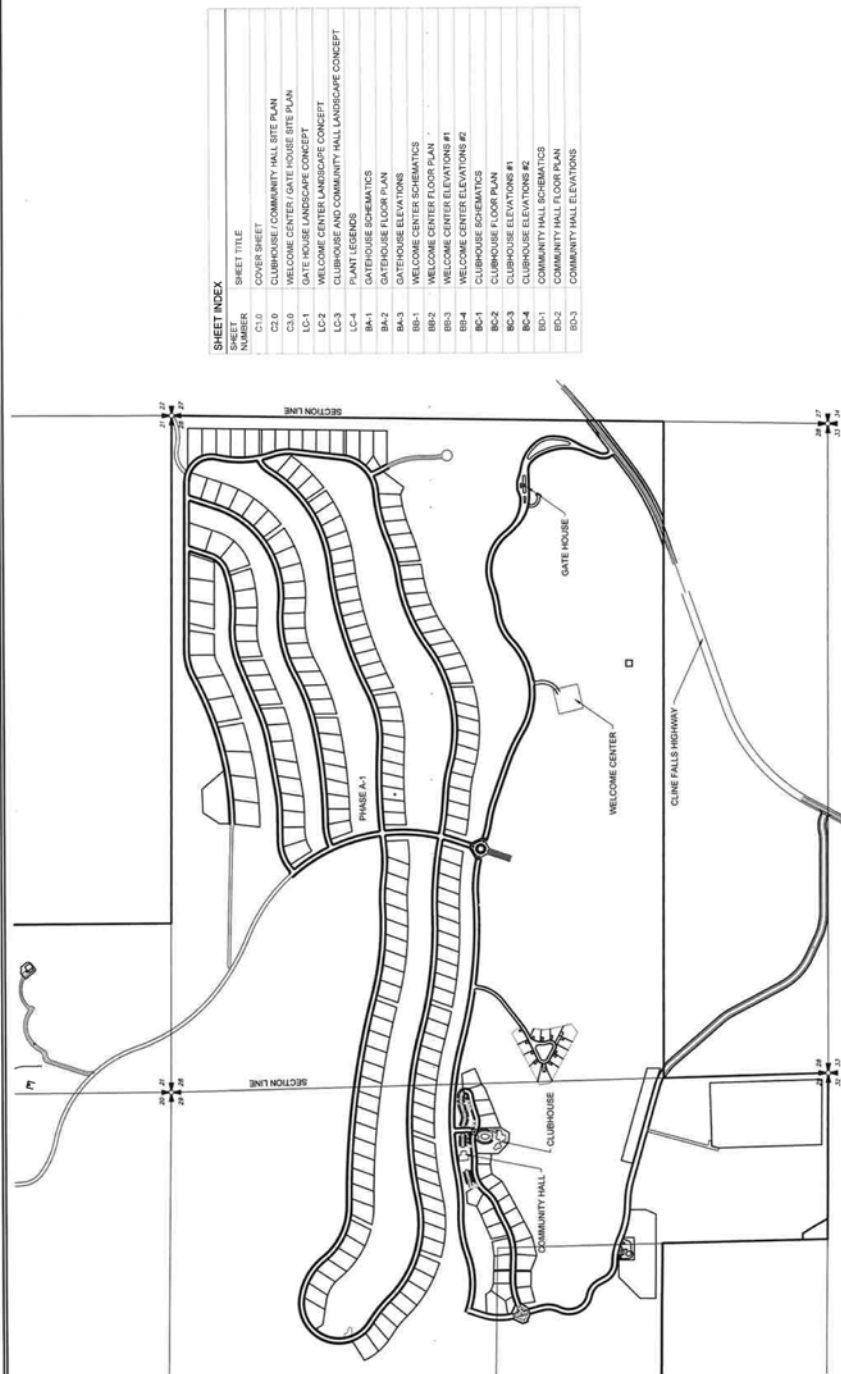
LOCATED AT TOWNSHIP 15 SOUTH, REGION 12 EAST SECTIONS 28 & 29
DESCHUTES COUNTY, OREGON



VICINITY MAP SCALE: 1" = 10,000'

OWNER/DEVELOPER
CENTRAL LAND AND CATTLE COMPANY
2447 NW CANYON DR
REDMOND, OR 97756
PH: (541) 350-8479

SURVEYOR/ENGINEER
HICKMAN WILLIAMS & ASSOCIATES INC.
62930 O.B. RILEY ROAD, SUITE 100
BEND, OR 97703
P. (541) 389-9351



SHEET NUMBER	TITLE
C1.0	COVER SHEET
C2.0	CLUBHOUSE / COMMUNITY HALL SITE PLAN
C3.0	WELCOME CENTER / GATE HOUSE SITE PLAN
LC-1	GATE HOUSE LANDSCAPE CONCEPT
LC-2	WELCOME CENTER LANDSCAPE CONCEPT
LC-3	CLUBHOUSE AND COMMUNITY HALL LANDSCAPE CONCEPT
LC-4	PLANT LEGENDS
BA-1	GATEHOUSE SCHEMATICS
BA-2	GATEHOUSE FLOOR PLAN
BA-3	GATEHOUSE ELEVATIONS
BR-1	WELCOME CENTER SCHEMATICS
BR-2	WELCOME CENTER FLOOR PLAN
BR-3	WELCOME CENTER ELEVATIONS #1
BR-4	WELCOME CENTER ELEVATIONS #2
BC-1	CLUBHOUSE SCHEMATICS
BC-2	CLUBHOUSE FLOOR PLAN
BC-3	CLUBHOUSE ELEVATIONS #1
BC-4	CLUBHOUSE ELEVATIONS #2
ID-1	COMMUNITY HALL SCHEMATICS
ID-2	COMMUNITY HALL FLOOR PLAN
ID-3	COMMUNITY HALL ELEVATIONS

SITE MAP
SCALE: 1" = 500'

THORNBURGH RESORT PHASE A-1 FACILITIES
COVER SHEET
DESCHUTES COUNTY OREGON

HWA
CORPORATION
18015 SP-CLUBHOUSE WAY
BEND, OREGON 97703
TEL: (541) 389-9351

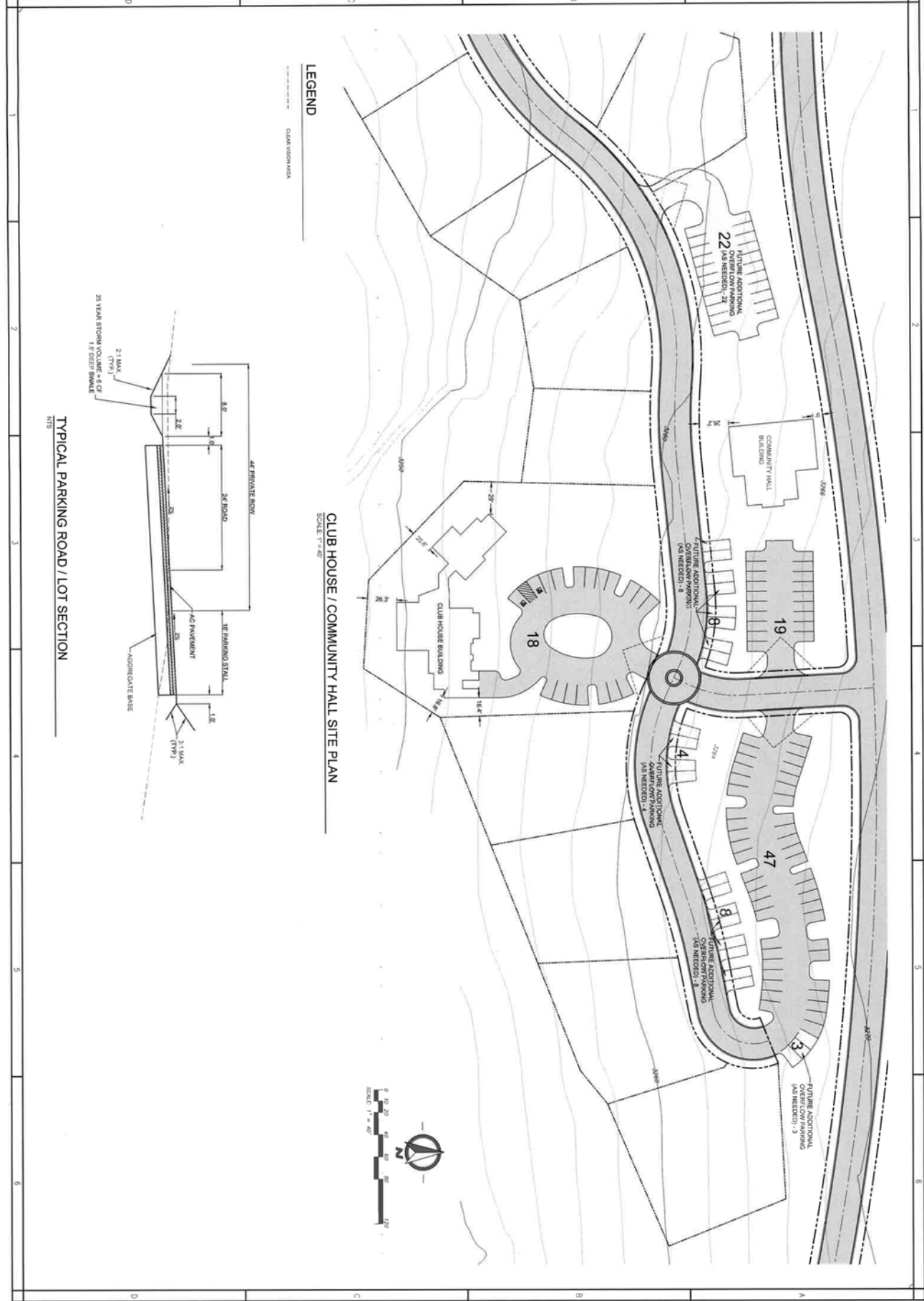
DATE: 05/28/2021

PROJECT: THORNBURGH RESORT PHASE A-1 FACILITIES

DESIGNED BY: []
CHECKED BY: []
DRAWN BY: []
SCALE: AS SHOWN
PROJECT NO: 18015-SP-CLUBHOUSE WAY

SHEET
C1.0
180110

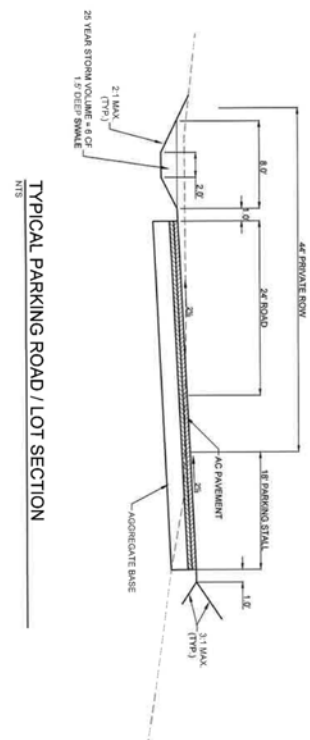
market 5 Land Projects\Thornburgh\dwg\CONSTRUCTION DRAWINGS\180110-SP-Clubhouse.dwg Fri May 29, 2021 - 10:13am



LEGEND

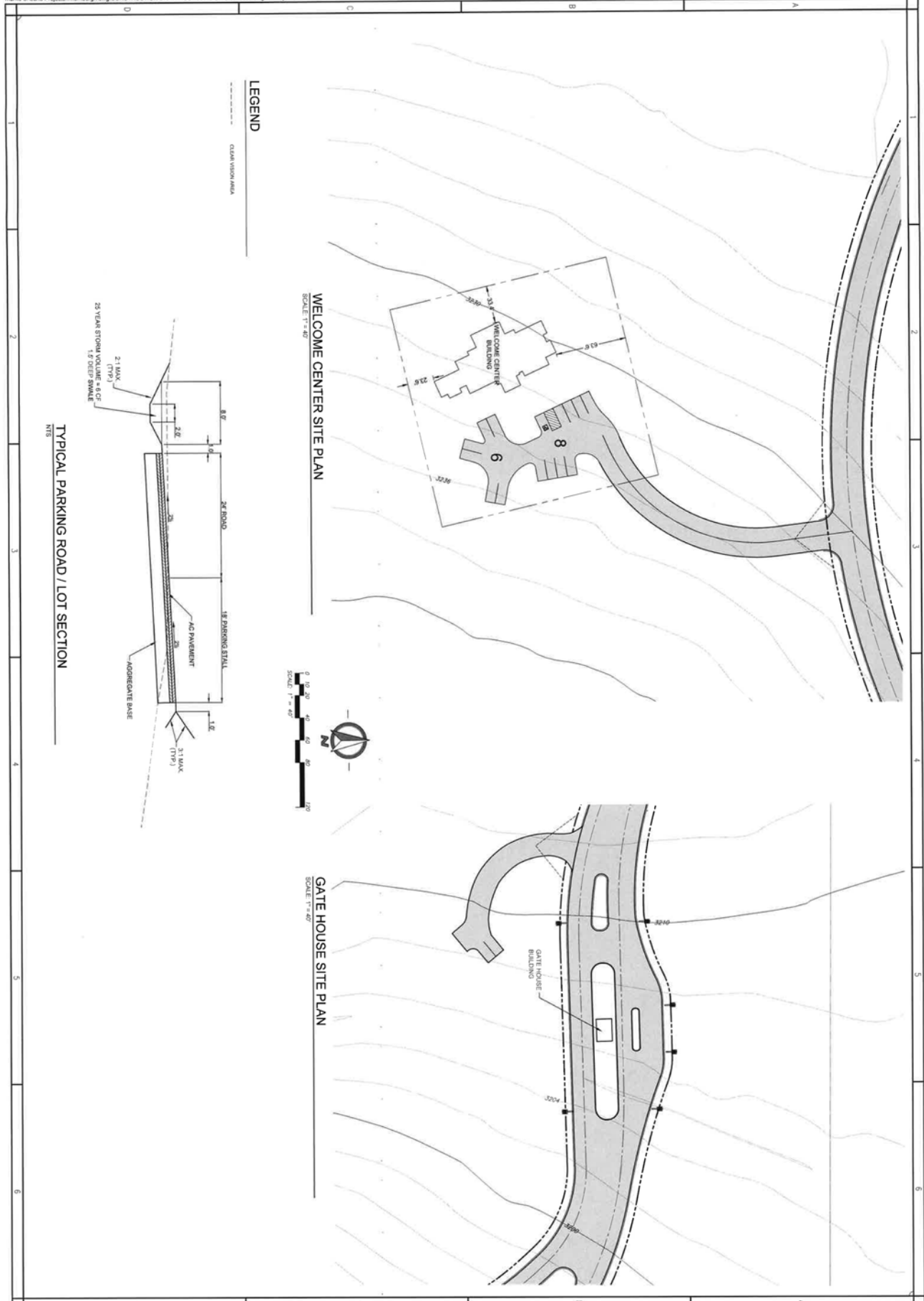
CLEAR VISION AREA

CLUB HOUSE / COMMUNITY HALL SITE PLAN
SCALE: 1" = 40'



TYPICAL PARKING ROAD / LOT SECTION
NTS

<p>CONTRACT NO. 180110-SP-Clubhouse.dwg DATE: 05/28/2021 SCALE: 1" = 40'</p>	<p>THORNBURGH RESORT PHASE A-1 PHASE A-1 FACILITIES CLUB HOUSE AND COMMUNITY HALL SITE PLAN DESCHUTES COUNTY OREGON</p>	<p>HWA CIVIL, ENGINEERING & SURVEYING CONSULTANTS 180110-SP-Clubhouse.dwg SCALE: 1" = 40'</p>	<p>DESIGNED BY: MFC CHECKED BY: MFC SCALE: 1" = 40' DATE: 05/28/2021 PROJECT: THORNBURGH RESORT PHASE A-1 FACILITIES SHEET: C2.0 180110</p>
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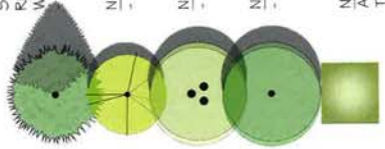


<p>C3.0</p>	<p>HWA</p> <p>CIVIL ENGINEERING SURVEYING PLANNING</p> <p>1000 N. WASHINGTON ST. SUITE 200 COVINGTON, OR 97331 TEL: 503.233.8800</p>	<p>THORNBURGH RESORT PHASE A-1</p> <p>PHASE A-1 FACILITIES</p> <p>WELCOME CENTER AND GATE HOUSE</p> <p>SITE PLAN</p> <p>DESCHUTES COUNTY OREGON</p>	<p>CONTRACT NO. 180110</p> <p>DATE: 05/28/2021</p>
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SPECIFICATIONS	
SHEET#	BOOK#
PROJ. MOR.	KA
DRAWN:	DF
CHECKED:	DF
PROJ. NO.:	PT222
DATE:	05-27-21
SCALE:	1" = 50'-0"
REVISIONS:	
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CONCEPT PLANT SCHEDULE GATE HOUSE

EXISTING HERITAGE JUNIPER TREES TO BE SAVED THESE TREES ARE THE "HERITAGE" JUNIPERS THAT HAVE BEEN STAKED IN THE FIELD FOR THE PURPOSE OF SAVING IN PLACE. THESE TREES HAVE SIGNIFICANT CHARACTER AND/OR SIZE, RELATIVE TO OTHER TREES IN THE WORK AREA.



NEW ACCENT TREES - TALL

NEW ACCENT TREES - LARGE

NEW NATIVE TREES

NATIVE REVEG ZONE
AREAS OF DISTURBANCE TO BE TREATED WITH NATIVE VEGETATION TO BLEND IN SEAMLESSLY WITH THE ADJACENT UNDISTURBED NATIVE

TRANSITIONAL ZONE
TRANSITIONAL LANDSCAPING BETWEEN NATIVE REVEG/UNDISTURBED NATIVE AND ORNAMENTAL LANDSCAPING - TO INCLUDE SOME NATIVES AND SOME NON-NATIVES

ORNAMENTAL LANDSCAPING
HIGH DENSITY ACCENTED OR ORNAMENTAL LANDSCAPING NEAR BUILDINGS

SEE LEGENDS ON SHEET LC-4 FOR PLANTS FOR EACH ZONE AND TREE TYPE

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE OF THE TREES.



SPECIFICATIONS	SHEET	BOOK	KA
	PROJ. MOR.		DF
	DRAWN:		DF
	CHECKED:		DF
	PROJ. NO.:		P2122
	DATE:		05-27-21
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REVISIONS:			
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CONCEPT PLANT SCHEDULE WELCOME CENTER

EXISTING HERITAGE JUNIPER TREES TO BE SAVED
THESE TREES ARE THE "HERITAGE"
JUNIPERS THAT HAVE BEEN STAKED IN
THE FIELD FOR THE PURPOSE OF
PRESERVING THEM. THE SIZE IS
SIGNIFICANT CHARACTER AND/OR SIZE,
RELATIVE TO OTHER TREES IN THE
WORK AREA.

NEW ACCENT TREES - LARGE

NEW NATIVE TREES

NATIVE REVEGE ZONE
AREAS OF DISTURBANCE TO BE
TREATED WITH NATIVE VEGETATION TO
BLEND IN SEAMLESSLY WITH THE
ADJACENT UNDISTURBED NATIVE

TRANSITIONAL ZONE
TRANSITIONAL LANDSCAPING BETWEEN
NATIVE REVEGE ZONES AND NATIVE
ORNAMENTAL LANDSCAPING TO
INCLUDE SOME NATIVES AND SOME
NON-NATIVES

ORNAMENTAL LANDSCAPING
HIGH DENSITY ACCENT OR
ORNAMENTAL LANDSCAPING NEAR
BUILDINGS

LAWN

SEE LEGENDS ON SHEET LC-4 FOR
PLANTS FOR EACH ZONE AND TREE TYPE

ALL LOTS WILL HAVE LOW-VOLTAGE
LANDSCAPE LIGHTING TO ILLUMINATE
PATHS AND LANDSCAPE AS
NECESSARY. LIGHTING WILL BE
CONTAINED WITHIN THE LOT AND WILL
NOT SPREAD INTO ADJACENT LOTS.

PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO
DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE
UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF
EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS
MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW
CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE
OF THE TREES.



SPECIFICATIONS	BOOK	KA
SHEET	BOOK	DF
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DRAWN	DF	DF
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PROJ. NO.	P2122	
DATE	02-29-21	
SCALE	1" = 80'0"	
REVISIONS		
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PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE OF THE TREES.

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

CONCEPT PLANT SCHEDULE CLUBHOUSE

EXISTING JUNIPER TREES - ALL EXISTING JUNIPER TREES SHALL BE PROTECTED IN PLACE WITH CONSTRUCTION FENCING.

EXISTING JUNIPER TREES - TO BE SAVED

NEW ACCENT TREES - TALL

NEW ACCENT TREES - LARGE

TRANSITIONAL ZONE LANDSCAPING

ORNAMENTAL LANDSCAPING

LAWN

SEE LEGENDS ON SHEET LC-4 FOR PLANTS FOR EACH ZONE AND TREE TYPE.



FINDINGS AND DECISION

FILE NUMBER: 247-21-000537-SP

SUBJECT PROPERTY/ OWNER: Mailing Name: Central Land and Cattle Company, LLC
Map and Tax Lots: 7700, 7800 Assessor's Map 15-12-00.

APPLICANTS: Central Land and Cattle Company, LLC
Kameron DeLashmutt

REQUEST: Site Plan Review of Welcome Center, Gatehouse, Golf Clubhouse and Community Hall

STAFF CONTACT: Angie Brewer, Senior Planner
Phone: 541-385-1704
Email: angie.brewer@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6
 Title 18 of the Deschutes County Code, the County Zoning Ordinance:
 Chapter 18.16, Exclusive Farm Use Zones (EFU)
 Chapter 18.113, Destination Resorts Zone (DR)
 Chapter 18.116, Supplementary Provisions
 Chapter 18.124, Site Plan Review
 Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS

SUBJECT PROPERTY: The proposed project will be located on areas currently shown on tax lots 7700 and 7800, Assessor's Map 15-12-00.

LOT OF RECORD: Tax Lot 7800 is a lot of record because it was found to be a lot of record in LR-91-56. Tax Lot 7700 is comprised of four lots of record as determined by 247-14-000450-LR. The entire

Resort property was also determined to be a lot of record by the Board of Commissioners in CU-05-20, its approval of the CMP (page 4 of decision).

The applicant provided a supplemental response to this section as follows:

“Tax Lot 7700 is comprised of a number of lots of record. The part of Tax Lot 7700 that comprises the subject property for this application is comprised of lots of record 1, 2, 3 and 4 of 247-14-000450-LR. A copy of the decision approving 247-14-000450-LR is Exhibit 2 of this application. Tax Lot 7800 is a single lot of record as determined by LR-91-56. Furthermore, the entire Resort property was determined to be a lot of record by the BOCC’s decision approving the CMP, CU-05-20, DC 2006-11.”

SITE DESCRIPTION: The subject property is a part of a tract of approximately 1,980 acres of land adjacent to Cline Buttes that has been approved for the development of the Thornburgh Destination Resort. The subject property is mostly undeveloped land with sloping terrain, natural vegetation, rock outcroppings and ridge tops. The property adjoins and lies west of Cline Falls Road.

SURROUNDING ZONING AND USES: The applicant provided the following summary; Staff does not contest any of its contents:

The subject property is surrounded by land zoned EFU-SC and OS&C. All adjoining and nearby EFU-SC land owned by Central Land and Cattle Company has, like the subject property, received approval to be developed as a part of the Thornburgh destination resort. Land northeast of the subject property is zoned EFU-SC, SM, RR-10 and OS&C. This area includes an unrecorded rural residential subdivision, the Eagle Crest Destination Resort, a cell tower and a surface mine. The SM-zoned surface mine property is at least .75 mile away from the subject property. The remainder of the surrounding land is owned by the USA, Deschutes County, and the State of Oregon. The federal lands are part of the Cline Butte Recreation Area (CBRA) and are developed for public recreational use and conservation. Thornburgh will be performing wildlife habitat enhancement work in the CBRA to offset impacts of resort development on wildlife on the schedule established by the Wildlife Mitigation Plan (WMP) element of the FMP.

LAND USE HISTORY: The applicant summarizes the land use history as follows:

Conceptual Master Plan: The Deschutes County Board of Commissioners approved a conceptual master plan (CMP) for the resort in File CU-05-20 on May 10, 2006. The decision was appealed by Annunziata Gould and Steve Munson and remanded. The CMP was again approved by the BOCC on remand on April 2008 in County Document No. 2008-151. Ms. Gould unsuccessfully appealed the 2008 approval. Approval of the CMP was final on December 9, 2009.

Declaratory Ruling: Loyal Land Company filed a declaratory ruling regarding the status of the CMP in 2011. The County twice approved the application. The current status of this matter

is that it has been remanded to the County by the Oregon Court of Appeals and LUBA. Loyal Land has not initiated a review on remand. This application is moot, however, because the resort's final master plan (FMP) incorporates and satisfies all conditions of the CMP and has received final approval.

Final Master Plan: Thornburgh Resort Company filed for approval of the FMP in 2007. It amended the application in 2008. The application was approved by the County, appealed by Ms. Gould and remanded by LUBA to address issues regarding the Thornburgh Wildlife Mitigation Plan (TMP). In 2015, a County hearings officer denied approval of the remanded FMP. Central Land and Cattle Company, LLC successfully appealed the denial. On remand, the FMP was approved by the county. Ms. Gould again appealed the FMP approval. LUBA affirmed the County's approval, and the FMP is final.

Tentative Plan Phase A-1: In May 2018 Central Land and Cattle Company, LLC ("Central") filed for approval of its Phase A-1 Tentative Plan, which was approved by hearing officer Dan Olsen in October 2018, appealed by Ms. Gould, and remanded by LUBA. Gould appealed the LUBA decision to the Court of Appeals ("COA"), who dismissed her appeal as it was not filed timely. Gould appealed that dismissal to the Oregon Supreme Court, challenging the order of dismissal. On December 31, 2020 the Supreme Court remanded the decision to the COA to take further action. On April 21, 2021, the Oregon Court of Appeals affirmed LUBA's decision without issuing an opinion. After the COA dismissed Gould's appeal, the applicant initiated a review on remand. Hearing Officer Olsen declined to hear the remand and the applicant appealed to the Board of County Commissioners ("BOCC" or "Board"). The BOCC approved the Tentative Plan in November 2019. Gould appealed the BOCC approval to LUBA, which is still pending.

Site Plan - Golf Course and Lakes: In December 2019, Central filed for approval of the Golf Course and Lakes site plan. This site plan was approved administratively in April 2020 by Deschutes County Planning. Ms. Gould appealed. The Board of Commissioners ("BOCC") heard the appeal and affirmed the administrative approval on August 31, 2020. On September 16, Ms. Gould filed a notice of intent to appeal to LUBA. Oral argument has occurred and the parties are awaiting a decision.

Collateral Attacks on Prior Approvals: Integral to the BOCC decision affirming approval of the golf course and lakes site plan was the applicant's claim that many arguments raised by opponents were impermissible collateral attacks on the CMP and FMP. The BOCC agreed stating:

"The BOCC finds that many issues raised by Appellants in these proceedings were either; i) raised and resolved against the opponents in previous stages of the resort's multi-stage approvals process, or: ii) could have been raised during the review of the CMP or FMP but were not. Where this is the case, the issue is settled and not grounds for denial of a Stage 3 review application [a site plan or tentative plan]. Under the principle of collateral attack, a land use decision intended to serve as a final determination of a land use issue such as the Thornburgh CMP and FMP may

not be challenged in a later proceeding that implements or relies on the earlier, final decision. LUBA has explained the rule as follows:

'As a general principle, issues that were conclusively resolved in a final discretionary land use decision, or that could have been but were not raised and resolved in that earlier proceeding, cannot be raised to challenge a subsequent application for permits necessary to carry out the earlier final decision.' *Safeway, Inc. v. City of North Bend, 47 Or LUBA 489, 500 (2004) (citations omitted).*"

BOCC Decision, File 247-19-000881-SP et al, p. 4.

The BOCC also commented:

"LUBA's application of the no collateral attack rule in Gould v. Deschutes County, __ Or LUBA __ (LUBA No. 2018-140, June 21, 2019) is instructive. In that case, LUBA held that challenges to issues settled by the CMP and FMP are impermissible collateral attacks on the Thornburgh CMP and FMP. LUBA found that challenges to Resort plans for Overnight Lodging Units (OLU) and the wildlife mitigation plans are not permissible. Specifically, LUBA found that the removal of dams on Deep Canyon Creek and the provision of mitigation water is required by the FMP and is not relevant to the review of the tentative plan because the tentative plan did not alter the mitigation plan that is a part of the FMP."

BOCC Decision, File 247-19-000881-SP et al, p. 5.

During review of the golf course site plan File 247-19-000881-SP et al, the applicant provided details on 17 categories of issues that were previously resolved and are impermissible collateral attacks, including those mentioned by LUBA above. The BOCC agreed finding:

"In the record, the Applicant identified arguments that are impermissible collateral attacks and the specific issues barred by the rule. The BOCC summarizes collateral attack arguments and makes findings in Exhibit A, which is incorporated in its entirety into this decision."

BOCC Decision, File 247-19-000881-SP et al, p. 5.

The BOCC's decision, including Exhibit A, are referenced numerous times herein because the document contains the Board's interpretation of its prior CMP decision and the destination resort code, DCC Chapter 18.113. See Exhibit 1: BOCC Golf Course Decision, Pages 4-6, 18-42.

PROPOSAL: The applicant is seeking site plan approval for a Gate House, Welcome Center, Club House, and Community Hall authorized by the CMP and FMP. The Applicant provides the following description of the proposal:

This site plan provides a gatehouse and facilities required to meet conditions of approval of the CMP/FMP. The Golf Clubhouse, the Community Hall, and the Welcome Center will satisfy the eating and meeting requirements of Condition 33 of the FMP and provide the reservation and check-in facility required by Condition 31 of the FMP. The improvements will be developed or financially assured, as required by Condition 33 and DCC 18.113.060, prior to the closure of sales, rental or lease of any residential dwellings or lots.

The following is a description of the use of each proposed building:

Gatehouse. The destination resort is a private community. The gatehouse will house staff who will control access to the resort. A small parking area is proposed for use by staff.

Welcome Center. The Welcome Center will serve the dual function of a reservation and check-in and office facility. Initially, the offices will be used by sales staff. The Center will also include a large lounge area for with a model of the resort.

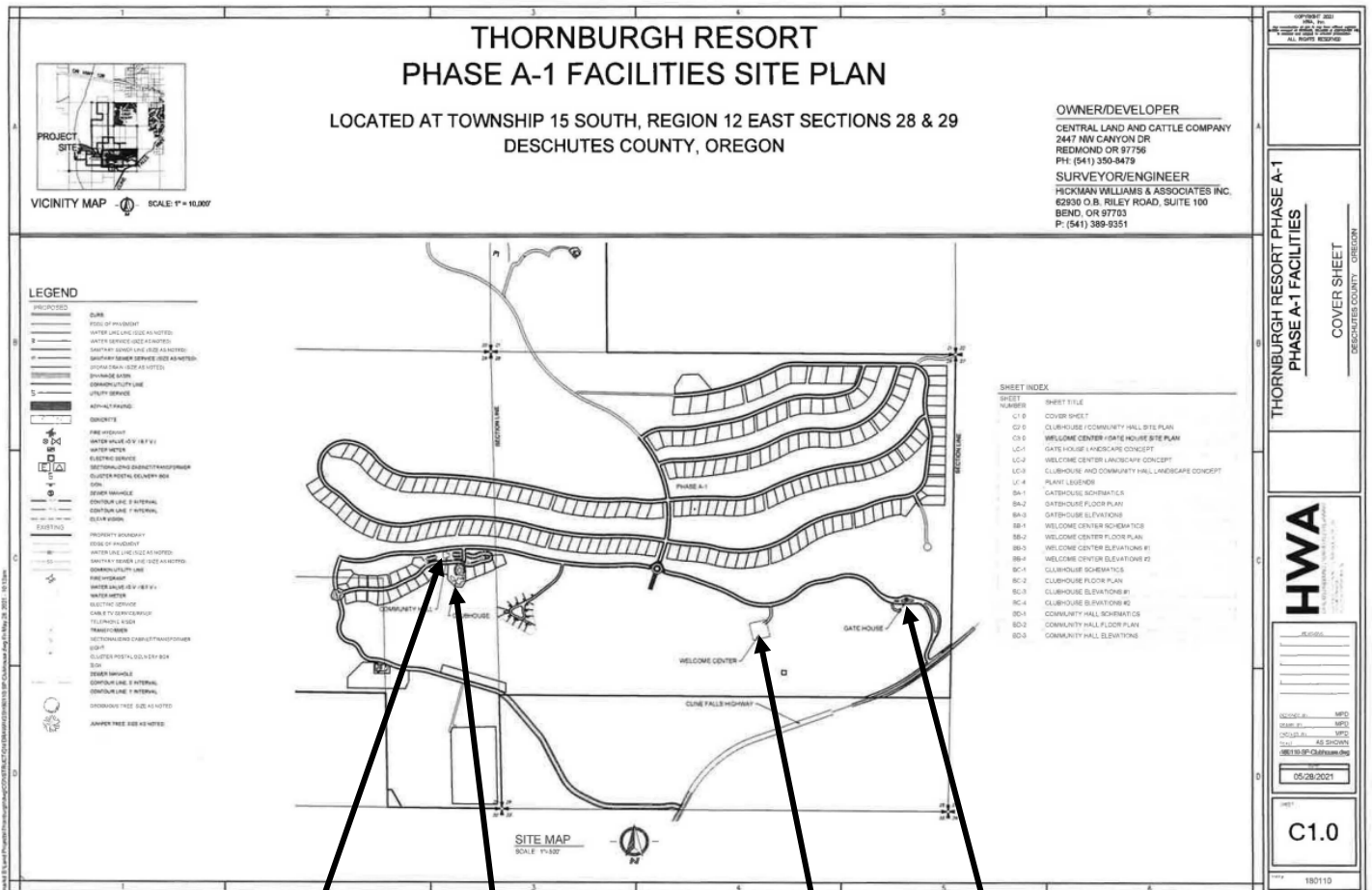
Golf Clubhouse. The golf clubhouse includes a 100-seat restaurant and a pro shop that will provide services for golfers and management of the golf course.

Community Hall. The Community Hall is a multi-purpose building. It includes the 100-person meeting/event room required by Condition 31 of the FMP. It also includes restrooms for persons attending meetings. The meeting/event room is designed to host meetings of 100 persons. The rest of the building is designed for golf cart storage. This area may also be used for dining and dancing by persons attending meetings and events at the Community Hall.

The applicant provided the following discussion:

The subject property is comprised of land located within the boundaries of Tax Lots 7700 & 7800, Assessor's Map 15-12-00. Deschutes County has approved a tentative plan that authorizes the creation of a lot that will be developed with the Welcome Center, Gatehouse, Golf Clubhouse, Community Hall and the area for parking and cart storage shown in this site plan. Deschutes County Board of County Commissioners approved a site plan application for the construction of the golf course that will be served by the clubhouse and its parking facilities. The address of the tax lots proposed for development is 67545 & 67555 Cline Falls Road, Redmond, Oregon 97756.

Figure 1 - Phase A-1 Facilities Site Plan¹:
 (Included for reference only; arrows added by Staff for general navigation purposes)



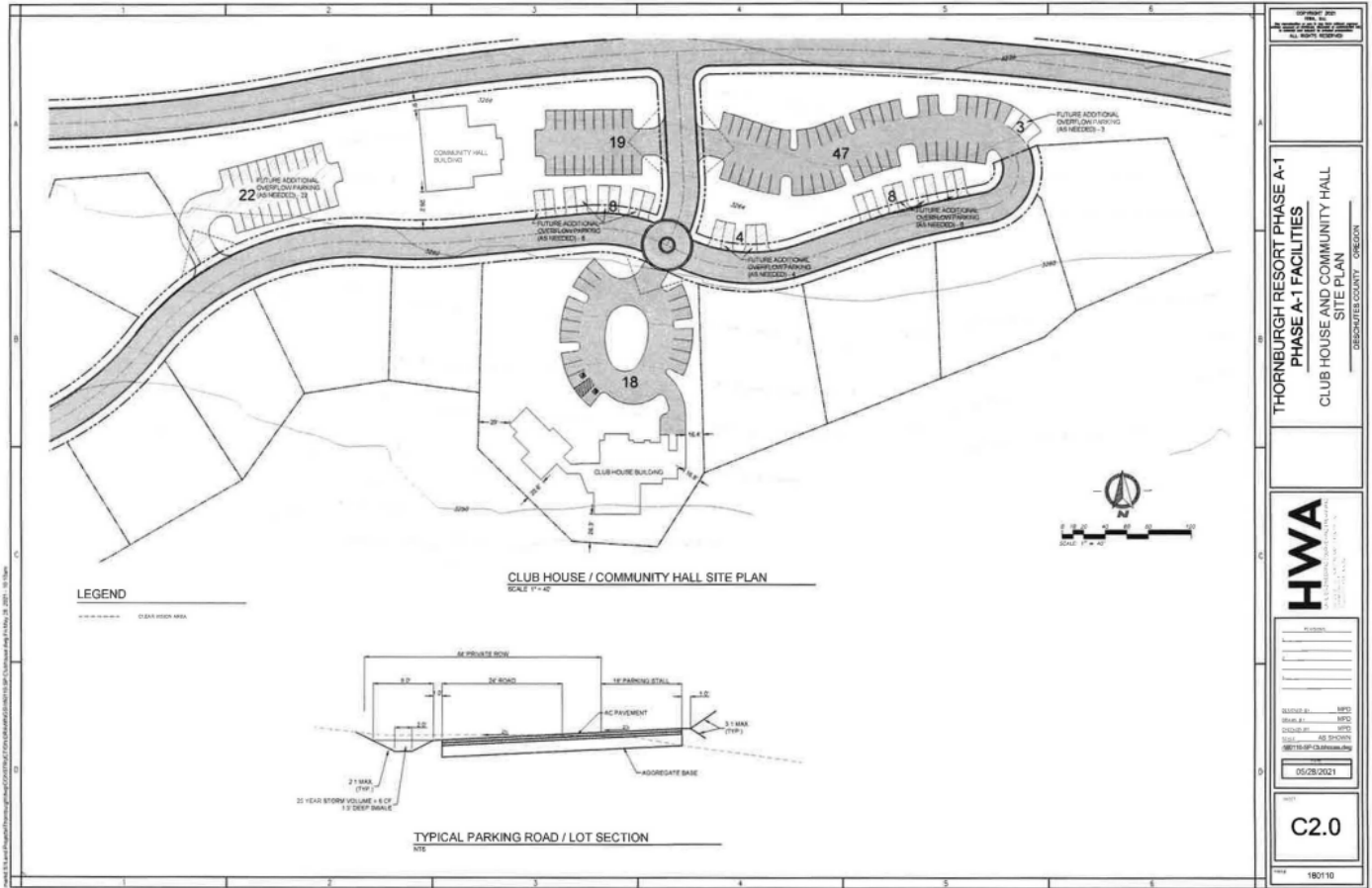
- Community Hall
- Club House
- Welcome Center
- Gate House

Staff notes Deschutes County has approved a Conceptual Master Plan (CMP) and Final Master Plan (FMP) (file no. M-07/MA-08-6) for the subject property that must be implemented in a series of phased Site Plan Review applications. Staff notes the subject site plans are shown in application materials as part of the Phase A1 Site Plan. The Phase A1 Site Plan was approved by the County Board of Commissioners to implement a portion of the approved FMP; it was appealed to the Oregon Land Use Board of Appeals (LUBA) and subsequently remanded to the County for further review. The County reviewed and approved the remanded site plan in file no. 247-21-000731-A. The Administrative Decision was appealed to a Hearings Officer; the Hearings Officer decision is anticipated to be received on or about October 5, 2021. The site plans reviewed herein are based on the specific mapped locations shown in the application materials. This review is limited to the Site Plan Review of the Club House, Community Hall, Welcome Center, and Gate House as authorized by the CMP and FMP. Any change to road, right-of-way, parking, structure configurations, or structure locations is not approved under this decision. This is included as a condition of

¹ Full scale site plan can be viewed on page 187 of the application.

approval.

Figure 2: Club House / Community Hall Site Plan²



THORNBURGH RESORT PHASE A-1
 PHASE A-1 FACILITIES
 CLUB HOUSE AND COMMUNITY HALL
 SITE PLAN
 DESCHUTES COUNTY, OREGON

HWA
 HWA CONSULTANTS, INC.
 1000 NE Oregon Street, Suite 200
 Bend, Oregon 97701
 Phone: 503-325-4444
 Fax: 503-325-4445
 www.hwaconsultants.com

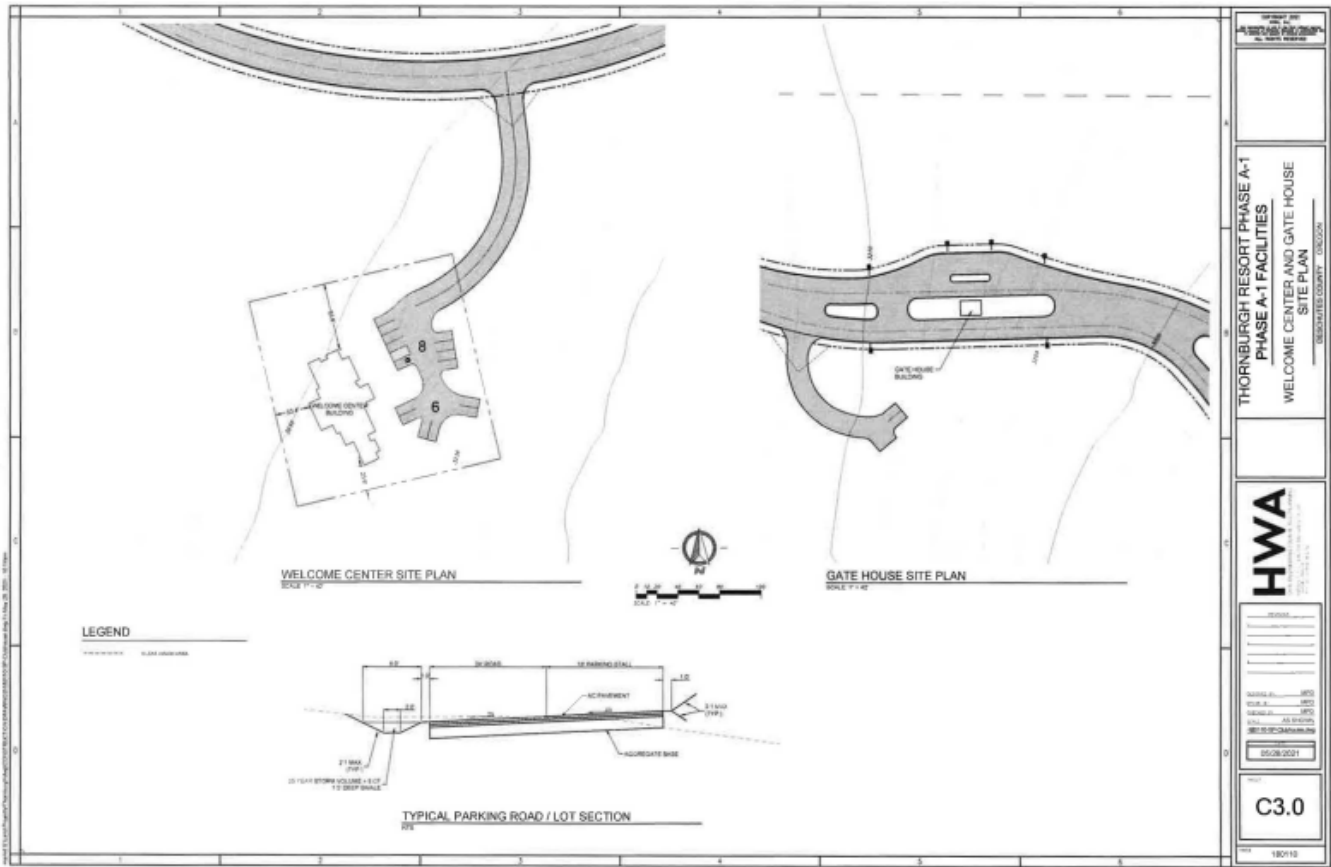
DATE: 05/28/2021

C2.0

180110

² Full scale site plan can be viewed on page 188 of the application.

Exhibit 3: Welcome Center and Gate House Site Plan³



REVIEW PERIOD: The subject application(s) were submitted on May 28, 2021 and deemed complete by the Planning Division on August 18, 2021, following Applicant’s timely response to an incomplete letter. The applicant has extended the 150-day clock by 79 days. The 150th day on which the County must take final action on this application is February 16, 2022.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice to several public agencies and received the following comments:

Bureau of Land Management (BLM), Autumn Loewen

At this time, the Prineville BLM has "no comment" regarding the Site Plan Review for the Welcome Center, Gate House, Golf Clubhouse and Community Hall.

³ Full scale site plan can be viewed on page 189 of the application.

Redmond Fire and Rescue

Staff incorporates the Redmond Fire and Rescue comment dated June 21, 2021 herein by reference.

Deschutes County Building Division, Randy Scheid

NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for file 247-21-000537-SP for a Welcome Center, Gate House, Golf Clubhouse, and Community Hall in the Thornburgh destination resort at 67545 and 67555 Cline Falls Hwy, 15-12-00, Tax Lots 7700 and 7800, . The proposal is consistent with the approved Conceptual Master Plan (CMP) and Final Master Plan (FMP) and no additional traffic analysis is required.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,488 per p.m. peak hour trip. The proposed uses, however, will not generate any traffic themselves and therefore no road capacity, as that term is commonly understood, will be consumed. Therefore, SDCs do not apply to these proposed uses. SDCs will be assessed on the golf course itself as well as overnight lodging units (OLUs).

Deschutes County Environmental Health, Jeff Freund

I've already commented on this project in terms of the drinking water (starting in 2006), #23 & 36 on the original staff report. If no changes, they will still need to contact drinking water program or myself and start the process with a plan review. I'm assuming it will have some full time residents and be a community system, but we will tease that out in the plan review.

However, I don't recall discussion of the clubhouse and community hall buildings. If they propose a kitchen or any food service or catering, etc., they will need to contact EH for plan review for the food piece. Similarly if they decide to propose a pool or spa.

Central Oregon Irrigation District, Kelley O'Rourke

COID has no facilities or water rights within the project area.

Wetland/Waterway/Other Water Features

- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- The National Wetlands Inventory shows wetland, waterway or other water features on the property

Your Activity

- It appears that the proposed project **may** impact wetlands and **may** require a State permit.

Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information

Additional Comments

Based on review of the submitted site plan, the proposed locations of the "Welcome Center, Gatehouse, Golf Clubhouse, and Community Hall" do not appear to impact jurisdictional wetlands and waterways of this state.

However, the access road for these buildings does appear to propose impacts to several mapped intermittent streams on-site. As noted in WN2021-0609 & WN2018-0455, these streams may more accurately meet the criteria of ephemeral streams, which would not be jurisdictional to DSL.

The recommendation still stands that the applicant contact DSL to check streams that flow longer than directly following rainfall and snowmelt. A total of 50 cubic yards of material removed and/or placed below the ordinary high water line or a jurisdictional creek is allowed (cumulatively for the project area) before a permit is required.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

The following agencies did not respond to the notice: Deschutes County Assessor, Deschutes County Environmental Soils Division, Deschutes County Road Department, ODOT Region 4 Planning, Oregon Department Of Ag Land Use Planning Coordinator, Oregon Department of Fish & Wildlife, Property Address Coordinator, U.S. Fish & Wildlife Service, and Watermaster - District 11.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the subject property. The applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22.

Below, staff summarizes public comments that expressed concern regarding the following issues. These issues are addressed in relevant parts throughout the decision.

- Aquifer conditions should be assessed by a professional before approving;
- Area water shortages and drought conditions;
- Impacts to farmers already facing water restrictions due to drought;
- Impacts to existing wells;
- Secondary access roads being used as primary access roads during construction;
- Golf courses are not a priority with our drought and wildfire risks;
- We should prioritize farms for food, not resorts;
- The proposal will “rob” central Oregon wells for vacation homes;
- Growth is a burden on the community and resources;
- Take care of natural resources and citizens before accommodating wealthy tourists and part-time residents;
- Insufficient water to support more homes and golf courses, environmental impacts of decision;
- Concerns about water used for golf course;
- Wells are going dry from existing golf courses, do not approve more;
- Invest in affordable house, not resort housing;
- Availability of a quasi-municipal water supply;
- Availability of water for mitigation requirements;

- Compliance with Redmond Fire & Rescue requirements;
- Compliance with BLM access road requirements;
- ADA accessibility is not adequately addressed.

III. FINDINGS & CONCLUSIONS

Thornburgh Resort Final Master Plan

FINDING: The applicant has obtained final approval of an FMP from Deschutes County which calls for the proposed development to be constructed in Phase A. The applicant is required to demonstrate compliance with the relevant conditions of approval imposed by the FMP. Each condition is set out in full and is addressed below.

1. Approval is based upon the submitted plan. Any substantial change to the approved plan will require a new application.

FINDING: The applicant argues that no substantial change is proposed as follows:

The applicant is not proposing a substantial change to the approved plans. The applicant is requesting site plan approval of resort development in the general locations allowed by the FMP Master Development Plan Map A.3.1 (See Exhibit 3). The site plan does not propose to modify any element of the FMP.

Location

The FMP prescribes the timing and amount of development of the Resort, not the specific location of resort facilities. In the first phase of development, improved recreational and resort facilities and overnight lodging units with a minimum dollar value must be provided before Phase A residential lots may be sold. The site plan shows development in the same general location as the FMP.

In his approval of the tentative plan, Hearings Officer Olsen (Olsen Decision) noted that the Board’s CMP decision CU-05-20 found:

“there will be some fluidity between and among development phases, depending on market demand, weather and economic conditions. ***

Page 22, Olsen Decision 247-18-000386-TP/592-MA.

According to Hearings Officer Olsen:

“The Board read DCC 18.113 as not requiring specificity, but only the general location of proposed development uses. *** This appears to be consistent with the Hearings Officer decision which states that the resort will be developed in seven phases (A-G) but that ‘significant flexibility is required in the scheduling and phasing of improvements’ to accommodate changed conditions ‘beyond the control of the applicant.’”

Exhibit 4: TP A-1 HO Olsen Decision, pp. 20-23 (quoted material on p. 22).

The FMP prescribes the timing and amount of development of the Resort, not the specific location of resort facilities. In the first phase of development, improved recreational and resort facilities and overnight lodging units with a minimum dollar value must be provided before Phase A residential lots may be sold. The site plan shows development in the same general location as the FMP.

Wildlife Mitigation Plan.

Thornburgh’s Mitigation Plan (TMP) is comprised of two plans, the Wildlife Mitigation Plan which includes the monitoring plan (WMP) and, the April 2008 Fish and Wildlife Mitigation Plan (FWMP). The development in the location depicted on the submitted site plan will not cause any change in the terrestrial mitigation plan. The WMP spells out the monitoring and reporting requirements that applicant is required to perform, and the enforcement measures afforded the County, the BLM, and the ODFW. The WMP was found to be sufficient by approval of the FMP after numerous challenges by Gould. The site plan does not propose or require any change to the WMP. Under the WMP, mitigation is not required until such time that impacts are created, the timing of which is discussed under condition #38 below. As the applicant is not proposing any change to the WMP, no action is necessary. Further the issue is settled and barred from further attack as determined by LUBA and the BOCC in earlier proceedings. Condition 38 of the FMP also makes it clear that compliance with the wildlife plan is assured by annual County staff and wildlife agency reviews of the mitigation plans and measures undertaken by the Resort; not during the review of a site plan or tentative plan.

Fish and Wildlife Mitigation Plan (FWMP)

In its decision regarding Gould’s appeal of the Phase A-1 tentative plan, LUBA determined that as long as a development application does not alter the FWMP, conditions of approval assuring compliance with the FWMP are not required. In rejecting Gould’s claim that conditions of approval were needed to assure CLCC would do what is required by the FWMP, LUBA held:

*“Intervenor responds, and we agree, that removal of the dams [on Deep Canyon Creek] and provision of mitigation water is required by the FMP approval and the tentative plan does not alter the mitigation plan. *** The hearings officer was not required to impose additional condition to the approval of the tentative plan [to*

assure compliance with the FWMP].”

Gould v. Deschutes County, 79 Or LUBA 561, 583 (2019). The same holds true for the current site plan – the approval of the site plan will not alter the mitigation promised by the FWMP and the requirements of the FWMP remain self-executing. When mitigation is required for this site plan, the applicant will be using water from Big Falls Ranch to mitigate for water quantity and quality impacts of the golf course and lake development proposed under this application as well as for the development approved under the Phase A-1 tentative plan. The applicant has entered into a contract with Big Fall Ranch to purchase 175 acres of irrigation water rights for use as mitigation water. See: Exhibit 5: Big Falls-Pinnacle Memo. This is 315 acre-feet of cold-water mitigation water rights – more water than needed for all Phase A development. Since the Big Falls Ranch water is an allowable source in the FWMP, and the source provides “cold water” mitigation there is no change. As with the tentative plan, the site plan is not proposing any change to the FWMP because it will be complying with the FWMP by using Big Falls Ranch irrigation water rights for mitigation. Nothing further is required.

For the reasons detailed above, this application is not a substantial change from the approved FMP or Phase A-1 Tentative Plan and does not require a new application. This condition is met.

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 18 of the County Code, the Subdivision Ordinance.***

FINDING: The applicant is seeking Site Plan Review approval as required by this Condition 2.

3. ***Applicant shall provide a signed grant of right-of-way from the U.S. Department of the Interior Bureau of Land Management for an access easement connection to U.S. Highway 126, prior to submission of a Final Master Plan application.***

FINDING: This requirement has been satisfied.

4. ***Subject to US Department of the Interior-Bureau of Land Management (BLM) approval, any secondary emergency ingress/egress across the BLM-owned land or roadways shall be improved to a minimum width of 20 feet with all-weather resort access surface capable of supporting a 60,000-lb. fire vehicle. Emergency secondary resort access roads shall be improved before any Final Plat approval or issuance of a building permit, whichever comes first.***

FINDING: The applicant argues that the emergency secondary resort access road requirement applies during the county’s review of a final plat or during building permit review. Staff agrees. For this reason, staff includes a condition of approval requiring emergency secondary resort access roads be improved in compliance with FMP Condition #4 prior to final plat approval or issuance of any building permit under this site plan, whichever comes first.

5. ***The developer will design and construct the road system in accordance with DCC 17. Road improvement plans shall be approved by the Road Department prior to construction.***

FINDING: No new roads are proposed under this Site Plan Review. This condition does not apply.

6. ***All easements of record or rights-of-ways shall be shown on any final plat. Plans shall be approved by the Road Department prior to construction.***

FINDING: This requirement applies during the County's review of the final plat. It is not a requirement of site plan approval.

7. ***All new proposed road names must be reviewed and approved by the Property Address Coordinator prior to final plat approval.***

FINDING: This requirement applies during the County's review of the final plat. It is not a requirement of this site plan approval.

8. ***Plan review and approval of water supply plans for phase 1 will be required by Oregon Department of Human Services-Drinking Water Program (DHS-DWP) prior to Final Master Plan approval.***

9. ***Applicant shall designate the location of all utility lines and easements that burden the property on the FMP.***

FINDING: These requirements have been satisfied.

10. ***Applicant shall provide, at the time of tentative plat/site plan review for each individual phase of the resort development, updated documentation for the state water rights permit and an accounting of the full amount of mitigation, as required under the water right, for that individual phase.***

FINDING: The Applicant responded to this condition as follows:

In the tentative plan decision Hearing Officer Olsen determined "Condition 10 appears primarily to be an informational requirement requiring documentation of the state water permit and an accounting of mitigation under the water right." On appeal LUBA concurred. See Exhibit 6: LUBA TP A-1 Decision, Pg. 33-34. In a subsequent proceeding, for approval of the Golf Course and Lakes Site Plan opponents argued that, among other things; the Applicant needed to show it had an enforceable contract with Big Falls Ranch, and, that its water rights permit had expired. Applicant argued the first was not needed, the second was false, that Hearing Officer Olsen's interpretation was correct, and that Opponents were attempting to amend the language of Condition 10, which was an impermissible collateral attack on the CMP. The applicant has a contract for the purchase of 315 acre-feet of water from Big Falls Ranch which is a sufficient amount of water for all Phase A-authorized development. See Exhibit 5: BFR Memo.

The Board of Commissioners agreed stating in its 2020 decision:

“The BOCC agrees this was resolved in the CMP with an intent consistent with Hearing Officer Olsen’s interpretation, that it is an “informational requirement”. The language of Condition 10 requires “updated documentation of the state water right permit.” It doesn’t require that the documentation show any particular status, for example, that the permit is free of protest, or the extension is pending, etc... It just requires updated documentation which the Applicant provided. It shows the Applicant has a water rights permit, that the permit has not been cancelled, and that it is in good standing. Condition 10 does not require the Applicant to provide an agreement, or any form of proof of an agreement or contract for mitigation water. It just requires Applicant to provide an accounting of the mitigation water for the uses in this site plan. Opponent attempts to expand the scope beyond that is a collateral attack on the CMP.”

Exhibit 1: BOCC Golf Course Decision, Exhibit A: Pg. 7-9, 21-23.

With this application, and in compliance with the BOCC’s direction, the applicant has provided updated documentation similar to what it provided to the Board in the case noted above.

The updated documentation includes documentation showing Pinnacle Utilities, LLC owns water rights permit # G-17036. See Exhibit 7: OWRD Pinnacle Transfer. Permit #G-17036 is a quasi-municipal water right granted by Oregon Water Resources Department for the Resort project See Exhibit 8: OWRD Water Rights Permit. On June 24, 2018, Pinnacle submitted an application to amend its Incremental Development Plan (“IDP”). The amended IDP was approved on July 10, 2018, then further amended on September 1, 2020. See Exhibit 9: Incremental Development Plan.

On April 2, 2018 Pinnacle applied to extend the time to fully develop the water uses of permit G-17036. On June 5, 2018 OWRD issued a Proposed Final Order (“PFO”) approving Pinnacle’s extension. See Exhibit 10: OWRD Proposed Final Order (PFO) Approving Extension. On July 20, 2018, Annunziata Gould filed a protest of OWRD’s PFO approval and has requested a contested hearing. This appeal is pending. Opponents have argued Applicant’s water rights permit is void, or expired, or that Applicant cannot pump water under its permit. Under Oregon law, permit G-17036 remains in place during the review of the extension unless and until cancelled by OWRD. See OAR 690-320-0020 (providing for OWRD to send a certified letter of intent to cancel a permit, with 60 days to respond). OWRD has taken no action against the permit and said it has no intentions to do so.

In prior development reviews, OWRD has advised Deschutes County, after the Gould appeal was filed, that Pinnacle’s water rights permit is in good standing, that Pinnacle has done more than is required at this time and that Applicant has provided mitigation before pumping any groundwater under the authority of the permit. See Exhibit 11: Jeremy Giffin emails dated 12/24/19 and 8/24/18. OWRD’s Water Rights Information Query also states that the status

of the permit is “non-cancelled.” See, Exhibit 12: OWRD Water Rights Query. LUBA also affirmed Hearings Officer Olsen’s determination that this type of evidence establishes that Thornburgh Resort has a valid water right and LUBA’s decision was affirmed without opinion by the Oregon Court of Appeals. See Exhibit 6: TP A-1 LUBA Decision, p. 34. LUBA’s decision was affirmed without opinion by the Oregon Court of Appeals on April 21, 2021. Gould v. Deschutes County, 310 Or App 868, 484 P3d 1073 (Table)(2021).. On appeal of the Golf Course site plan the BOCC agreed. See Exhibit 1: page 8-9.

In March 2020 Pinnacle Utilities LLC submitted a Water Management Conservation Plan (WMCP) to OWRD as required by Permit G-17036. Comments were received and on November 5, 2020, Pinnacle submitted the final revised plan to OWRD. On November 24, 2020, OWRD issued a final order approving the WMCP and on January 23, 2021, Ms. Gould filed a Petition for Judicial Review in the Marion County Circuit Court. OWRD withdrew the final order approving the plan. On May 7, 2021, OWRD issued an Order on Reconsideration Approving the WMCP, finding, among other things, that Pinnacle’s future water needs “are reasonable and consistent with available land use plans and Pinnacle Utilities, LLC has demonstrated a need to divert water under Permit G-17036 during the next 20 years.” The approval ordered the following: (a) the WMCP will remain in effect until May 7, 2031; and (b) that by November 7, 2030 Pinnacle shall submit an updated plan; and (c) by May 7, 2026, it shall submit a progress report. See Exhibit 13: Neuman letter w/Order on Reconsideration Approving the WMCP.

In addition to the updated documentation, the Applicant provided an accounting of the amount of mitigation needed for the development of the 24 cabins proposed under this site plan, which is approximately 10.8 acre-feet of mitigation. Previous applications provided similar accounting of the water needed. The tentative plan for phase A-1 required 50 acre-feet of mitigation water, the site plan for the golf course and lake required 151 acre-feet of mitigation. The total mitigation for this site plan and the prior applications is 211.8 acre-feet which is summarized in Exhibit 14: Mitigation Debit Table. This condition is met.”

Staff concurs that this condition has been met with regard to the present application.

- 11. *At the time of submission for Final Master Plan (FMP) approval, Applicant shall include a written plan for entering into cooperative agreements with owners of existing wells within a two-mile radius of Applicant's wells. The plan shall include a description of how Applicant will provide notice to affected well owners and of the terms and conditions of an option for well owners to enter into a written agreement with Applicant under which Applicant will provide indemnification to well owners in the event of actual well interference as a result of Applicants water use. The plan shall remain in effect for a period of five years following full water development by Applicant. Specific terms and conditions of the plan shall be developed in cooperation with County staff and the Oregon Water Resources Department.***

FINDING: These requirements have been satisfied.

- 12. 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.**

FINDING: The applicant provides the following statement:

This condition is included in the FMP approval and was addressed in the decision approving the Phase A-1 tentative plan. The Golf Facilities buildings included in this site plan are to serve the golf course required by the CMP and approved in the Golf Course site plan. They are not oriented to public roadways. The Welcome Center will provide a centralized location for overnight lodging unit (OLU) guests to check-in and a sales office and lounge for Resort guests and potential lot purchasers. This facility is not oriented to a public roadway. This condition will be met.

The proposed development is subject to this condition. Staff finds they are not oriented to public roadways and are at a scale suited to serve visitors to the resort. As proposed, Staff concludes the development complies with this condition.

- 13. Applicant shall specify all recreational facilities within the proposed resort as part of final master plan submittal.**

FINDING: This requirement has been satisfied.

- 14. Applicant and its successors shall do the following to ensure that all open space used to assure the 50% open space requirement of Section 18.113.060 (D)(1) is maintained in perpetuity:**

- A. Applicant shall submit for approval, as part of the Final Master Plan, a delineation of the Open Space that is substantially similar to the area shown in the Open Space plan submitted as Ex. 9, B-14 to the "Memorandum of Applicant, in response to public comments dated September 28, 2005, Open Space shall be used and maintained as "open space areas" as that term is used in DCC 18.113.030(E).**

FINDING: This requirement has been satisfied.

- B. The CC&Rs, as modified and submitted to the County on December 20, 2005, shall be further revised such that, Section 3.4 retains the first two sentences, but then the balance of 3.4 is replaced with the following:**

At all times, the Open Space shall be used and maintained as "open space areas." The foregoing sentence is a covenant and equitable servitude, which runs with the land in perpetuity and is for the benefit of all of the Property, each Owner, the Declarant, the Association, and the Golf Club. All of the foregoing entities shall have

the right to enforce covenant and equitable servitude. This Section 3.4 may not be amended except if approved by an affirmative vote of all Owners, the Declarant, the Golf Club and the Association.

FINDING: This requirement has been satisfied.

C. *All deeds conveying all or any part of the subject property shall include the following restriction:*

This property is part of the Thornburgh Resort and is subject to the provisions of the Final Master Plan for Thornburgh Resort and the Declaration of Covenants, Conditions and Restriction of Thornburgh Resort. The final Master Plan and the Declaration contain a delineation of open space area that shall be maintained as open space areas in perpetuity.

FINDING: This requirement applies when the applicant conveys land in the resort. In this case, the applicant does not propose to convey land as part of this Site Plan Review. Staff finds that this condition does not apply.

D. *All open space areas shall be clearly delineated and labeled on the Final Plat.*

FINDING: This requirement applies during the County's review of each final plat. It does not apply to the County's review of a site plan.

E. *Any substantial change to the open space approved under this section will require a new land use permit.*

FINDING: The Applicant is not proposing any changes to the open space approved by the Phase A1 tentative plan approval. Staff finds this condition does not apply.

15. *Applicant shall obtain an approved Water Pollution Control Facility (WPCF) permit (as described in DCC 18.113.070(L)) prior to application for Final Master Plan.*

FINDING: This requirement has been satisfied.

16. *All temporary structures shall be limited to a maximum of 18 months on the resort site.*

FINDING: No temporary structures are proposed by the applicant at this time; no temporary structures on shown on the subject site plans.

17. *All development within the proposed resort shall meet all fire protection requirements of the Redmond Fire Department. Fire protection requirements shall include all minimum emergency roadway improvements.*

FINDING: The Applicant responded to this condition as follows:

Emergency roadway improvements will be made according to the standards required by the FMP prior to approval of the final plat, as required by Condition 4, above. They will also be completed prior to occupancy of the structures proposed by this site plan. All development will meet fire protection requirements imposed by code or as a condition of approval based on the requirements of the Redmond Fire Department provided during the County's review of this site plan application.

Staff includes a condition of approval requiring the applicant to secure confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted June 21, 2021 comment letter have been met, prior to issuance of building permits.

18. No development shall be allowed on slopes of 25% or more on the site.

FINDING: The Applicant responded to this condition as follows:

The applicant is not proposing development on slopes of 25% or more. As explained during the review of the Phase A-1 tentative plan, this condition implements DCC 18.113.070(H) (2005). It says: "[n]o structure will be located on slopes exceeding 25 percent." Given this context, the term "development," means the construction of buildings, on slopes exceeding 25%. This site plan is not proposing construction of buildings in such locations. This criterion is met.

Staff concurs.

19. Applicant shall implement a Wildfire/Natural Hazard Protection Plan for the resort as identified in Ex. 15, B-29 of the CMP burden of proof statement. Prior to approval of each subdivision and site plan, Applicant shall coordinate its evacuation plans through that development phase with the Deschutes County Sheriff's Office and the Redmond Fire Department. At the same time, Applicant shall also coordinate its plans for the movement of evacuees over major transportation routes with the Oregon State Police and the Oregon Department of Transportation.

FINDING: The Applicant responded to this condition as follows:

The applicant provided the information as part of the filing of the Phase A-1 Tentative Plan and the Golf Course site plan which included plans for the evacuation of the lots included in this site plan. At that time the applicant had informed the Redmond Fire Department and Deschutes County Sheriff of its filing of this application and has done so with the filing of this application as well. Applicant previously coordinated with the Oregon State Police and ODOT to develop its evacuation plans. As noted, the CMP/FMP includes a Wildfire & Natural Hazard Protection Plan. The proposed site plan does not violate that plan or preclude implementation of the plan. This condition is met.

Staff finds that this condition has been met.

20. The cumulative density of the development at the end of any phase shall not exceed a maximum density of 0.72 dwelling units per acre (including residential dwelling units and excluding visitor-oriented overnight lodging).

FINDING: The subject site plans do not propose residential units. As such, this condition is not relevant to this review.

21. Each phase of the development shall be constructed such that the number of overnight lodging units meets the 150 overnight lodging unit and 2:1 ratio of individually owned units to overnight lodging unit standards set out in DCC 18.113.060 (A)(1) and 18.113.060 (D)(2). 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. As required by ORS 197.445 (4)(b)(B), at least 50 units of overnight lodging must be constructed in the first phase of development, prior to the closure of sale of individual lots or units.

In addition to complying with the specific requirements of DCC 18.113.70(U), 1-5, Applicant, its successors and assigns, shall at all times maintain (1) a registry of the individually owned units subject to deed restriction under DCC 18.113.070 (U)(2), requiring they be available for overnight lodging purposes; (2) an office in a location reasonably convenient to resort visitors as a reservation and check-in facility at the resort; and (3) a separate telephone reservation line and website in the name of "Thornburgh Resort", to be used by members of the public to make reservations. As an alternative to or in addition to (3), Applicant may enter into an agreement with a firm (booking agent) that specializes in the rental of time-sharing of resort property, providing the Applicant will share the information in the registry required by (1) and cooperate with the booking agent to solicit reservations for available overnight lodging at the resort. If applicant contracts with a booking agent, Applicant and the booking agent shall cooperate to ensure compliance with the requirements of DCC 18.113.070 (U)(5), by filing a report on January 1 of each year with the Deschutes County Planning Division.

FINDING: The Applicant responded to this condition as follows:

The Welcome Center will provide check-in services for OLUs that are proposed for approval under a separate site plan application. All OLU reservations will be made through a central reservation service for the Resort as required by the CMP and FMP.

Overnight lodging units and their compliance with this criteria are addressed in files 247-21-000508-SP and 247-21-00553-MC. As noted by the applicant, the development included in this application will provide a check-in point and central reservation service for OLUs as required by this criteria and the CMP and FMP. Staff finds that this condition has been met for this application.

- 22. *The final covenants, conditions and restrictions adopted by the developer and amendments thereto shall conform in all material respects to this decision and the requirements of the DCC.***

FINDING: The Applicant responded to this condition as follows:

This requirement applies to CC&Rs. The applicant submitted draft CC&Rs with its CMP/FMP and will update them to a final version, substantially similar to the approved version prior to submittal of the first final plat. The CC&R's will comply with this condition.

Staff concurs.

- 23. *No permission to use or improve Barr Road as access to the Resort is given or implied by this decision.***

FINDING: The site plan does not propose access to Barr Road.

- 24. *Applicant shall complete annexation of the property in any area of development into Deschutes County Rural Fire Protection District No. 1 before commencing combustible construction in the area.***

FINDING: This requirement has been satisfied.

- 25. *Applicant shall submit a detailed erosion control plan with the first Tentative Plat or Site Plan, whichever comes first.***

FINDING: The applicant complied with this condition when it filed its Phase A-1 tentative plan and again when it filed the Golf Course and Lakes site plan. While nothing further is required to comply with this condition, this site plan includes erosion control details for parking lot drainage on sheets C2.0 and C3.0 of the site plan.

- 26. *Lot size, width (frontage), coverage, off-street parking and setbacks, including solar setbacks, are permitted as described in Applicant's Exhibit 8, B-24a in the Burden of Proof document [for the CMP] subject to review during the subdivision approval process to confirm that there will be safe vehicle access to each lot. Compliance with the dimensional standards shall be confirmed during subdivision approval for each development phase. All multi-family units, commercial structures, and other resort facilities are exempted from meeting the solar setback standards.***

FINDING: Condition 26 applies during the review of a subdivision application. It does not apply to site plan applications. The standards of CMP Exhibit 8, B-24a, Exhibit 15, Lot Standards, are addressed in findings related to setback requirements of the DR overlay zone.

- 27. *Road width shall be consistent with the requirements set forth in the County's subdivision ordinance, DCC Chapter 17.36.***

FINDING: No new roads are proposed. This condition does not apply.

- 28. Applicant shall abide at all times with the MOU with BLM, dated September 28, 2005, regarding mitigation of impacts on surrounding federal lands, to include wildlife mitigation and long-range trail planning and construction of a public trail system. The mitigation plan adopted by Applicant in consultation with Tetra Tech, ODFW and the BLM shall be adopted and implemented throughout the life of the resort.**

FINDING: The Memorandum of Understanding (MOU) with the BLM supports the implementation of the BLM's Upper Deschutes Resource Management Plan. The Thornburgh Resort has agreed to several things involving long-range trail planning and construction, which includes establishing a resource mitigation fund of up to \$350,000, as needed by BLM for one-time and long-term mitigation, to help fund the items described in the MOU. In addition, the applicant has previously stated the following regarding long-range trail planning that is addressed in the Wildlife Mitigation Plan for offsite actions (Measure C, Reduction of Off Road Vehicle Use⁴):

This measure has been completed by BLM by completion of the Cline Buttes Recreation Area Plan by segregating the use of various areas into different user groups. As a result, the incidence of trespass ORV travel on the Resort property has diminished significantly. Currently there is very little OHV use on BLM lands adjacent to the resort. The applicant will continue to work with the BLM on trail development in the area to further reduce unwanted use and improve the interactions between the public and private lands. This measure requires nothing further than this ongoing collaboration.

In addition, the MOU required the establishment of a Wildlife Mitigation Plan, which has been completed. The WMP is further discussed below under FMP Conditions 38 and 39. Based on the WMP, there are action items that are no longer pertinent in the MOU in part because they have either been completed and/or the measures within the WMP replace it. However, overall, there are ongoing compliance requirements as noted below.

- 29. Applicant shall abide at all times with the MOU with ODOT, regarding required improvements and contributions to improvements on ODOT administered roadways.**

FINDING: The applicant previously submitted an executed Cooperative Improvement Agreement (CIA) with ODOT required by the MOU. A copy of this agreement is Exhibit 16 of this application. This condition is met.

- 30. Applicant shall submit a detailed traffic circulation plan, delineating resort access roads, resort internal circulation roads and resort secondary emergency ingress/egress roads, prior to Final Master Plan approval.**

FINDING: This requirement has been satisfied.

⁴ Off Road Vehicle Use (ORV or OHV)

31. All exterior lighting must comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the DCC.

FINDING: The Applicant responded to this condition as follows:

All lighting will be shielded and directed downward and will otherwise comply with the requirements of Section 15.10 of Title 15. That law applies to the resort's lighting regardless of whether this application is conditioned to comply or not.

Staff finds that this condition applies to the proposed development and includes a condition of approval to ensure compliance.

32. No permission to install a helicopter landing zone (helipad) at the Resort is given or implied by this decision.

FINDING: The applicant is not seeking approval of a helicopter landing zone. This requirement is not applicable to the review of the site plan.

- 33. The Resort shall, in the first phase, provide for the following:**
- A. At least 150 separate rentable units for visitor-oriented lodging.**
 - B. Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide eating for at least 100 persons.**
 - C. The aggregate cost of developing the overnight lodging facilities and the eating establishments and meeting rooms required in DCC 18.113.060(A)(1) and (2) shall be at least \$2,000,000 (in 1984 dollars);**
 - D. At least \$2,000,000 (in 1984 dollars) shall be spent on developed recreational facilities.**
 - E. The facilities and accommodations required by DCC 18.113.060 must be physically provided or financially assured pursuant to DCC 18.113.110 prior to closure of sales, rental or lease of any residential dwellings or lots.**

FINDING: The Applicant responded to these conditions as follows:

The applicant is seeking, in this and in prior land use applications, to construct buildings and to develop developed recreational facilities required to meet the requirements of this condition but this condition does not supply relevant approval criteria for the review of this site plan. Compliance is assured by the requirement that the required improvements be built or, where allowed, bonded prior to the development of Phase B of the Resort.

Condition 33A: Applicant will meet Condition 33A regarding the 150 units of lodging by providing 150 separate rentable units for visitor lodging, or financially assuring them, per Condition 33E, prior to the closure of sales, rental or lease of any residential buildings.

Condition 33B: This site plan proposes dining facilities seating at least 100 persons and meeting spaces for at least 100 persons, to comply with Condition 33B. Facilities providing

100 dining spaces are provided by the Golf Clubhouse. The Community Hall will provide meeting space for 100 people and will be used for dining by persons attending meetings and other gatherings. This condition will be met.

Condition 33C: Requires at least \$2,000,000 in 1984 dollars or \$5,073,524.19 in December 2020 (according to the Dollar Times on internet based on the CPI) be spent on developing the OLU's and the eating and meeting facilities. In the site plan application submitted on May 21, 2021, the applicant noted the budget for the first 24 cabins would alone far exceed the amount required to comply with Condition 33C. These units provide all the amenities provided by the Caldera lock-off room OLUs that were found by the BOCC to meet the definition of overnight lodging units. See, Exhibit 18. In addition, the budget for development and construction of the dining facilities in the golf clubhouse is \$2,000,000. The budget for development and construction of the meeting and event facilities in the Community Hall is \$713,000, for a total of \$2,713,000 for meeting and eating in this site plan. Applicant will construct or, where allowed, financially assure the construction of these facilities as required by 33E. The actual amount spent for these facilities will be accounted for and reported to the County to establish compliance once facilities are constructed. This condition will be met.

Condition 33D: Requires at least \$2,000,000 in 1984 dollars or \$5,073,524.19 in December 2020 (according to the Dollar Times on internet based on the CPI) be spent on developing recreational amenities. As noted herein, a separate site plan application was approved for the golf course and lakes to address the recreational component in 33D above. During the County's review of the Golf Course site plan, the applicant stated the cost of building the golf course and lakes alone would be more than required by this condition. In addition to the golf course and lakes, the recreational amenity package includes the Golf Clubhouse, with a budget of \$1,492,000 (excluding restaurant related elements), and the Community Hall with a budget of \$810,000 (excluding the meeting and event related elements) for a total of \$2,302,000 for recreational amenities in this site plan. Applicant expects to expend the amounts required by this condition prior to closure of sales, but if there is any shortfall amount not spent to meet this condition it will be financially assured pursuant to condition 33E. This condition will be met.

Staff finds the proposal to be consistent with Condition 33.

- 34. *Where construction disturbs native vegetation in open space areas that are to be retained in substantially natural condition, Applicant shall restore the native vegetation. This requirement shall not apply to land that is improved for recreational uses, such as golf courses, hiking or nature trails or equestrian or bicycle paths.***

FINDING: The Applicant responded to this criterion as follows:

The applicant does not anticipate that this site plan will disturb native vegetation in open space areas that are to be retained in a substantially natural condition. In the event disturbance occurs, the Wildlife Mitigation Plan approved in the FMP prescribes the protocols

whereby the disturbance is to be remediated. These protocols will be followed.

Staff finds, as proposed, this condition will be met.

- 35. *The contract with the owners of units that will be used for overnight lodging by the general public shall contain language to the following effect: "[Unit Owner] shall make the unit available to [Thornburgh Resort/booking agent] for overnight rental use by the general public at least 45 weeks per calendar year through a central reservation and check-in service.***

FINDING: This requirement applies when the applicant sells OLU's to new owners. It is not applicable to the review of this site plan.

- 36. *Applicant shall coordinate with the Sheriff's Office and its designated representative to address all public safety needs associated with the resort and the development process.***

FINDING: The applicant provided the following statement in response to this requirement:

The applicant has informed the Sheriff that it is filing this site plan. The Sheriff's Office will receive notice from the county so that it may comment on the site plan. The Sheriff's Office, also, has been involved in the design of the resort during development of the CMP and FMP and was notified of the filing of the Phase A-1 Tentative plan approving the lots in this site plan, and at the filing of the Golf Course and Lakes Site Plan, as well as with the filing of this site plan.

Staff agrees with the provided summary and confirms the county did provide notice to the Sheriff's Office for this site plan. Staff finds this condition is met.

- 37. *Applicant shall demonstrate compliance with DCC 18.113.070(D) by submitting a wildlife mitigation plan to the County as part of its application for Final master plan approval. The County shall consider the wildlife mitigation plan at a public hearing with the same participatory rights as those allowed in the CMP approval hearing.***

FINDING: This requirement has been satisfied.

- 38. *The applicant shall abide by the April 2008 Wildlife Mitigation Plan, the August 2008 Supplement, and agreements with the BLM and ODFW for management of off-site mitigation efforts. Consistent with the plan, the applicant shall submit an annual report to the county detailing mitigation activities that have occurred over the previous year. The mitigation measures include removal of existing wells on the subject property and coordination with ODFW to model stream temperatures in Whychus Creek.***

FINDING: The applicant responded to this condition as follows:

This condition states an ongoing obligation of the resort. It is enforceable by virtue of being a condition of the FMP and has already been found reasonably certain to succeed. There are numerous elements that require further and ongoing approvals that ensure compliance and allow for enforcement to proceed. LUBA ruled that compliance with Condition 38 is assured by annual reporting rather than a review conducted each time the applicant seeks development approvals. The Applicant's OLU site plan proposes no change to the Resort's mitigation plans. Consequently, as noted by LUBA, the Applicant is not required to fill in any details about the WMP during development review. See Exhibit 6: LUBA TP A-1 Decision, Pages 34-38, and: Exhibit 1, BOCC Golf Course Decision, Pages 5, 18-29. Nothing is required at this time. This condition is met.

Staff concurs.

39. The applicant shall provide funding to complete a conservation project by the Three Sisters Irrigation District to restore 106 acre-feet of instream water to mitigate potential increase in stream temperatures in Whychus Creek. The restoration shall occur as described in the applicant's submittals. The mitigation water shall be placed in stream no later than the date that groundwater pumping to serve the development commences (not testing). The applicant shall provide a copy of an agreement with the irrigation district detailing funding agreement prior to the completion of Phase A.

FINDING: This condition is tied to pumping groundwater; not to site plan review. As a result, it does not apply to the review of the site plan. Applicant has indicated that it will provide a copy of the agreement with TSID prior to the commencement (not testing) of groundwater pumping, as required by this condition.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.113, Destination Resorts Zone – DR

Section 18.113.040, Application Submission.

C. Site Plan Review. Each element or development phase of the destination resort must receive additional approval through the required site plan review (DCC 18.124) or subdivision process (DCC Title 17). In addition to findings satisfying the site plan or subdivision criteria, findings shall be made that the specific development proposal complies with the standards and criteria of DCC 18.113 and the FMP.

FINDING: The applicant responded to this criterion as follows:

During review of the golf course and lake site plan the parties and the administrative approval set forth different theories about what was required to demonstrate compliance with "standards and criteria of DCC 18.113 and the FMP." The administrative approval treated DCC 18.113.060 and 070 as applicable approval criteria. The BOCC disagreed and

found that DCC 18.113.060, 18.113.070 and 18.113.090 apply only during the review of the Resort’s master plan; not during the review of development applications. DCC 18.113.050, also, does not apply because it details the information that must be provided in the CMP application and is not applicable thereafter.

The Applicant also argued, and the BOCC concurred, that findings of compliance with the conditions of approval of the FMP, but not the CMP, are required as part of any site plan or tentative plan approval for the resort. The BOCC found that several CMP conditions were found by the FMP decision to have been "satisfied." These conditions are CMP Conditions 3, 8, 9, 11, 13, 14A, 14B, 15, 24, 30 and 37. Also, CMP Condition 28 was replaced by Conditions 38 and 39 and, therefore, is not a relevant approval criterion for review of a development application. See Exhibit 1, BOCC Golf Course Decision, Pages 4-6.

The applicant has addressed the conditions of approval of the FMP, above. This document explains below how the site plans comply with the standards and criteria of Chapter 18.113 that were a part of the CMP and FMP and, therefore, are relevant to the County’s review of this application.”

Staff concurs.

Section 18.113.060, Standards for Destination Resorts.

G. 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 18.116 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 comprehensive plan relating to solar access, fire protection, vehicle access, visual management within landscape management corridors and to protect resources identified by LCDC Goal 5 which are identified in the Comprehensive Plan. At a minimum, a 100-foot setback shall be maintained from all streams and rivers. Rimrock setbacks shall be as provided in DCC Title 18. No lot for a single family residence shall exceed an overall project average of 22,000 square feet in size.**

FINDING: The applicant responded to this criterion as follows:

The applicant argued, in its CMP application, that no minimum lot area, lot coverage, frontage or yard require should apply to Resort development. It did, however, propose residential lot standards in the event the BOCC determined they were needed. The BOCC approved the applicant’s proposal but imposed the requirements set by Exhibit B-24a of the CMP on residential lots within the Resort. The BOCC did not impose dimensional standards

for commercial or other non-residential lots. Consequently, no minimum lot area, lot coverage, frontage and yard/setback requirements or building height limitations apply to any of the buildings proposed by this site plan.

Staff concurs.

2. Exterior setbacks.

a. Except as otherwise specified herein, all development (including structures, site obscuring fences of over three feet in height and changes to the natural topography of the land) shall be setback from exterior property lines as follows:

- i. Three hundred fifty feet for commercial development including all associated parking areas;**
- ii. Two hundred fifty feet for multi family development and visitor oriented accommodations (except for single family residences) including all associated parking areas;**
- iii. One hundred fifty feet for above grade development other than that listed in DCC 18.113.060(G)(2)(a)(i) and (ii);**
- iv. One hundred feet for roads;**
- v. Fifty feet for golf courses; and**
- vi. Fifty feet for jogging trails and bike paths where they abut private developed lots and no setback for where they abut public roads and public lands.**

b. Notwithstanding DCC 18.113.060(G)(2)(a)(iii), above grade development other than that listed in DCC 18.113.060(G)(2)(a)(i) and (ii) shall be set back 250 feet in circumstances where state highways coincide with exterior property lines.

c. The setbacks of DCC 18.113.060 shall not apply to entry roadways and signs.

FINDING: All proposed development and roadways comply with the above-listed setbacks as shown by the applicant's site plan. The subject property does not adjoin a state highway

Section 18.113.070, Approval Criteria. (2005 Ordinance/CMP)

U. A mechanism to ensure that individually-owned units counting toward the overnight lodging total remain available for rent for at least 45 weeks per calendar year through a central reservation and check-in service. Such a mechanism shall include all of the following:

- 1. Designation on the plat of which individually-owned units are to be considered to be overnight lodging as used in DCC 18.113;**
- 2. Deed restrictions limiting use of such identified premises to overnight lodging total purposes under DCC 18.113 for at least 45 weeks each year;**
- 3. Inclusion in the CC&Rs of an irrevocable provision enforceable by the County limiting use of such identified units to overnight lodging purposes under DCC**

- 18.113 for at least 45 weeks each year;**
- 4. Inclusion of language in any rental contract between the owner of the unit and any central reservation and check-in service requiring that such units be made available as overnight lodging facilities under DCC 18.113 for at least 45 weeks each year; and**
- 5. A requirement that each such unit be registered and a report filed on each such unit yearly by the owner or central booking agent on January 1 with the Planning Division as to the following information:**
 - a. Who the owner or owners have been over the last year;**
 - b. How many nights out of the year the unit was available for rent through the central reservation and check-in service; and**
 - c. How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 18.113.**

FINDING: No individually-owned units are included in this proposal.

Section 18.113.080, 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 18.113.080, 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 “substantial change” is proposed, as determined by the Planning Director. No alteration to the “type, scale, location, phasing, or other characteristics of the proposed development”, thereby materially affecting the original findings of fact, is proposed.

Section 18.113.110, 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.***
- 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: The applicant responded to this criterion as follows:

This code section makes it clear that required Resort facilities may be constructed or assured.

The only exception is that the applicant is required by FMP Condition 21 to construct 50 OLU's prior to selling Resort lots.

No financial assurance or bonding is proposed at this time.

Chapter 18.116, Supplementary Provisions

Section 18.116.020, Clear Vision Areas.

- A. *In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.***

FINDING: The Applicant provided the following statement of compliance:

The clear vision area applies based on road right-of-way width. "Streets" are defined by DCC 18.04.030 as "the entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic." The private roads proposed by the site plan are not public ways. Nonetheless, clear vision requirements will be met at private road intersections to to [sic] assure safety and achieve compliance with other relevant approval criteria. An analysis of sight distance by transportation engineer Chris Clemow, PE demonstrates that Resort intersections will provide adequate sight distance for motorists. See, Exhibit 19.

Right-of-way is defined by DCC 18.04.030 as the area between the boundary lines of a street, road or other public easement. The road easements approved by the Phase A-1 tentative plan are 44 feet wide. As a result, a clear vision area of 40 feet from the intersection is provided. The clear vision areas are shown on the applicant's site plan. See, SP C2.0 and 3.0.

In addition to the definition of "street" cited by the applicant, DCC Chapter 18.04.030 also defines "Road or street" to mean "a public or private way created to provide ingress or egress to one or more lots, parcels, areas or tracts of land." As such, Staff finds the criteria applies to the proposed development. Upon review, Staff finds application materials meet the requirements of this criteria.

- B. *A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining the street or railroad measured from the corner to a distance specified in DCC 18.116.020(B)(1) and (2). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is***

the line connecting the ends of the measured sections of the street lot lines. The following measurements shall establish clear vision areas within the County:

- 1. In an agricultural, forestry or industrial zone, the minimum distance shall be 30 feet or at intersections including an alley, 10 feet.***
- 2. In all other zones, the minimum distance shall be in relationship to street and road right of way widths as follows:***

<i>Right of way Width</i>	<i>Clear vision</i>
<i>80 feet or more</i>	<i>20 feet</i>
<i>60 feet</i>	<i>30 feet</i>
<i>50 feet and less</i>	<i>40 feet</i>

FINDING: Similar to the findings made above, staff finds this criterion applies to the proposal. Staff finds all intersections within the site plan, excluding those driveways leading to on-site parking on the numbered lots within this site plan, as shown in the application materials, are subject to these requirements. Based on staff's review of the site plan, this criterion will be met.

To the extent these criteria do not apply, staff finds a failure to observe clear vision areas at intersections would not provide the "safe environment" required under DCC 18.124.060(C) and staff uses these criteria as guidelines to impose conditions to help insure a "safe environment".

Section 18.116.030, Off street Parking and Loading.

- A. Compliance. No building or other permit shall be issued until plans and evidence are presented to show how the off street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.***

FINDING: As described herein, the off street parking and loading requirements are met and, as conditioned, the property is and will be available for exclusive use as off-street parking and loading. As a condition of approval, the subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.

- B. Off-Street Loading. 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:***

2. **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 area of 30,000 square feet or more shall provide off street truck loading or unloading berths subject to the following table:**

Sq. Ft. of Floor Area	No. of Berths Required
Less than 30,000	0
30,000-100,000	1
100,000 and Over	2

FINDING: At 6,800 square feet, the golf clubhouse is the largest building proposed. Because it is less than 30,000 square feet, no loading berth is required to comply with this criterion.

C. **Off-Street Parking. Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. 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 18 is changed.**

D. **Number of Spaces Required. Off-street parking shall be provided as follows:**

2. **Commercial Residential.**

Use	Requirements
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-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

4. **Places of Public Assembly.**

Use	Requirements
Other auditorium or meeting room	1 space per 4 seats or 8 feet of bench length. If no fixed seats or benches, 1 space per 60 sq. ft. of floor space.

5. Commercial Amusements.

<i>Use</i>	<i>Requirements</i>
<i>Dance hall or skating rink</i>	<i>1 space per 100 sq. ft. of floor area plus 1 space per 2 employees.</i>

6. Commercial.

<i>Use</i>	<i>Requirements</i>
<i>Service or repair shops, retail stores and outlets selling furniture, automobiles or other bulky merchandise where the operator can show they bulky merchandise occupies the major area of the building.</i>	<i>1 space per 600 sq. ft. of gross floor area</i>

<i>Eating and drinking establishments</i>	<i>1 space per 100 sq. ft. of gross floor area</i>

- 9. Other uses not specifically listed above shall be provided with adequate parking as required by the Planning Director or Hearings Body. The above list shall be used as a guide for determining requirements for said other uses.**

FINDING: Below, staff addresses each of the proposed uses and associated parking requirements. For each use, the applicant provides proposed calculations.

Welcome Center

The applicant provides the following findings for the Welcome Center.

While DCC 18.116.030(D) includes categories of use (1-8) such as, hotels, dining, meeting, office and retail along with the parking requirements for those uses. No specific requirement is provided for a golf clubhouse or a golf course.

Welcome Center: The Welcome Center contains a sales office, guest reception area and sales "floor" room comprised of a great room that will include a large model of the Resort. The code requires one parking space per 300 feet of office space and one parking space per 600 square feet for retail uses that sell bulky merchandise which is similar in terms of intensity to the reception area and sales floor. The building contains 2,260 square feet of office space (sales offices, work room, bathrooms, mechanical room, conference room, gallery/hallways

and sales lounges) which requires 7.55 parking spaces. The sales floor, reception area and vestibule is 1,335 square feet. At a rate of 1 parking space per 600 square feet, 2.225 parking spaces are required. The total number of spaces required for the Welcome Center, therefore, is 9.775 spaces. This rounds up to 10 spaces. A total of 14 parking spaces are provided adjacent to the Welcome Center.

Staff disagrees with the applicant’s interpretation of this requirement. Table 6, Commercial, describes “bulky merchandise” as “merchandise that occupies the major area of the building” and provides examples of furniture and automobile retailers. The application materials indicate a large scale model of the resort will occupy significant space, but does not specify how much space. Staff finds that without more specificity, this is not similar to furniture or automobiles, therefore the 1:600 parking ratio is not appropriate to the use. Consequently, staff finds the Welcome Center is subject to the 1:300 ratio. The total square footage of the building is 3,975. The 1:300 ratio brings the parking requirement to 13.25 spaces. Because the applicant is providing 14 spaces, Staff finds the Welcome Center complies with off-street parking requirements.

Gate House

The applicant provides the following findings for the Gate House.

Gate House: The gate house is 280 square feet in size. It requires 1 parking space per 300 feet. This building will house 1 employee at a time, but the site plan is providing 2 parking spaces, 1 for the employee on site plus an additional space for a rotating employee.

Staff agrees with the applicant’s parking calculation for the Gate House.

Golf Course

The applicant provides the following findings for the Golf Course.

Resort Core Area Parking: Resort Core area which is the area comprised of the golf course, Golf Clubhouse, Event Hall and OLU’s. The applicant’s site plan proposes 84 additional parking spaces in the Resort core area. Another 80 parking spaces will be provided for the OLU’s now under review by the County. This means that there will be 164 parking spaces in the commercial area with 84 parking spaces provided in two parking areas north of the Golf Clubhouse and east of the Community Hall.

The following calculations show that this is the correct amount of parking for this area. Furthermore, the applicant has proposed additional optional parking areas that it will build if the assessment of parking need is too low. This balances the applicant’s desire and commitment to preserve ancient trees that are growing on the property with a business need to provide sufficient parking for Resort guests and owners.

- Golf Course – 36 spaces: The County Code does not provide a calculation for golf course use. Based upon a calculation of 2 golfers per hole on an 18-hole golf course,

36 parking spaces would be required for the golf course use excluding employees. This is similar to how parking for the Tetherow golf course was determined. In that decision, the County estimated a peak use of 2 golfers per hole for every hole and required 2 parking spaces per hole. See Exhibit 20: Tetherow Golf Decision SP-07-02, pg. 17. Golf maintenance and operations staff will be accounted for in the maintenance facility site plan to be filed in the near future. Golf course staff are included in the Golf Clubhouse calculations provided below.

Thornburgh's golf course is an 18-hole course, within the Destination Resort. It will be operated as a semi-private golf course that will primarily cater to the needs of members and Resort guests. Golf course patrons will be comprised almost exclusively of Resort property owners who are golf club members and persons staying in the resort's overnight lodging units. Given the location of the 80 OLU's proposed in CLCC's recently filed OLU site plan and the proximity of homes to the golf course, many golfers will walk or use a golf cart to travel to the course. Because Tetherow is in Bend and allows outside play (outside of owners and lodging visitors) it is reasonable to assume Thornburgh will have less drive to play, and as a result, less need for parking. As such, applicant's use of 2 people per golf hole to calculate parking is likely conservative. For these reasons, the applicant believes a total of 36 spaces is an adequate number of parking spaces to serve the course. This is in line with the County's approval of the Caldera Springs golf course, File SP-05-53. In that case, the County determined that 15 to 20 parking spaces would be needed for a 9-hole golf course. File SP-05-53, pp. 19-21, Exhibit 21. In a later determination, the County found that only 15 parking spaces were required for the same course. File SP-06-14, pp. 17-19, Exhibit 22.

Staff agrees with the applicant that 36 parking spaces are required for the golf course.

Golf Clubhouse

The applicant provides the following findings for the Clubhouse.

- Golf Clubhouse – 38.5: Following the method of calculating parking for the Caldera Resort 100-person restaurant in SP-05-53, pp. 19-21, Exhibit 21, 25 parking spaces were required for 100 persons based on the assumption that a table of four diners will occupy 100 square feet of space. The Thornburgh restaurant will provide food service in three types of dining areas: a 1200 square foot dining room, two covered porches totaling 1200 square feet and a living room totaling 600 square feet with seating for six persons. A total of 24 parking spaces are required for the dining room and porches. A total of 1.5 parking spaces are required for the living room based on its capacity of six diners (1 parking space per 4 diners). These calculations do not include the parking needs of restaurant staff. The restaurant will employ approximately 8 persons at peak staffing levels which brings the total parking spaces required for the restaurant to 33.5 spaces.

Staff finds the eating and drinking establishments parking ratio of 1:100 applies to the entirety of the restaurant space. The prior land use decision cited by the applicant incorrectly applied the parking ratio methodology and the county is not obligated to continue an incorrect application of the code. The 1,200 square foot dining room will require 12 parking spaces; the 1,200 square feet of covered porches will require 12 parking spaces; the 600 square foot living room will require an additional 6 spaces; and the 830 square foot kitchen will require 8 spaces (rounded down). In total, the restaurant portion of the clubhouse requires 38 parking spaces.

The clubhouse also includes office and retail space. The applicant provides the following findings to address the parking requirement for these uses.

The 1,200 square feet of office and retail space that will serve golfers require 4 parking spaces (1 space per 300 square feet). The workroom/bags area requires 1 space because it is 530 square feet and is most similar to a service or repair shop where bulky merchandise occupies a major area of the space (this case golf bags) that requires one parking space per 600 square feet (1 parking space). The total parking for this part of the clubhouse is 5 spaces.

Similar to the above discussion, staff finds applying the 1:600 ratio for the workroom/bags area is not appropriate. The floor area dedicated to golf bags is less than half of the floor area dedicated to the office and retail space, and the bags are not bulky merchandise similar to furniture or automobiles. For this reason, staff finds the entirety of the building is subject to the 1:300 ratio. Therefore, the required parking for this 1,730-square-foot portion of the building is 6 spaces (rounded up).

Staff finds the total required parking for the restaurant, office and retail space is 44 spaces. The applicant proposes a total of 38.5 spaces. Supplemental parking is discussed below. As conditioned to provide required parking, Staff finds the Clubhouse will be served by sufficiently by compliant parking spaces.

Community Hall

The applicant provides the following calculation for the Community Hall, which includes two distinct use areas: the events/meeting area and the service yard.

- Community Hall – 33 parking spaces (based on event use): The Community Hall will be a shared use building – used for community events, 100-person meetings, dining associated with meetings and community events and golf cart storage. Our analysis of parking needs shows that 27 parking spaces is required for the primary use of the building and that when events are held in the building the number of required parking spaces, if based on this occasional use rises to 33 parking spaces. We have used the higher number in our calculations to err on the side of caution.

Staff finds the community hall functions as an auditorium or other meeting room. As such, the parking ratio should comply with 18.116.030(D)(4), which requires a 1:60 ratio because the applicant

does not propose fixed seating or benches. A 1:60 ratio for the 1,500 square foot meeting room requires 25 spaces.

With respect to the service yard, the applicant provides the following findings for required parking.

A small service yard for golf carts is provided at the north end of the building near a garage door that will provide golf cart access to the building. The meeting/community event room will provide seating for 100 attendees. In line with the Caldera decision for SP-05-53, pp. 19-21, Exhibit 21, 25 parking spaces are required to meet the parking needs of a 100-person meeting facility. The remainder of the building, with the exception of the meeting room restrooms which are a part of the meeting room use, is approximately 2645 square feet in size. Its primary use is for golf cart and equipment storage. Storage areas require one space per 2000 square feet of floor area. This means that, 1.33 parking spaces are required for the storage areas of the building.

This means a total of 26.33 parking spaces are required for the Community Hall building based on its typical use as a meeting room and golf cart storage facility which rounds up to 27 parking spaces.

The 1:2,000 ratio applies to industrial storage – specifically storage warehouse, wholesale establishment, rail or trucking freight terminal. This use is equivalent to a service (golf cart rental) shop with bulky merchandise which occupies the major area of the building, requiring a 1:600 ratio. Applying the 1:600 ratio to the 2,645 square foot area requires 5 parking spaces (rounded up).

For the two uses described above, Staff finds the Community Hall requires 30 spaces. However, in addition to the uses described above, the applicant states the Community Hall will be used infrequently for social events where the golf cart storage area will be converted for event use. The applicant provides the following additional information regarding social events at the Community Hall.

The Community Hall building is designed to allow the Resort community to use the facility for community social events. Golf carts will be removed temporarily to make room for occasional community gatherings. These events may include food service provided by the Golf Clubhouse restaurant. Typically, infrequent uses of buildings are not used to determine parking needs. The community event use would take the place of meeting and golf cart storage use of the 1775 square foot storage area and 1500 square foot meeting room (3225 square feet total). A rate of one space per 100 square feet applies to the most similar uses of dance halls and dining facilities. Employees associated with the event will work out of the Golf Clubhouse and their trips have been accounted for in estimate of needed parking for the golf clubhouse. As a result, a total of 32.23 parking spaces are required for this use. An additional .725 parking space is required for the storage areas of the building for a total of 33 parking spaces.

Staff agrees the appropriate parking ratio for social events is 1:100. Further, staff agrees the total parking requirement for the highest parking requirement use, social events, is 33 spaces (rounded down).

As noted above, the applicant proposes a total of 84 spaces in the Resort Core Area to accommodate the parking requirements for the golf course, clubhouse, and community hall. Based on staff's calculation of parking requirements, the golf course requires 36 spaces; the clubhouse requires 44 spaces, and the community hall requires 33 spaces. Consequently, a total of 113 spaces are required. As noted below, the applicant has requested a 15% discount in resort shared parking, which would reduce the required spaces from 113 to 96. Staff finds the applicant must revise the site plan to demonstrate 96 compliant parking spaces will be available to accommodate all uses in the Resort Core Area.

Overflow Parking

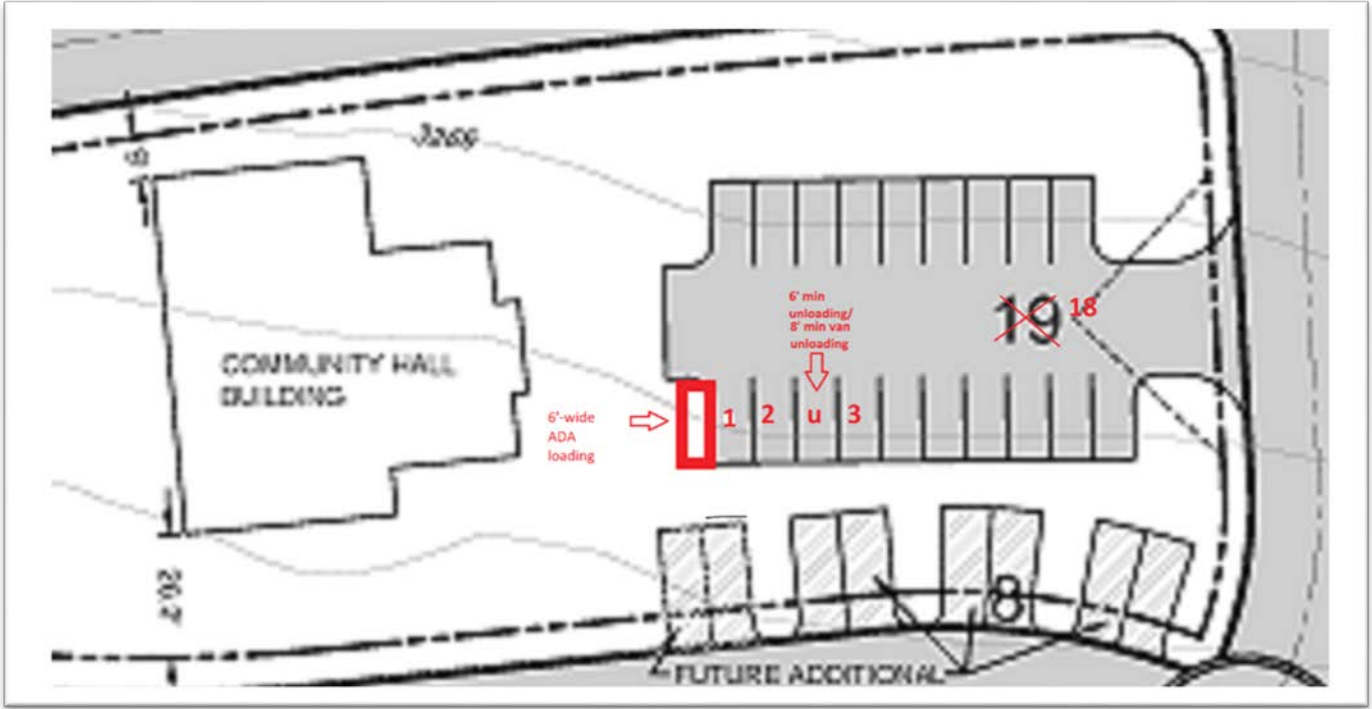
In addition to required parking, the applicant requests approval for an overflow parking area and provides the following discussion.

This site plan also seeks approval to build, at its option, up to an additional 45 spaces. This request is made so that these spaces may be built if needed, in the future, for excess and overflow parking. The locations of this overflow parking are shown on the site plan, Sheet C2.0.

The applicant also provides the following:

The applicant's site plan provides 84 spaces, four spaces more than the number of parking spaces the applicant believed would be required. Due to the fact that the County decision maker is given the broad discretion to set parking requirements for uses not specifically listed in the parking requirements table, the applicant proposed 45 additional optional parking spaces. These spaces can be converted to required parking spaces if the County finds that more spaces are required. The applicant will improve whatever number of optional spaces ultimately determined to be needed by the County up to the numbers proposed by the site plan. If the County settles on 97 parking spaces, an additional 13 parking spaces would need to be developed. This number should be increased by one parking space to accommodate ADA parking requirements. This number should be increased by two spaces if and when the 22-space parking area west of the community hall is developed. These adjustments are explained below.

- A one parking space reduction in the total number of parking spaces will occur when the applicant stripes two or three ADA parking spaces in the lot east of the Community Hall. The number required will depend on the total number of optional additional spaces improved by the applicant. The following is an illustration of the plan for three spaces:



- Two spaces can also be provided in the same area without eliminating more than one parking space.
- If the applicant improves the optional parking area west of the Community Hall to provide additional parking spaces, two spaces required by the OLU site plan will be located in this parking area. These spaces will not be counted as meeting parking requirements associated with the Golf Clubhouse and Community Hall.

With regard to the required spaced being addressed by the previously proposed overflow parking spaces, staff notes all spaces must comply with all criteria for parking spaces. Submitted site plans illustrate all proposed parking, including overflow parking. A condition of approval is included to require a revised site plan with a revision in shading and labeling to confirm which of the proposed overflow parking spaces will be paved and maintained as required parking and to verify ADA parking spaces have been provided as described above.

E. General Provisions. Off-Street Parking.

- 1. 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 requirements of the several uses computed separately.**

FINDING: The site plan proposes more than one use. The applicant has totaled the parking required for all uses.

- 2. 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 at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidence by a deed, lease, contract or other appropriate written document to establish the joint use.

FINDING: The applicant responded to this criterion as follows:

The Resort uses proposed have different periods of peak demand that do not overlap making it appropriate for the County to apply a 15% reduction in required parking for the Resort Core uses.

- 3. ***Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existence of such off-premise parking arrangements rests upon the applicant.***

FINDING: None of the proposed parking is parking for dwellings. The parking is provided on the same parcel or within 500 feet from the buildings served by the parking. The parking areas are located in a safe and functional manner as shown by the site plan and addressed in this decision.

- 4. ***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: 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.

- 5. ***Parking, Front Yard. Required parking and loading spaces for multi-family dwellings or commercial and industrial uses shall not be located in a required front yard, except in the Sunriver UUC Business Park (BP) District and the La Pine UUC Business Park (LPBP) District and the LaPine UUC Industrial District (LPI), but such space may be located within a required side or rear yard.***

FINDING: The applicant provided the following statement:

The site plan seeks approval of a site plan for commercial uses. There is no front yard requirement for commercial uses in the DR zoning district. None was imposed by the Board of Commissioners during their review of the CMP. Yard requirements were imposed for residential uses only.

To the extent this criterion applies, this code section is met. See, CMP Exhibit B-24a, Exhibit 15.

- 6. ***On-Street Parking Credit. Notwithstanding DCC 18.116.030(G)(2), within commercial zones in the La Pine Planning Area and the Terrebonne and Tumalo unincorporated communities, the amount of required off-street parking can be reduced by one off-street parking space for every allowed on-street parking space adjacent to a property up to 30% of the required off-street parking. On-street parking shall follow the established configurations in the parking design standards under DCC 18.116.030 Table 1. To be considered for the parking credit, the proposed parking surface, along the street frontage under review, must have a defined curb line and improved as required under DCC 17.48, with existing pavement, or an engineered gravel surface. For purposes of establishing credit, the following constitutes an on-street parking space:***
 - a. ***Parallel parking (0 degree), each 20 feet of uninterrupted curb;***
 - b. ***Diagonal parking (60 degree), each with 11 feet of curb;***
 - c. ***Perpendicular parking (90 degree), each with 10 feet of curb;***
 - d. ***Curb space must be connected to the lot that contains the use;***
 - e. ***Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and***
 - f. ***On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces are permitted.***

FINDING: The Resort is not located in the commercial zones of the La Pine Planning Area, or the Terrebonne or Tumalo unincorporated communities. As such, these provisions do not apply.

- F. ***Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:***
 - 1. ***Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.***

FINDING: The applicant provided the following statement:

The term “adjoining” is defined by DCC 18.04.030 “contiguous, touching or connected.” The non-residential parking areas do not adjoin residential uses. The future overflow parking

area may be considered to adjoin Lot 201 which is an OLU lot. OLUs are “commercial residential uses” rather than “residential” uses. The County’s recent approval of the OLU site plan applied commercial use standards to the development of OLUs. As a result, the requirement does not apply.

FINDING: Landscaping Concept documents (pages LC-1, 2 and 3) illustrate effective screening and buffering by landscaping. A condition of approval is included to require the proposed landscaping between off street parking and any residential uses.

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

FINDING: This site plan does not include property in a residential zone nor does it adjoin property in a residential zone. That said, all lighting that may be used in this site plan to illuminate off street parking will be low and directed downward so that it does not project light onto any adjoining property. This criterion is met.

- 3. ***Groups of more than two parking spaces shall be located and designed to prevent the need to back vehicles into a street or right of way other than an alley.***

FINDING: The applicant’s site plan provides parking areas that are designed to prevent the need to back vehicles into a street or right of way other than an alley. This criterion has been met.

- 4. ***Areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving requirements by the Planning Director or Hearings Body upon finding that:

b. *The subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or****

FINDING: The applicant responded to criterion (b) in their supplemental burden of proof provided October 12, 2021 as follows:

All the areas of this type proposed by in this site plan, with the exception of the additional parking spaces, will be paved surfaces that will be maintained for all weather use and drained to contain the flow of water on site as noted on the Site Plan, Sheets C2.0 and 3.0. The additional parking spaces (shown as such on the site plan) are proposed to be improved with an all-weather surface that is a generally accepted alternative to pavement – “grass pavers.” These are concrete or other hard material pavers that contain spaces between to allow for rainwater to drain through them. These spaces are filled with sand or planted with grass. This type of hard surface will provide a look that is closer to the natural look of the high desert landscape of the resort property. Examples of this type of paving are provided below

and on the following pages. [Staff includes them here for reference]



Staff understands the applicant to propose areas used for standing and maneuvering of vehicles to be paved surfaces with the exception of the overflow parking spaces, which will be constructed using the grass pavers described above. As the subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; Staff finds the proposal to comply with this criteria. A condition of approval is included to ensure compliance. Prior to issuance of building permits, the applicant shall submit an engineer's certification that the development will be "so drained as to contain any flow of water on the site".

5. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.

FINDING: The Applicant responded to this criterion as follows:

The term "access aisle" is not defined by the code. The code does, however, define the term "access" as follows:

"Access" means the right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

The code also defines the term "driveway" as follows:

"Driveway" means a way created to provide vehicular access from a public or private road to a garage or parking area.

All aisles within parking areas and the driveways that provide access from them to private streets in the Resort are of sufficient width for vehicular turning and maneuvering. All, including the private road are at least 24' wide. This is the width required by DCC 18.116.030(G) to provide sufficient width for all vehicular turning and maneuvering. [Amended by October 12, 2021 burden of proof].

Staff concurs that all proposed access aisles described above are of sufficient width for vehicular turning and maneuvering. All are at least 24' wide. Further, staff finds the access aisles comply with standards for parking lot design under sub-section (G), below.

6. ***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 through 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 Applicant responded to this criterion as follows:

The code does not define the term "service drive." Neither does the dictionary relied on by Oregon Courts – *Webster's Third New International Dictionary Unabridged*. This dictionary does, however, define the term "service road" and that definition is instructive. It is a "frontage road." A frontage road is a facility that provides direct access to a number of properties. It is logical to assume that a service drive is a driveway that provides access to multiple properties. This interpretation is consistent with the BOCC's finding that an easement road that crossed a neighboring property and provided access to a parking lot and its access aisles on the subject property was a "service road." File 247-18-000545-CU/-546-CU/-811-MA. If this definition is applied here, none of the access aisles are service drives. If the County finds that any of the access aisles are service drives, the applicant will comply with the "marking requirement" by marking the drives with the landscaping proposed by the site plan. The landscaping will be continuously maintained. The applicant is not proposing a drive-in establishment so the final sentence of this code section is not a relevant approval criterion for this site plan.

While Staff appreciates the applicant’s argument, Staff interprets a “service drive” to include any vehicle maneuvering surface that connects a parking area to a road or street. Staff concurs there are no service drives in this site plan.

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

FINDING: As discussed above, Staff concurs the subject site plan contains no service drives.

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

FINDING: All the parking has been designed such that vehicles will not extend over an adjacent property line by providing a landscaped buffer of at least 5’ in width between the edge of the parking space and an adjoining property.

- G. ***Off-Street Parking Lot Design. All off-street parking lots shall be designed subject to County standards for stalls and aisles as set forth in the following drawings and table:***

(SEE TABLE 1 AT END OF CHAPTER 18.116)

- 1. ***For one row of stalls use "C" + "D" as minimum bay width.***
- 2. ***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.***
- 3. ***For estimating available parking area, use 300-325 square feet per vehicle for stall, aisle and access areas.***
- 4. ***For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls do 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: All parking spaces are at least 9’ x 20’. The 2-space parking areas provide spaces that are at least nine 9’ x 26’. The design standards of Table 1 will be met.

Section 18.116.031, Bicycle Parking.

New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.

- A. ***Number and Type of Bicycle Parking Spaces Required.***
 - 1. ***General Minimum Standard.***
 - a. ***All uses that require off-street motor vehicle parking shall, except as specifically noted, provide one bicycle parking space for every five required motor vehicle parking spaces.***

FINDING: The Golf Course, Golf Clubhouse and Community Hall require 96 parking spaces. This means that 19 bicycle parking spaces are required for the Resort Core buildings. The bicycle parking for these uses is required by the code quoted below to be calculated together. One bicycle parking space is required for the gate house. Three bicycle parking spaces are required for the Welcome Center.

- b. *Except as specifically set forth herein, all such parking facilities shall include at least two sheltered parking spaces or, where more than 10 bicycle spaces are required, at least 50 percent of the bicycle parking spaces shall be sheltered.***

FINDING: The applicant requests the following to comply with this criteria:

This code section requires the applicant to double the sheltered parking required for the Gate House and Welcome Center to two sheltered spaces each for a total of four sheltered bicycle parking spaces. The applicant requests permission to locate these spaces at the Welcome Center. In the unlikely event that an employee who works at the Gate House rides a bicycle to work, the Resort will provide them with a golf cart to travel from the Welcome Center to the Gate House. The reason this change is requested is that it the applicant wants to provide bicycle parking where it might be used. This change is allowed by subsection (6), below.

The four total sheltered bicycle spaces required for the Welcome Center and Gate House will be located under the eaves of the Welcome Center near the front entry as shown by the landscape plan, SP LC-2. One or more unsheltered spaces will be provided between the parking area and the main entrance to the building.

According to the applicant's calculation of required parking, eight sheltered parking spaces are required for the golf course, Golf Clubhouse and Community Hall where they are shown on SP LC-3. They will be split between the sheltered parking areas shown on the landscape plans by the Golf Clubhouse and Community Hall. A sheltered parking structure is proposed between the clubhouse and parking area and the Community Hall parking is located adjacent and under the eaves of the Community Hall building. Both covered parking areas are each large enough to accommodate at least four bicycles. This complies with the requirement that at least 50 percent of the bicycle parking spaces (8) be sheltered. At least four of the eight unsheltered bicycle parking spaces will be located at the western end of the parking area between vehicle parking and the entrance to the Community Hall. The remaining unsheltered spaces needed to total eight will be provided near an outdoor entrance to the Golf Clubhouse Pro Shop as shown on the landscape plan, SP LC-3."

According to staff's calculation of required parking, ten sheltered parking spaces are required for the golf course, Golf Clubhouse and Community Hall where they are shown on SP LC-3. They will be split between the sheltered parking areas shown on the landscape plans by the Golf Clubhouse and Community Hall. A sheltered parking structure is proposed between the

clubhouse and parking area and the Community Hall parking is located adjacent to the Community Hall building. Both covered parking areas are each large enough to accommodate at least four bicycles. The area designated for covered parking adjacent to and under the eaves the Community Hall Building is large enough to provide at least six covered bicycle parking spaces. The applicant will provide at least 10 sheltered spaces between these two locations to comply the requirement that at least 50 percent of the bicycle parking spaces (10) be sheltered. At least five of the ten unsheltered bicycle parking spaces will be located at the western end of the parking area between vehicle parking and the entrance to the Community Hall. The remaining unsheltered spaces needed to total ten will be provided near an outdoor entrance to the Golf Clubhouse Pro Shop in the area shown on the landscape plan, SP LC-3.

Staff finds ten bicycle parking spaces are required and the proposal to cluster the sheltered bicycle parking to be used most effectively is a reasonable accommodation.

- c. *When the proposed use is located outside of an unincorporated community, a destination resort, and a rural commercial zone, exceptions to the bicycle parking standards may be authorized by the Planning Director or Hearings Body if the applicant demonstrates one or more of the following:***
- i. The proposed use is in a location accessed by roads with no bikeways and bicycle use by customers or employees is unlikely.***
 - ii. The proposed use generates less than 50 vehicle trips per day.***
 - iii. No existing buildings on the site will accommodate bicycle parking and no new buildings are proposed.***
 - iv. The size, weight, or dimensions of the goods sold at the site makes transporting them by bicycle impractical or unlikely.***
 - v. The use of the site requires equipment that makes it unlikely that a bicycle would be used to access the site. Representative examples would include, but not be limited to, paintball parks, golf courses, shooting ranges, etc.***

FINDING: The proposed use is located inside of a destination resort; an exception is not available.

- 2. *Special Minimum Standards.***
- a. Multi-Family Residences. Every residential use of four or more dwelling units shall provide at least one bicycle parking space for each unit. In those instances in which the residential complex has no garage, required spaces shall be sheltered.***
 - b. Parking Lots. All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.***
 - c. Schools. Schools, both public and private, shall provide one bicycle parking space for every 25 students, half of which shall be sheltered.***

- d. **Colleges. One-half of the bicycle parking spaces at colleges, universities and trade schools shall be sheltered facilities.**

FINDING: The proposed use is not subject to any of these special minimum standards.

3. **Trade Off with Motor Vehicle Parking Spaces.**
- a. **One motor vehicle parking space may be deleted from the required number of spaces in exchange for providing required bicycle parking.**
- i. **Any deleted motor vehicle space beyond the one allowed above shall be replaced with at least one bicycle spaces.**
- ii. **If such additional parking is to be located in the area of the deleted automobile parking space, it must meet all other bicycle parking standards.**

FINDING: These criteria allow an applicant to delete motor vehicle spaces and replace them with bicycle parking. This site plan is not deleting any vehicle spaces.

- b. **The Hearings Body or Planning Director may authorize additional bicycle parking in exchange for required motor vehicle parking in areas of demonstrated, anticipated, or desired high bicycle use.**
4. **Calculating number of bicycle spaces.**
- a. **Fractional spaces shall be rounded up to the next whole space.**
- b. **For facilities with multiple uses (such as a commercial center) bicycle-parking requirements shall be calculated by using the total number of motor vehicle spaces required for the entire development.**

FINDING: Bicycle parking has been calculated by the rounding up of fractional spaces and accounting for the total number of motor vehicle spaces required for the entire development.

B. Bicycle Parking Design.

1. **General Description.**
- a. **Sheltered Parking. Sheltered parking may be provided within a bicycle storage room, bicycle locker, or racks inside a building; in bicycle lockers or racks in an accessory parking structure; underneath an awning, eave, or other overhang; or by other facility as determined by the Hearings Body or Planning Director that protects the bicycle from direct exposure to the elements.**
- b. **Unsheltered parking may be provided by bicycle racks.**
2. **Location.**
- a. **Required bicycle parking that is located outdoors shall be located on-site within 50 feet of main entrances and not farther from the entrance than the closest motor vehicle parking space.**
- i. **Bicycle parking shall be located in areas of greatest use and convenience to bicyclist.**
- ii. **Such bicycle parking shall have direct access to both the public right of way and to the main entrance of the principal use.**

- iii. ***Bicycle parking shall not impede or create a hazard to pedestrians.***
- iv. ***Parking areas shall be located so as not to conflict with clear vision areas as prescribed in DCC 18.116.020.***
- b. ***Bicycle parking facilities shall be separated from motor vehicle parking and drive areas by a barrier or sufficient distance to prevent damage to the parked bicycle.***
- c. ***Where bicycle parking facilities are not directly visible and obvious from the public right(s) of way, entry and directional signs shall be provided to direct bicyclists for the public right of way to the bicycle parking facility. Directions to sheltered facilities inside a structure may be signed, or supplied by the employer, as appropriate.***
- 3. ***Dimensional Standards.***
 - a. ***Each bicycle parking space shall be at least two by six feet with a vertical clearance of seven feet.***
 - b. ***An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking.***
 - c. ***Each required bicycle parking space shall be accessible without moving another bicycle.***
- 4. ***Surface. The surface of an outdoor parking facility shall be surfaced in the same manner as the motor vehicle parking area or with a minimum of one-inch thickness of aggregate material. This surface will be maintained in a smooth, durable, and well-drained condition.***

FINDING: The Applicant responded to this criterion as follows:

Bicycle parking is located near entrances, with the covered spaces being on racks located in bicycle parking kiosks or mounted to the buildings or ground under building overhangs or eaves. Unsheltered spaces are provided by racks adjacent to the covered spaces. Bicycle parking will not impede pedestrian access and is separated from vehicle parking. The parking will be visible from, and have direct access, to the main entrance as well as paths and roadways. The parking will be at least 2 by six with at least 7' of vertical clearance and designed to meet the dimensional standards of this code section. The surfaces of the outdoor parking will be either asphalt, aggregate or paver materials that match adjacent paths. These criteria will be met.

As proposed for the Welcome Center, Clubhouse and Community Hall, Staff finds the bicycle parking accommodations are located and designed in a manner that satisfies (B)(1), (2), and (3) above. A condition of approval will be included in the decision to ensure the bicycle parking facilities will be surfaced in the same manner as the motor vehicle parking area or with a minimum of one-inch thickness of aggregate material and maintained in a smooth, durable, and well-drained condition, consistent with (B)(4).

- 5. **Security.**
 - a. ***Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object (i.e., a "rack") upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary). All bicycle racks, lockers, or other facilities shall be permanently anchored to the surface of the ground or to a structure.***
 - b. ***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.***

FINDING: The applicant responded to this criterion as follows:

The bicycle parking will have lockable racks that are permanently affixed to the ground or the individual building or structure. Lighting will be provided so that the facilities are visible from adjacent sidewalks, pathways and where applicable from motor vehicle parking areas. See details on landscape plan SP LC 1-3. This criterion will be met.

Staff concurs with the applicant’s conclusion; this criterion will be met.

- 6. ***Other means that provide the above level of bicycle parking may be approved by the Hearings Body or the Planning Director.***

FINDING: The applicant provided the following request:

The applicant asks that the Hearings Body or Planning Director approve moving sheltered parking spaces required for the entrance gate building to the Welcome Center. Employees who will man the entrance gate will be traveling to the property from a considerable distance and are not likely to be riding a bicycle to work. Also, if they do, employees can park their bicycle at the Welcome Center and walk the relatively short distance between the two buildings.

FINDING: As noted above, Staff finds this request reasonable and overall consistent with the intent and obligations of the bicycle parking requirements.

Section 18.116.035, Bicycle Commuter Facilities.

- A. ***Each commercial or public building having a work force of at least 25 people shall have bicycle commuter facilities consisting of shower(s) and changing rooms(s). For facilities with more than one building (such as a college), bicycle commuter facilities may be located in a central location.***
- B. ***This provision shall apply to (1) new development requiring off-street parking and (2) any construction, renovation or alteration of an existing use requiring a site plan***

review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005.

FINDING: No commercial or public building having a work force of at least 25 people exists or is proposed for this site.

Section 18.116.310, Traffic Impact Studies.

FINDING: The applicant responded to these criteria as follows:

The applicant complied with the requirement of the code to provide a traffic impact study when it obtained approval of the Resort’s CMP based on a traffic impact study for the entire Resort. Issues addressed by this code section, with the exception of sight distance and clear vision areas, have been met by the CMP TIS. The CMP and FMP decisions assure that the impacts of development will be mitigated. A new study is not required. The applicant has also shown, in a letter from Chris Clemow, P.E. (See: Exhibit 19), that with the approval of this application that Resort development authorized to date will not exceed the volume of traffic projected by the TIS.

The following part of DCC 18.116.310 sets the relevant approval standard for sight distance for driveways and intersections in the resort:

H. Operation and Safety Standards

- 3. *The minimum sight distance for driveways and intersections is defined in AASHTO’s “GEOMETRIC DESIGN OF HIGHWAYS AND STREETS” and the AASHTO “Design Guidelines for Very-Low Volume Local Roads (less than 400 ADT).”*

Transportation engineer Chris Clemow, P.E. has determined that the sight distance requirements of AASHTO are met by the OLU access aisle driveways. See Ex. 20, Clemow letter, Site Distance Analysis.

Staff notes a public comment was received arguing a new traffic study is required. The County Senior Transportation Planner commented, “I have reviewed the transmittal materials for file 247-21-000537-SP for a Welcome Center, Gate House, Golf Clubhouse, and Community Hall in the Thornburgh destination resort at 67545 and 67555 Cline Falls Hwy, 15-12-00, Tax Lots 7700 and 7800. The proposal is consistent with the approved Conceptual Master Plan (CMP) and Final Master Plan (FMP) and no additional traffic analysis is required.”

Staff finds that no additional traffic analysis is required.

Chapter 18.124, Site Plan Review

Section 18.124.030. Approval Required.

- A. No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.**
- B. The provisions of DCC 18.124.030 shall apply to the following:**
- 1. All conditional use permits where a site plan is a condition of approval;**
 - 2. Multiple family dwellings with more than three units;**
 - 3. All commercial uses that require parking facilities;**
 - 4. All industrial uses;**
 - 5. All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and**
 - 6. As specified for Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).**
 - 7. Non-commercial wind energy system generating greater than 15 to 100 kW of electricity.**
- C. The provisions of DCC 18.124.030 shall not apply to uses involving the stabling and training of equine in the EFU zone, noncommercial stables and horse events not requiring a conditional use permit.**
- D. Noncompliance with a final approved site plan shall be a zoning ordinance violation.**
- E. As a condition of approval of any action not included in DCC 18.124.030(B), the Planning Director or Hearings Body may require site plan approval prior to the issuance of any permits.**

FINDING: The proposed use requires actions described in section (A), above, and falls within a use category described in section (B). Site plan review is required.

Section 18.124.060. Approval Criteria.

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

- A. The proposed development shall relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.**

FINDING: In *Father's House*, files 247-18-000061-CU, 247-18-000062-SP, 247-18-000624-A, and 247-18-000643-A, the Board of County Commissioners (Board) made the following finding regarding this standard.

The Board agrees that DCC 18.124.060(A) is subjective and, at times, difficult to apply as the Hearings Officer observed. However, as the Board interprets the provision, DCC 18.124.060(A) does not require a particularly onerous exercise. It requires an applicant to show that its proposed site plan relates "harmoniously" to the natural environment and existing development. Unlike the conditional use standards of DCC 18.128.015(B),

this standard does not indicate harmony achieved with “surrounding properties.” However, the Board understands that the standard implies that the proposed development shall relate harmoniously on and off the subject property and generally speaking, in the vicinity, by “minimizing visual impacts and preserving natural features including views and topographical features.”

The code does not define what it means to “relate harmoniously.” The Hearings Officer reported that the online Oxford Living Dictionary defines “harmoniously” to mean arranging something “in a way that forms a pleasing or consistent whole.” Both parties in this case, provided various interpretations of the term “harmonious.” The Board is not adopting one interpretation of the term over another as each contributes equally to this evaluation. The Board concurs with the Hearings Officer that there is no “particularly useful case law defining or applying this term.” In addition, the Board agrees, that the Hearings Officer is correct that a site plan should be approved in light of this meaning of “harmonious,” so long as the proposed site plan does not create “more disharmony than other uses allowed by right or conditionally in the MUA-10 zone.” In this regard, the Board finds that this standard presumes the use is approved and evaluates only whether the site plan for the use “relates harmoniously.” The Board finds that the proposed church site plan meets the standard set forth in DCC 18.124.060(A).

Specifically, the Board interprets DCC 18.124.060(A) to mean that an applicant must demonstrate that the site plan has arranged the development in a way that evaluates the natural environment and existing development in the area and in the process has minimized visual impacts and reasonably preserved natural features including views and topographic features. Minimizing visual impact, as with this case, may include introduced landscaping, design layout, and specific design elements such as siding and roofing color and material. In doing so, this enables the County decision maker to find that the site plan’s impacts create no more disharmony than other uses allowed by right or conditionally in the MUA Zone.

The Board agrees, in part, with the Hearings Officer that this standard is considered differently when compared to the term “compatibility” and its associated standard of DCC 18.128.015(B). The chief differences between the two standards is that the DCC 18.128.015(B) compatibility standard evaluates the compatibility of the proposed use on existing and projected uses of surrounding properties and does so in light of specific factors that are not reproduced in DCC 18.124.060(A). The DCC 18.124.060(A) “harmonious” standard evaluates whether a proposed site plan “relates harmoniously to existing development and the natural environment” considering whether the site plan shows that the applicant has reasonably mitigated its impacts and reasonably preserved views. The Board observes that not every use that requires site plan approval also requires a conditional use permit. However, the Board finds that it is possible that a permitted or approved use is arranged so poorly on a site, that a proposed site plan must be denied under this standard. That is not the case here.

Staff understands the Board's findings, cited above, to make clear the use itself is not the subject of review under this criterion. Rather, this criterion only evaluates whether the site plan for the use "relates harmoniously." Staff reads *Father's House* to require a demonstration, "...the site plan has arranged the development in a way that evaluates the natural environment and existing development in the area and in the process has minimized visual impacts and reasonably preserved natural features including views and topographic features."

The Applicant, in relevant part, responded to this criteria as follows:

When the CMP was developed, the entire Resort was designed to be harmonious with the environment, the natural features, and the surrounding areas. The project documents reflect the applicant's commitment to retain that natural look and feel of the property, to preserve and enhance the land returning it to an old growth Juniper forest. The property has roughly 700' of elevation change and the views are a primary focus of the project. The applicant went to great lengths during its planning to minimize the projects visual impacts, and to protect the views, both from within the property, and from outside the project looking upon it. The submitted site plans continue this approach.

The natural environment is a typical high-desert dry landscape with native sagebrush, bitterbrush and Juniper tree vegetation. The property has a number of old Juniper trees which are, to the extent practicable, being retained. The site is relatively level and the Board of Commissioners has determined in its decision approving the CMP "... that while there are resources worth preserving on the property, they do not rise to the level of 'important natural features' that must be protected to the exclusion of development." See Exhibit 17: BOCC CMP Decision, Page 12. Proposed development will not require the removal of notable topographical features.

The site plan proposes buildings that fit within the area and with the character of the resort. They will use natural materials, colors and landscaping to blend into the natural environment. The site layout is consistent with the approved resort design concepts. Further there is no existing development near this site plan. It is surrounded by undeveloped resort land at this time.

For the reasons mentioned above the site plan is in harmony with the environment, is located so that it has evaluated the natural environment, blends into it, is located to minimize visual impacts, preserves natural features (if any), and has highlighted the views.

Staff finds that this criterion will be met.

B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.

FINDING: The applicant responded to this criterion as follows:

This criterion is divided into two parts, or two sentences. During the appeal proceedings for the golf course and lakes site plan in front of the Board, the applicant provided substantial details how this issue was resolved by the far broader standards of the CMP and FMP, including the WMP/FWMP, the Natural Characteristics Report, the Wildlife and Habitat Report, the Open Space Management Plan. The applicant also showed that extensive planning and analysis was completed to comply with the CMP/FMP that assures that Resort development will meet this standard and that areas of natural and improved open space will be provided and protected. During those prior proceedings the Board found:

“Applicant has already met the related requirements of the CMP in 18.113.050 and 070 which are broader than those of 18.124.060(8). The CMP materials consistently state a concerted effort will be made to minimize the impacts to natural resources, which is carried into this current application, to protect the landscape and topography.”

See **Exhibit 1:** BOCC Golf Course Approval, Pg. 11. The site plans also retain native landscape and topography to the greatest extent possible – a fact evident from a review of the site plan. Areas of native landscaping are provided. The size of parking areas has been held to a minimum to limit impacts on vegetation and topography.

The second sentence of the criterion “preserved trees and shrubs shall be protected” is addressed here and on the site plan. The WMP desired a return to an old growth forest to occur. The WMP requires the applicant to remove the smaller juniper trees to allow native grasses to come back. As such we will thin the smaller trees from the site plan area. The removal of the smaller trees from the site will, in most cases, necessarily result in removal of the sagebrush or shrubs as well. Juniper trees will also be removed from within, and just outside of the building site to provide a firebreak in accordance with the resort’s Wildfire and Natural Hazards plan and the “Firewise” protocols. Wherever possible, the larger, old growth trees will be retained. The trees to be retained are shown on the site plan. See SP LC 1-3.

Staff finds, as proposed, this criterion will be met.

C. The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.

FINDING: The Applicant responded to this criterion as follows:

The site plan provides a safe environment. The different buildings offer both public areas and private spaces with appropriate transitions between them. While the applicant acknowledges that a safe environment includes fire safety, the issues related to fire safety have been resolved in the CMP/FMP, and the resulting conditions of approval 4, 17, 19, and 24. The property has been annexed into the Redmond Fire District boundaries, satisfying condition 24. Condition 4 does not require any action until the issuance of a final plat or building permit. Condition 17 requires actions be taken, namely the provision of access and fire water prior to the delivery of combustible materials for structures. Condition 24 was

satisfied during the approval of the tentative plan for Phase A-1. Nothing further is required for fire safety at this time.

The landscape plans show the areas to be landscaped (See SP LC 1-3), the various plant species to be used and retained. See SP LC 4. This criterion will be met.

Staff finds this criterion requires demonstration the site is designed to address common safety hazards, including fire safety, and to address any site-specific natural hazards. Staff finds pedestrian, bicycle, and vehicle safety is addressed under sub-sections (E) and (K) of this section. With regard to fire safety, the applicant shall receive confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted June 21, 2021 comment letter have been met, prior to issuance of building permits. With regard to other natural hazards, none have been identified on the site.

Staff finds that the site plan provides appropriate opportunities for privacy and transition from public (the resort generally) to private spaces through OLU specific streets, unit specific parking areas, and landscaping near the individual OLU units.

D. When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.

FINDING: The applicant responded to this criterion as follows:

The site plan provides for the needs of handicapped persons by providing ADA parking spots, along with paved paths for access to the facilities from parking areas to pathways and to buildings. See SP LC 1-3. The buildings will meet ADA standards including ramps for handicapped access and other requirements at the time construction drawings are submitted for review. This criterion will be met.

The Deschutes County Building Division was sent a request for comment on this application. In the State of Oregon, ORS 455.720 and 447.210 through 447.992 are administered by the Deschutes County Building Safety Division. Deschutes County Building Safety Division is required to determine if a structure is an Affected Building and if so, apply the appropriate sections of Chapter 11 and the American National Standards Institute code A117.1-2009. Consequently, the structures will comply with state and federal ADA requirements. If an Affected Building is approved, inspected and finalized by the Deschutes County Building Safety Division, it meets all code requirements as an accessible structure. Staff finds that such a review is required prior to the issuance of building permits.

E. The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.

FINDING: The Applicant responded to this criterion as follows:

The entrance roads proposed as part of this site plan were previously approved under; the Tentative Plan for Phase A-1, and the golf course and lakes site plan. These approved roads are very similar to roads that were approved as part of the CMP and FMP proceedings. The interior circulation roads were approved in the Phase A-1 TP and the Golf Course SP and have very minor changes to the entrance into the clubhouse drive that is not a material in any way. These elements are resolved.

The parking has been logically arranged to provide for simple access to the site plan facilities. The golf clubhouse has parking directly in front of the building with additional parking across the road. Additional overflow parking is provided to the west of the Community Hall. The additional parking will be improved with grass pavers to minimize the effects of the parking. Parking for the Welcome Center is provided in front of the building and Gatehouse parking is provided in close proximity to the gatehouse.

In all cases, the layout of access, parking, and internal circulation provides harmony with; the development, buildings, and the environment as defined by the Board in Father's House. There the Board felt a site plan should be approved in light of this meaning of "harmonious," so long as the proposed site plan does not create "more disharmony" than other uses allowed (layouts allowed). In other words, unless the parking creates more disharmony than other parking would the criterion for this site plan should be met. The proposed parking is harmonious, so the criterion is met.

Staff finds this criterion is met where the described facilities provide for a safe and efficient flow of vehicular, bicycle, and pedestrian traffic. In addition, such facilities must be "harmonious with proposed and neighboring buildings and structures". Staff finds this means that such facilities must not significantly adversely impact on-site and/or neighboring proposed and existing buildings and structures. As proposed, these requirements are met.

F. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.

FINDING: The Applicant responded to this criterion as follows:

Applicant submitted an erosion control plan as part of the initial tentative plan (see TP4.1-4.7) and also with the golf course site plan in accordance with Condition 25. Further details on the surface drainage specific to this site plan are included on pages SP C2.0, C 3.0 which ensures there is no adverse impacts to neighboring properties, streets, surface, or subsurface water quality. This criterion is met.

Staff finds engineered design and review is required to demonstrate compliance with this criterion. As conditions of approval, 1) the applicant shall, prior to initiation of use and/or issuance of building, provide a statement from a licensed professional engineer that the surface drainage systems have been designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality; and 2) shall maintain any such systems in good working condition.

G. 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 and buffered or screened to minimize adverse impacts on the site and neighboring properties.

FINDING: The applicant responded to this criteria as follows:

All utilities are underground. Parking areas are designed and located to minimize the impacts to the site and neighboring properties. Trash enclosures are screened. See SP LC 1-9. This criterion is met.

Staff concurs.

H. All above ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.

FINDING: All utilities proposed for this site plan are proposed to be located underground.

I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).

FINDING: Specific criteria for each zone mapped on the subject property have been addressed above. Deschutes County's destination resort code imposes exterior setback criteria for resort properties. None of the proposed buildings and structures will be located in an exterior setback area. The required setbacks are:

- a. 350' for commercial development and parking areas;
- b. 250' for multi-family development and visitor-oriented accommodations (except for single-family residences) including associated parking areas;
- c. 150' for above-grade development other than commercial, multi-family and visitor-oriented accommodations;
- d. 100' for roads;
- e. 50' for golf courses;
- f. 50' for jogging trails and bike paths where they abut private developed lot and zero setback where abutting public roads and public lands, and;
- g. 250' setback from state highways.

This criterion is met.

J. All exterior lighting shall be shielded so that direct light does not project off site.

FINDING: The applicant has proposed exterior lighting as a part of this project. As a condition of approval, all exterior lighting shall be shielded so that direct light does not project off site.

- K. *Transportation access to the site shall be adequate for the use.***
 - 1. *Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.***
 - 2. *Mitigation for transportation-related impacts shall be required.***
 - 3. *Mitigation shall meet applicable County standards in DCC 18.116.310, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.***

FINDING: The applicant responded to this criterion as follows:

The applicant is proposing to use the road system established by approval of the CMP/FMP and refined by the recently approved tentative plan and golf course site plans for access. Mitigation for traffic impacts is provided by compliance with the transportation system mitigation requirements of the CMP/FMP and traffic impact agreements with ODOT. The applicant is enclosing an updated trip debit letter (See: Exhibit 19) from Professional Engineer Chris Clemow, that demonstrates the vehicle trips attributed to this site plan do not exceed the trips forecast by the Resort’s approved transportation impact analysis. This criterion will be met.

The Deschutes County Road Department and Deschutes County Transportation Planner were sent a request for comment on this application. No infrastructure concerns and no required improvements are identified in the record. Further, neither the Road Department nor the Transportation Planner objected to the conclusions in the updated trip debit letter.

Section 18.124.070. Required Minimum Standards.

- A. *Private or shared outdoor recreation areas in residential developments.***
 - 1. *Private Areas. Other than a development in the Sunriver UUC Town Center District, each ground level living unit in a residential development subject to site plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents and their guests.***

FINDING: This site plan is not a residential development. It is a site plan for development of commercial and resort operational uses in an approved destination resort. As such this criterion is not applicable.

- 2. *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:***
 - a. *Units with one or two bedrooms: 200 square feet per unit.***
 - b. *Units with three or more bedrooms: 300 square feet per unit.***

FINDING: No apartment residential development is proposed.

- 3. **Usable outdoor recreation space shall be provided in the Sunriver UUC Town Center District on a district-wide basis as follows:**
 - a. **A minimum of one hundred square feet of outdoor recreation space per Multi-family Dwelling unit or Townhome that is accessible to residents or guests staying in Multi-family Dwelling or Townhome units.**
 - b. **Outdoor recreation spaces may include bicycle paths, plazas, play areas, water features, ice rinks, pools and similar amenities that are located outdoors.**
 - c. **Outdoor recreation space must include recreation for children who are district residents, such as a maintained playground area with approved equipment such as swings or slides.**

FINDING: The proposal is not located in the Sunriver UUC Town Center District.

- 4. **Storage. In residential developments, convenient areas shall be provided for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be entirely enclosed.**

FINDING: No residential development is proposed.

B. Required Landscaped Areas.

- 1. **The following landscape requirements are established for multi family, commercial and industrial developments, subject to site plan approval:**
 - a. **A minimum of 15 percent of the lot area shall be landscaped.**

FINDING: The applicant responds to this criterion as follows:

This application is not located within a multi-family, commercial or industrial development so these criteria are not applicable. As discussed herein, and in the CMP/FMP approvals any undeveloped areas will remain largely native, although trees and underbrush in undeveloped areas will be thinned and removed.

Staff finds the Clubhouse is a commercial development that is subject to this criterion. Additionally, if the Community Hall is a rentable facility, it is also a commercial development. For these reasons, staff finds this criterion applies.

In any regard, over well over 15 percent of the lot area(s) for the subject application will include developed and natural landscaping. Staff notes that both undisturbed natural vegetation and

improved areas meet the definition of "landscaping"⁵.

- b. All areas subject to the final site plan and not otherwise improved shall be landscaped.**

FINDING: The submitted landscaping plan shows all areas subject to the final site plan and not otherwise improved as landscaped. Staff notes such areas are "required landscaping" for the purposes of the DCC.

- 2. In addition to the requirement of DCC 18.124.070(B)(1)(a), the following landscape requirements shall apply to parking and loading areas:**
 - a. A parking or loading area shall be required to be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**
 - b. In addition to the landscaping required by DCC 18.124.070(B)(2)(a), a parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 10 feet in width, and from any other lot line by a landscaped strip at least five feet in width.**
 - c. A landscaped strip separating a parking or loading area from a street shall contain:**
 - 1) Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average.**
 - 2) Low shrubs not to reach a height greater than three feet zero inches, spaced no more than eight feet apart on the average.**
 - 3) Vegetative ground cover.**
 - d. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.**
 - e. The landscaping in a parking area shall have a width of not less than five feet.**
 - f. Provision shall be made for watering planting areas where such care is required.**
 - g. Required landscaping shall be continuously maintained and kept alive and attractive.**
 - h. Maximum height of tree species shall be considered when planting under overhead utility lines.**

FINDING: The applicant provided the following statement:

If the applicant's parking calculations are accepted by staff or the hearings officer, the applicant asks that its site plan that provides for 84 parking spaces for Core Area parking

⁵ DCC 18.04.030 - "Landscaping" means trees, grass, bushes, shrubs, flowers, and garden areas, and incidental arrangements of fountains, patios, decks, street furniture and ornamental concrete or stonework and artificial plants, bushes or flowers.

area be approved as submitted. It incorporates more than 2100 square feet of landscaping throughout the parking areas as required by section 2(a) above. The applicant's site plan also proposes 45 optional, future parking spaces with more than an 1,125 square feet of parking area landscaping. Landscaping is planned such that it meets the requirements of #2 (b-g) as shown on SP LC 1-4.

There are no overhead utility lines on this site plan so (h) above is not applicable. This criterion will be met.

C. Non-motorized Access.

- 1. Bicycle Parking. The development shall provide the number and type of bicycle parking facilities as required in DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities shall be indicated on the site plan.**

FINDING: The number and type of bicycle parking facilities are described above, under findings for DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities are indicated on the site plan submitted with this application.

- 2. Pedestrian Access and Circulation:**

- a. Internal pedestrian circulation shall be provided in new commercial, office and multi family residential developments through the clustering of buildings, construction of hard surface pedestrian walkways, and similar techniques.**

FINDING: The Applicant responded to this criterion as follows:

It is not clear that this code requirement applies because the applicant is proposing a Resort development with a mix of uses. It is not proposing a "commercial development." Nevertheless, the site plan provides internal paths to connect buildings and the parking areas that serve them. See SP LC 1-4. The cart path is a multi-use path that serves cyclists, pedestrians and golf carts. Hard surfacing will be provided for pedestrian walkways. This criterion will be met.

Staff finds the proposed site plan offers clustering of buildings and provides for the internal circulation of pedestrians with hard surface walkways and other amenities. To the extent this criterion applies, it has been met.

- b. Pedestrian walkways shall connect building entrances to one another and from building entrances to public streets and existing or planned transit facilities. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi family, public or park use.**

- c. ***Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible.***
- d. ***Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.***
- e. ***To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings.***

FINDING: In response to (b) above, the applicant has provided the following:

Pedestrian walkways connect the Golf Course Clubhouse and Conference Center. The Welcome Center and Gate House are located on separate locations within the resort and, therefore, are not required to have connecting pathways. The applicant is proposing development in a master-planned resort that provides for private roadways. No connection to public streets is called for or allowed by the master plan, the FMP. No transit facilities serve the property or the area. No adjacent properties are planned or used for commercial, multi-family or park use. The FMP does not call for connections to the public lands that adjoin the resort but that are a considerable distance from the areas being developed. This criterion will be met.

With conditions of approval to ensure (c), (d), and (e) are addressed fully in revised site plans illustrating compliance with required dimensional standards prior to issuance of a building permit, Staff finds the development to be consistent with these criterion. Specific to criterion (e), staff notes ADA requirements for building entrances will be addressed by the Building Division during building permit review.

D. Commercial Development Standards:

- 1. ***New commercial buildings shall be sited at the front yard setback line for lots with one frontage, and at both front yard setback lines for corner lots, and oriented to at least one of these streets, except in the Sunriver UUC Business Park (BP) District and Town Center (TC) District and the La Pine UUC Business Park (LPBP) District. The building(s) and any eaves, overhangs or awnings shall not interfere with the required clear vision area at corners or driveways.***

FINDING: As note above, there are no front yard setbacks for commercial development in the

approved resort FMP.

- 2. ***To meet the standard in paragraph (1) of this subsection, buildings developed as part of a shopping complex, as defined by this title, and planned for the interior, rear or non-street side of the complex may be located and oriented toward private interior streets within the development if consistent with all other standards of paragraph (1) above and this paragraph. Interior streets used to satisfy this standard may have on-street parking and shall have sidewalks along the street in front of the building. Such sidewalks shall connect to existing or future sidewalks on public streets accessing the site. The master plan for the shopping complex shall demonstrate that at least one half of the exterior perimeter of the site that abuts each public street, will be developed with buildings meeting the standards of paragraphs (D)(1) or (D)(3) of this subsection.***

FINDING: No shopping complex is proposed.

- 3. ***An increase in the front yard setback may be allowed where the applicant can demonstrate that one or more of the following factors makes it desirable to site the new building beyond the minimum street setback:***
 - a. ***Existing development on the site;***
 - b. ***Lot configuration;***
 - c. ***Topography of the lot;***
 - d. ***Significant trees or other vegetative features that could be retained by allowing a greater setback;***
 - e. ***Location of driveway access. Such an increase in the front yard shall be the minimum necessary to accommodate the reason for the increase.***
 - f. ***Architectural features, driveways, landscaping areas equal to or greater than the depth of the structure, and outdoor commercial areas, when at least one half of the structure meets the minimum street setback.***

FINDING: No increase in the front yard setback has been requested.

- 4. ***Off street motor vehicle parking for new commercial developments in excess of 10,000 square feet shall be located at the side or behind the building(s), except in the Sunriver UUC Business Park (BP) District and Town Center (TC) District. Off-street parking proposed with a shopping complex, as defined by this title, and intended to serve buildings located in the interior or rear of the complex may have parking in front of the building provided the overall master plan for the site satisfies paragraph (2) of this subsection.***

FINDING: No off street motor vehicle parking for new commercial developments in excess of 10,000 square feet is proposed.

Section 18.124.080, Other Conditions.

The Planning Director or Hearings Body may require the following in addition to the minimum standards of DCC Title 18 as a condition for site plan approval.

- A. An increase in the required yards.**
- B. Additional off street parking.**
- C. Screening of the proposed use by a fence or landscaping or combination thereof.**
- D. Limitations on the size, type, location, orientation and number of lights.**
- E. Limitations on the number and location of curb cuts.**
- F. Dedication of land for the creation or enlargement of streets where the existing street system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.**
- G. Improvement, including but not limited to paving, curbing, installation of traffic signals and constructing sidewalks or the street system that serves the proposed use where the existing street system will be burdened by the proposed use.**
- H. Improvement or enlargement of utilities serving the proposed use where the existing utilities system will be burdened by the proposed use. Improvements may include, but shall not be limited to, extension of utility facilities to serve the proposed use and installation of fire hydrants.**
- I. Landscaping of the site.**
- J. Traffic Impact Study as identified in Title 18.116.310.**
- K. Any other limitations or conditions that are considered necessary to achieve the purposes of DCC Title 18.**

FINDING: To the extent that any conditions of approval contained in this decision require improvement to the site beyond the minimum standards of DCC Title 18, staff finds such conditions are authorized by this section.

SYSTEM DEVELOPMENT CHARGE

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,488 per p.m. peak hour trip. The proposed uses, however, will not generate any traffic themselves and therefore no road capacity, as that term is commonly understood, will be consumed. Therefore, SDCs do not apply to these proposed uses. SDCs will be assessed on the golf course itself as well as overnight lodging units (OLUs).

THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30, 2021. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

IV. CONCLUSION

Based on the foregoing findings, staff concludes that the proposed use can comply with the applicable standards and criteria of the Deschutes County zoning ordinance if conditions of approval are met.

Other permits may be required. The applicants are responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Environmental Soils Division as well as any required state and federal permits.

V. DECISION

APPROVAL, subject to the following conditions of approval.

VI. CONDITIONS OF APPROVAL

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The applicant shall obtain any necessary permits from the Deschutes County Building Division and Environmental Soils Division.
- C.** This approval is based on the specific mapped locations shown in the application materials and that any substantial change to road, right-of-way, parking, structure configurations, or structure locations is not approved under this decision.
- D.** Emergency secondary resort access roads shall be improved in compliance with FMP Condition #4 prior to final plat approval or issuance of any building permit under this site plan, whichever comes first.
- E.** The applicant shall receive confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted June 21, 2021 comment letter have been met, prior to issuance of building permits.
- F.** Clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- G.** The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.
- H.** Off-street parking areas used to fulfill the requirements of DCC Title 18 shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

- I.** Required parking facilities shall be provided prior to or concurrently with construction and/or initiation of the proposed use.
- J.** Prior to issuance of building permits, revisions to shading and labeling on the site plan must be provided to confirm 96 paved parking spaces will serve the core resort area. Labeling must include location of ADA parking and unloading spaces.
- K.** Required areas used for standing and maneuvering of vehicles shall be paved surfaces.
- L.** Prior to issuance of building permits, the applicant shall submit an engineer's certification that the development areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all weather use and will be "so drained as to contain any flow of water on the site".
- M.** Service drives shall be marked and defined through the use of rails, fences, walls or other barriers or markers. Reflective pavement markers shall be placed at no less than 40-foot intervals will comply with this requirement.
- N.** Service drive clear vision area shall be maintained in accordance with DCC 18.116.020(A).
- O.** Bicycle parking surfaces shall be maintained in a smooth, durable, and well-drained condition. The bicycle parking facilities be surfaced in the same manner as the motor vehicle parking area or with a minimum of one-inch thickness of aggregate material.
- P.** Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object (i.e., a "rack") upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary). All bicycle racks, lockers, or other facilities shall be permanently anchored to the surface of the ground or to a structure.
- Q.** Prior to initiation of use and/or issuance of building, provide a statement from a licensed professional engineer that the surface drainage systems have been designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality. The property owner shall maintain any such systems in good working condition.
- S.** All exterior lighting shall be shielded so that direct light does not project off site.
- T.** The landscaping in a parking area shall have a width of not less than five feet.
- U.** The applicant shall provide for watering planting areas where such care is required.
- V.** Required landscaping shall be continuously maintained and kept alive and attractive.
- W.** Walkways shall be provided in accordance with 18.124.070(C)(2), as shown on a revised site

plan, prior to issuance of building permits.

- X. To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings.
- Y. Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible. A revised site plan must be provided to illustrate compliance prior to building permit sign off.
- Z. Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.
- AA. Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.
- BB. All lighting will be shielded and directed downward and will otherwise comply with the requirements of Section 15.10 of Title 15.

VII. DURATION OF APPROVAL, NOTICE, AND APPEALS

The applicant shall initiate the use for the proposed development within two (2) years of the date this decision becomes final, or obtain approval of an extension under Title 22 of the County Code, or this approval shall be void.

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.

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.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Angie Brewer, Senior Planner



Reviewed by: Peter Gutowsky, Planning Manager

Attachments:

Site Plan Sheets C1.0, C2.0, and C3.0

Landscaping Concept Sheets LC.1, LC.2, and LC.3

THORNBURGH RESORT PHASE A-1 FACILITIES SITE PLAN

LOCATED AT TOWNSHIP 15 SOUTH, REGION 12 EAST SECTIONS 28 & 29
DESCHUTES COUNTY, OREGON



VICINITY MAP - SCALE: 1" = 10,000'

OWNER/DEVELOPER
CENTRAL LAND AND CATTLE COMPANY
2447 NW CANYON DR
REDMOND, OR 97756
PH: (541) 350-8479

SURVEYOR/ENGINEER
HICKMAN WILLIAMS & ASSOCIATES INC.
62930 O.B. RILEY ROAD, SUITE 100
BEND, OR 97703
P. (541) 389-9351

THORNBURGH RESORT PHASE A-1
COVER SHEET
DESCHUTES COUNTY OREGON

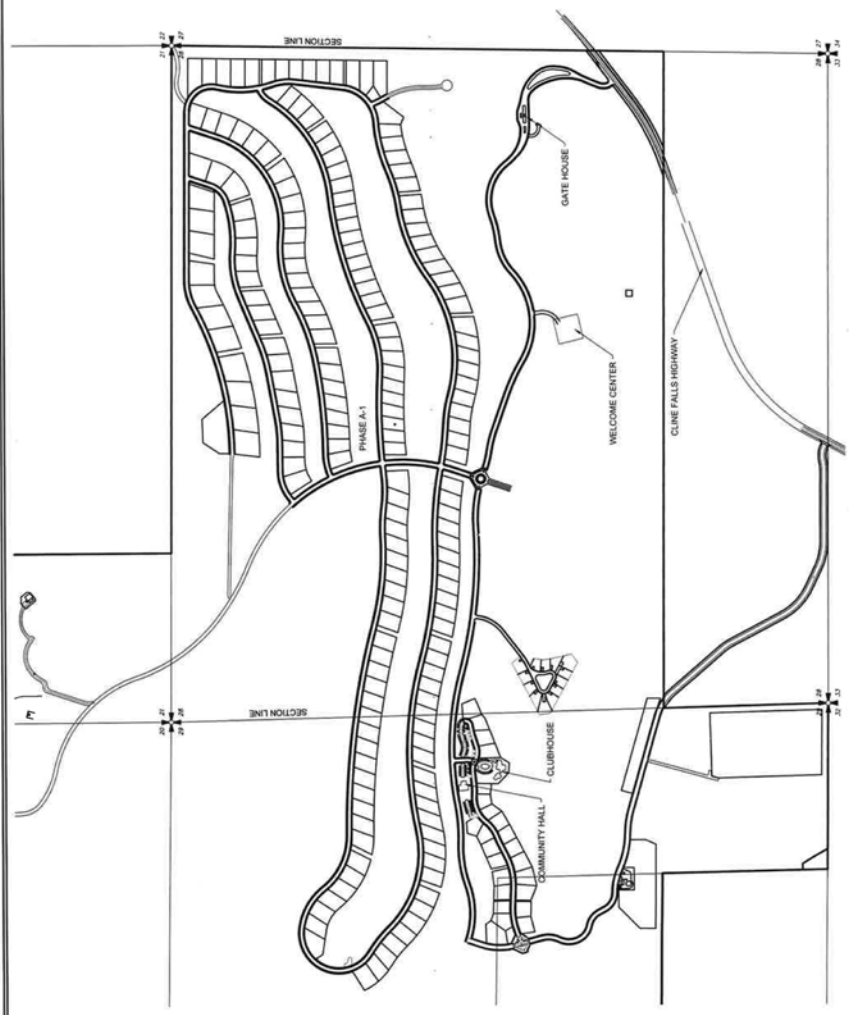
HWA
CORPORATION
180110-SP-CLUBHOUSE-000

DATE: 05/28/2021

SHEET: C1.0

180110

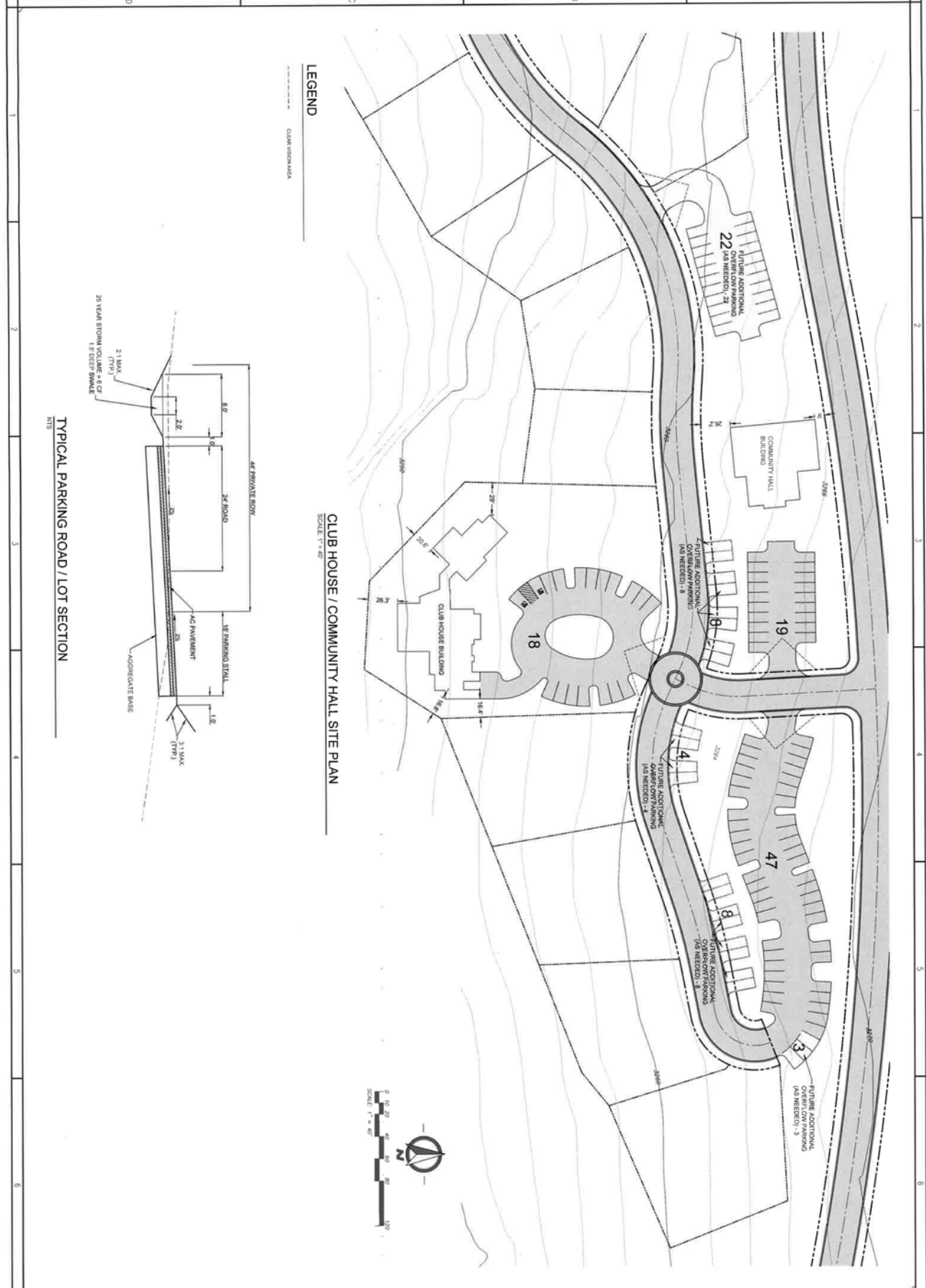
SHEET NUMBER	TITLE
C1.0	COVER SHEET
C2.0	CLUBHOUSE / COMMUNITY HALL SITE PLAN
C3.0	WELCOME CENTER / GATE HOUSE SITE PLAN
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BA-2	GATEHOUSE FLOOR PLAN
BA-3	GATEHOUSE ELEVATIONS
BR-1	WELCOME CENTER SCHEMATICS
BR-2	WELCOME CENTER FLOOR PLAN
BR-3	WELCOME CENTER ELEVATIONS #1
BR-4	WELCOME CENTER ELEVATIONS #2
BC-1	CLUBHOUSE SCHEMATICS
BC-2	CLUBHOUSE FLOOR PLAN
BC-3	CLUBHOUSE ELEVATIONS #1
BC-4	CLUBHOUSE ELEVATIONS #2
ID-1	COMMUNITY HALL SCHEMATICS
ID-2	COMMUNITY HALL FLOOR PLAN
ID-3	COMMUNITY HALL ELEVATIONS



PROPOSED	EXISTING
CURB OF PAVEMENT	EDGE OF PAVEMENT
WATER LINE (SIZE AS NOTED)	WATER LINE (SIZE AS NOTED)
SEWER LINE (SIZE AS NOTED)	SEWER LINE (SIZE AS NOTED)
UTILITY LINE (SIZE AS NOTED)	UTILITY LINE (SIZE AS NOTED)
ASPHALT PAVING	CONCRETE
FIRE HYDRANT	WATER VALVE (G.V. / B.F.V.)
WATER METER	SEWER METER
SECTIONALIZING CABLE/TRANSFORMER	SECTIONALIZING CABLE/TRANSFORMER
CLUSTER POSTAL DELIVERY BOX	CLUSTER POSTAL DELIVERY BOX
SEWER MANHOLE	SEWER MANHOLE
INTERNAL	INTERNAL
EXTERNAL	EXTERNAL
CLEAR WOOD	CLEAR WOOD
PROPERTY BOUNDARY	PROPERTY BOUNDARY
WATER VALVE (G.V. / B.F.V.)	WATER VALVE (G.V. / B.F.V.)
SEWER VALVE (G.V. / B.F.V.)	SEWER VALVE (G.V. / B.F.V.)
ELECTRIC SERVICE	ELECTRIC SERVICE
TELEPHONE Riser	TELEPHONE Riser
TRANSFORMER	TRANSFORMER
SECTIONALIZING CABLE/TRANSFORMER	SECTIONALIZING CABLE/TRANSFORMER
CLUSTER POSTAL DELIVERY BOX	CLUSTER POSTAL DELIVERY BOX
SEWER MANHOLE	SEWER MANHOLE
INTERNAL	INTERNAL
EXTERNAL	EXTERNAL
DECIDUOUS TREE (SIZE AS NOTED)	DECIDUOUS TREE (SIZE AS NOTED)
JANUARY TREE (SIZE AS NOTED)	JANUARY TREE (SIZE AS NOTED)

SITE MAP
SCALE: 1" = 500'

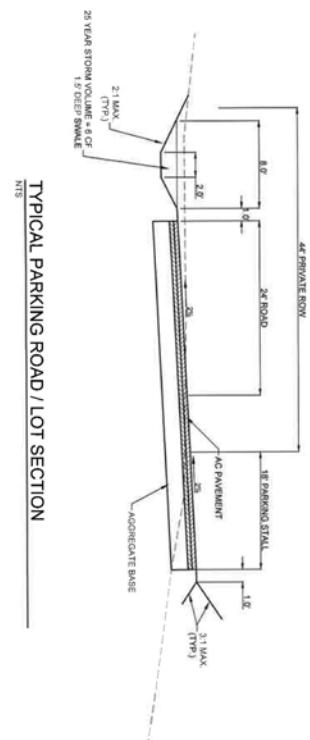
market 5 Land Projects\Thornburgh\dwg\CONSTRUCTION DRAWINGS\180110-SP-Clubhouse.dwg Fri May 29, 2021 - 10:13am



LEGEND

CLEAR VISION AREA

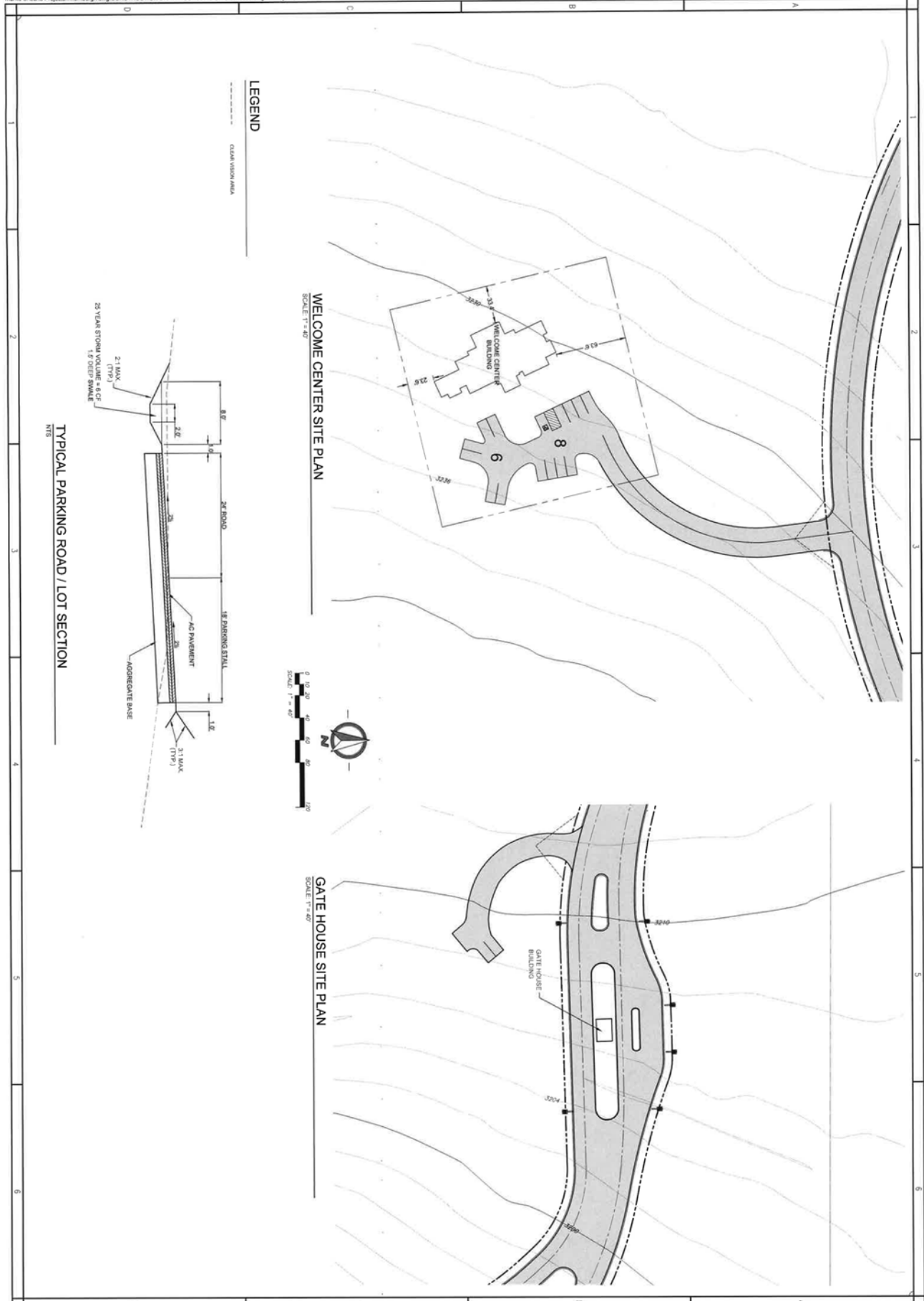
CLUB HOUSE / COMMUNITY HALL SITE PLAN
SCALE: 1" = 40'



TYPICAL PARKING ROAD / LOT SECTION
NTS

<p>CONTRACT NO. 180110</p>	<p>THORNBURGH RESORT PHASE A-1 PHASE A-1 FACILITIES CLUB HOUSE AND COMMUNITY HALL SITE PLAN</p> <p>DESCHUTES COUNTY OREGON</p>	<p>HWA CIVIL, ENGINEERING & SURVEYING CONSULTANTS 1000 NE 10th Street, Suite 100, Bend, OR 97701 503.325.4444</p>	<p>DATE: 05/28/2021</p> <p>PROJECT: THORNBURGH RESORT PHASE A-1</p> <p>DRAWN BY: [Name]</p> <p>CHECKED BY: [Name]</p> <p>SCALE: 1" = 40'</p>
<p>C2.0</p>	<p>180110</p>		

mark S:\Land Projects\Thornburgh\dwg\CONSTRUCTION DRAWING\180110-SP-Clubhouse.dwg Fri May 28, 2021 - 10:14am

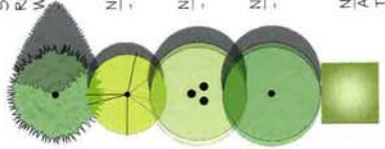


<p>C3.0</p>	<p>HWA</p> <p>CIVIL ENGINEERING SURVEYING PLANNING</p> <p>200 S. 10th Street, Suite 200, Prineville, OR 97670</p> <p>503.438.2821</p>	<p>THORNBURGH RESORT PHASE A-1</p> <p>PHASE A-1 FACILITIES</p> <p>WELCOME CENTER AND GATE HOUSE</p> <p>SITE PLAN</p> <p>DESCHUTES COUNTY OREGON</p>	<p>CONTRACT NO. 180110-SP-Clubhouse.dwg</p> <p>DATE: 05/28/2021</p>
<p>DESIGNED BY: MFC</p> <p>CHECKED BY: MFC</p> <p>SCALE: AS SHOWN</p> <p>DATE: 05/28/2021</p>	<p>PROJECT: THORNBURGH RESORT PHASE A-1</p> <p>SHEET: C3.0</p> <p>TOTAL SHEETS: 10</p>		<p>PROJECT: THORNBURGH RESORT PHASE A-1</p> <p>SHEET: C3.0</p> <p>TOTAL SHEETS: 10</p>

SPECIFICATIONS	
SHEET#	BOOK#
PROJ. MOR.	KA
DRAWN:	DF
CHECKED:	DF
PROJ. NO.:	PT222
DATE:	05-27-21
SCALE:	1" = 50'-0"
REVISIONS:	
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Δ	X
Δ	X
Δ	X
Δ	X
Δ	X
Δ	X
Δ	X

CONCEPT PLANT SCHEDULE GATE HOUSE

EXISTING HERITAGE JUNIPER TREES TO BE SAVED THESE TREES ARE THE "HERITAGE" JUNIPERS THAT HAVE BEEN STAKED IN THE FIELD FOR THE PURPOSE OF SAVING IN PLACE. THESE TREES HAVE SIGNIFICANT CHARACTER AND/OR SIZE, RELATIVE TO OTHER TREES IN THE WORK AREA.



NEW ACCENT TREES - TALL

NEW ACCENT TREES - LARGE

NEW NATIVE TREES

NATIVE REVEG ZONE
AREAS OF DISTURBANCE TO BE TREATED WITH NATIVE VEGETATION TO BLEND IN SEAMLESSLY WITH THE ADJACENT UNDISTURBED NATIVE

TRANSITIONAL ZONE
TRANSITIONAL LANDSCAPING BETWEEN NATIVE REVEG/UNDISTURBED NATIVE AND ORNAMENTAL LANDSCAPING - TO INCLUDE SOME NATIVES AND SOME NON-NATIVES

ORNAMENTAL LANDSCAPING
HIGH DENSITY ACCENTED OR ORNAMENTAL LANDSCAPING NEAR BUILDINGS

SEE LEGENDS ON SHEET LC-4 FOR PLANTS FOR EACH ZONE AND TREE TYPE

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE OF THE TREES.



SHEET TITLE:	PROJECT:
SPECIFICATIONS	
SHEET: BOOK:	KA
PROJ. MGR.	DF
DRAWN:	DF
CHECKED:	DF
PROJ. NO.:	P2122
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REVISIONS	
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PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF EXISTING JUNEPLER TREES SHOWN TO BE SAVED ON THE PLANS MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE OF THE TREES.

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

CONCEPT PLANT SCHEDULE CLUBHOUSE

THE TREES AND PLANTS SHOWN ARE TO BE SAVED UNLESS NOTED OTHERWISE. PLANTS TO BE SAVED IN PLANS ARE THOSE SHOWN IN GREEN. PLANTS TO BE REPLACED OR NEW PLANTS TO BE INSTALLED ARE THOSE SHOWN IN OTHER COLORS. PLANTS TO BE REPLACED OR NEW PLANTS TO BE INSTALLED ARE THOSE SHOWN IN OTHER COLORS. PLANTS TO BE REPLACED OR NEW PLANTS TO BE INSTALLED ARE THOSE SHOWN IN OTHER COLORS.

- NEW ACCENT TREES - TALL
- NEW ACCENT TREES - LARGE
- EXISTING TREES
- TRANSITIONAL ZONE LANDSCAPING (MATURE DEVELOPMENTED NATIVE PLANTS AND ORNAMENTAL PLANTS TO BE REPLACED OR NEW PLANTS TO BE INSTALLED)
- ORNAMENTAL LANDSCAPING (MATURE DEVELOPMENTED NATIVE PLANTS AND ORNAMENTAL PLANTS TO BE REPLACED OR NEW PLANTS TO BE INSTALLED)
- LAWN

SEE LEGENDS ON SHEET LC-4 FOR PLANTS FOR EACH ZONE AND TREE TYPE.

THORNBURGH RESORT PHASE A-1 FACILITIES SITE PLAN

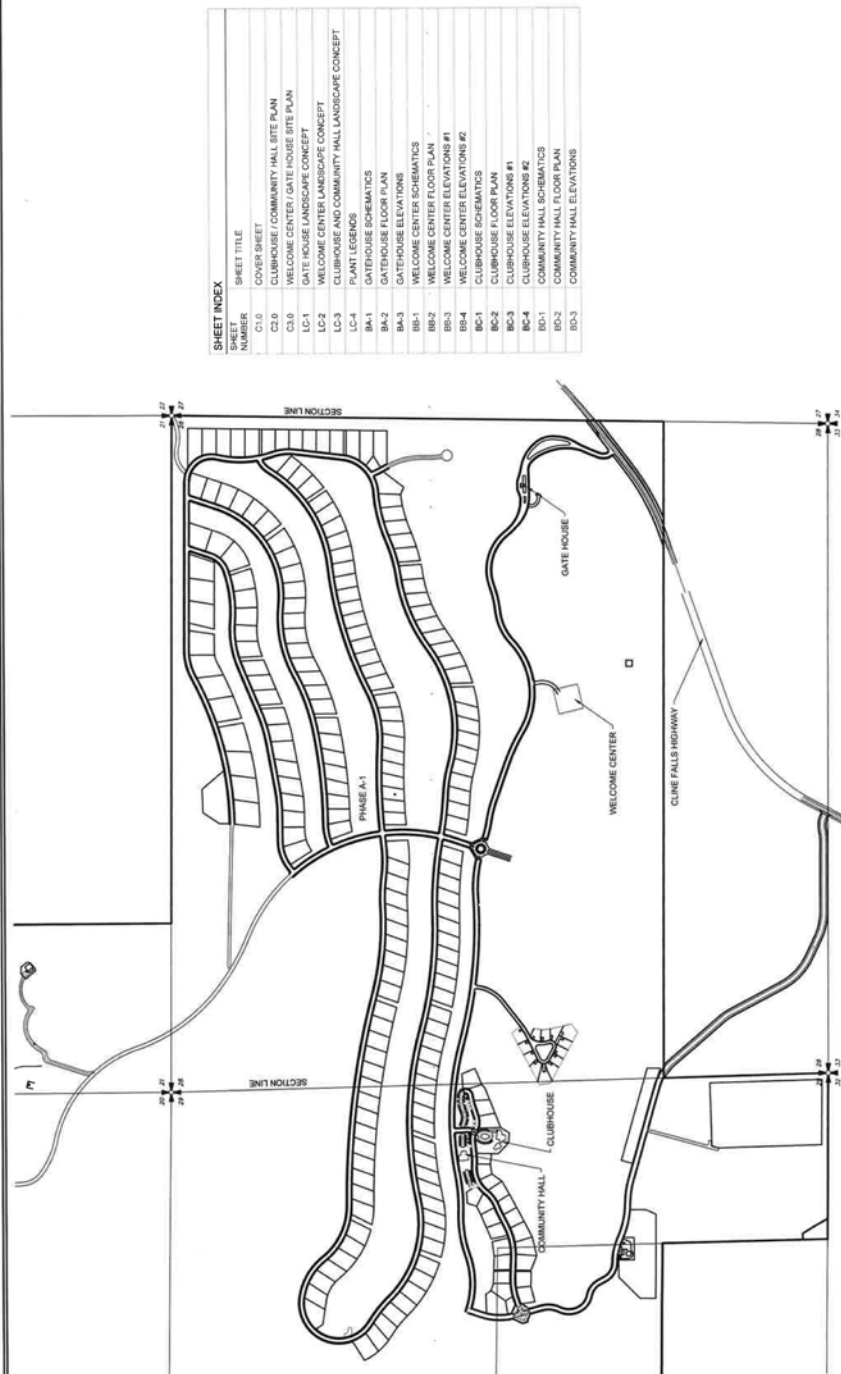
LOCATED AT TOWNSHIP 15 SOUTH, REGION 12 EAST SECTIONS 28 & 29
DESCHUTES COUNTY, OREGON



VICINITY MAP SCALE: 1" = 10,000'

OWNER/DEVELOPER
CENTRAL LAND AND CATTLE COMPANY
2447 NW CANYON DR
REDMOND, OR 97756
PH: (541) 350-8479

SURVEYOR/ENGINEER
HICKMAN WILLIAMS & ASSOCIATES INC.
62930 O.B. RILEY ROAD, SUITE 100
BEND, OR 97703
P. (541) 389-9351



LEGEND

PROPOSED	EXISTING
CURB OF PAVEMENT	EDGE OF PAVEMENT
WATER LINE (SIZE AS NOTED)	WATER LINE (SIZE AS NOTED)
SEWER LINE (SIZE AS NOTED)	SEWER LINE (SIZE AS NOTED)
STORM DRAIN (SIZE AS NOTED)	STORM DRAIN (SIZE AS NOTED)
COMMON UTILITY LINE	COMMON UTILITY LINE
UTILITY SERVICE	UTILITY SERVICE
ASPHALT PAVING	ASPHALT PAVING
CONCRETE	CONCRETE
FIRE HYDRANT	FIRE HYDRANT
WATER VALVE (G.V. / B.F.V.)	WATER VALVE (G.V. / B.F.V.)
WATER METER	WATER METER
SEWER METER	SEWER METER
SECTIONALIZING CABLE/TRANSFORMER	SECTIONALIZING CABLE/TRANSFORMER
CLUSTER POSTAL DELIVERY BOX	CLUSTER POSTAL DELIVERY BOX
SEWER MANHOLE	SEWER MANHOLE
INTERNAL	INTERNAL
EXTERNAL	EXTERNAL
CLEAR WOOD	CLEAR WOOD
PROPERTY BOUNDARY	PROPERTY BOUNDARY
EDGE OF PAVEMENT	EDGE OF PAVEMENT
WATER VALVE (G.V. / B.F.V.)	WATER VALVE (G.V. / B.F.V.)
WATER METER	WATER METER
SEWER METER	SEWER METER
ELECTRIC SERVICE	ELECTRIC SERVICE
TELEPHONE Riser	TELEPHONE Riser
TRANSFORMER	TRANSFORMER
SECTIONALIZING CABLE/TRANSFORMER	SECTIONALIZING CABLE/TRANSFORMER
CLUSTER POSTAL DELIVERY BOX	CLUSTER POSTAL DELIVERY BOX
SEWER MANHOLE	SEWER MANHOLE
INTERNAL	INTERNAL
EXTERNAL	EXTERNAL
CONTIGUOUS TREE (SIZE AS NOTED)	CONTIGUOUS TREE (SIZE AS NOTED)
DISCONTIGUOUS TREE (SIZE AS NOTED)	DISCONTIGUOUS TREE (SIZE AS NOTED)
JUMPED TREE (SIZE AS NOTED)	JUMPED TREE (SIZE AS NOTED)

SHEET INDEX

SHEET NUMBER	TITLE
C1.0	COVER SHEET
C2.0	CLUBHOUSE / COMMUNITY HALL SITE PLAN
C3.0	WELCOME CENTER / GATE HOUSE SITE PLAN
LC-1	GATE HOUSE LANDSCAPE CONCEPT
LC-2	WELCOME CENTER LANDSCAPE CONCEPT
LC-3	CLUBHOUSE AND COMMUNITY HALL LANDSCAPE CONCEPT
LC-4	PLANT LEGENDS
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BC-2	CLUBHOUSE FLOOR PLAN
BC-3	CLUBHOUSE ELEVATIONS #1
BC-4	CLUBHOUSE ELEVATIONS #2
BD-1	COMMUNITY HALL SCHEMATICS
BD-2	COMMUNITY HALL FLOOR PLAN
BD-3	COMMUNITY HALL ELEVATIONS

SITE MAP
SCALE: 1" = 500'

THORNBURGH RESORT PHASE A-1 FACILITIES
COVER SHEET
DESCHUTES COUNTY OREGON

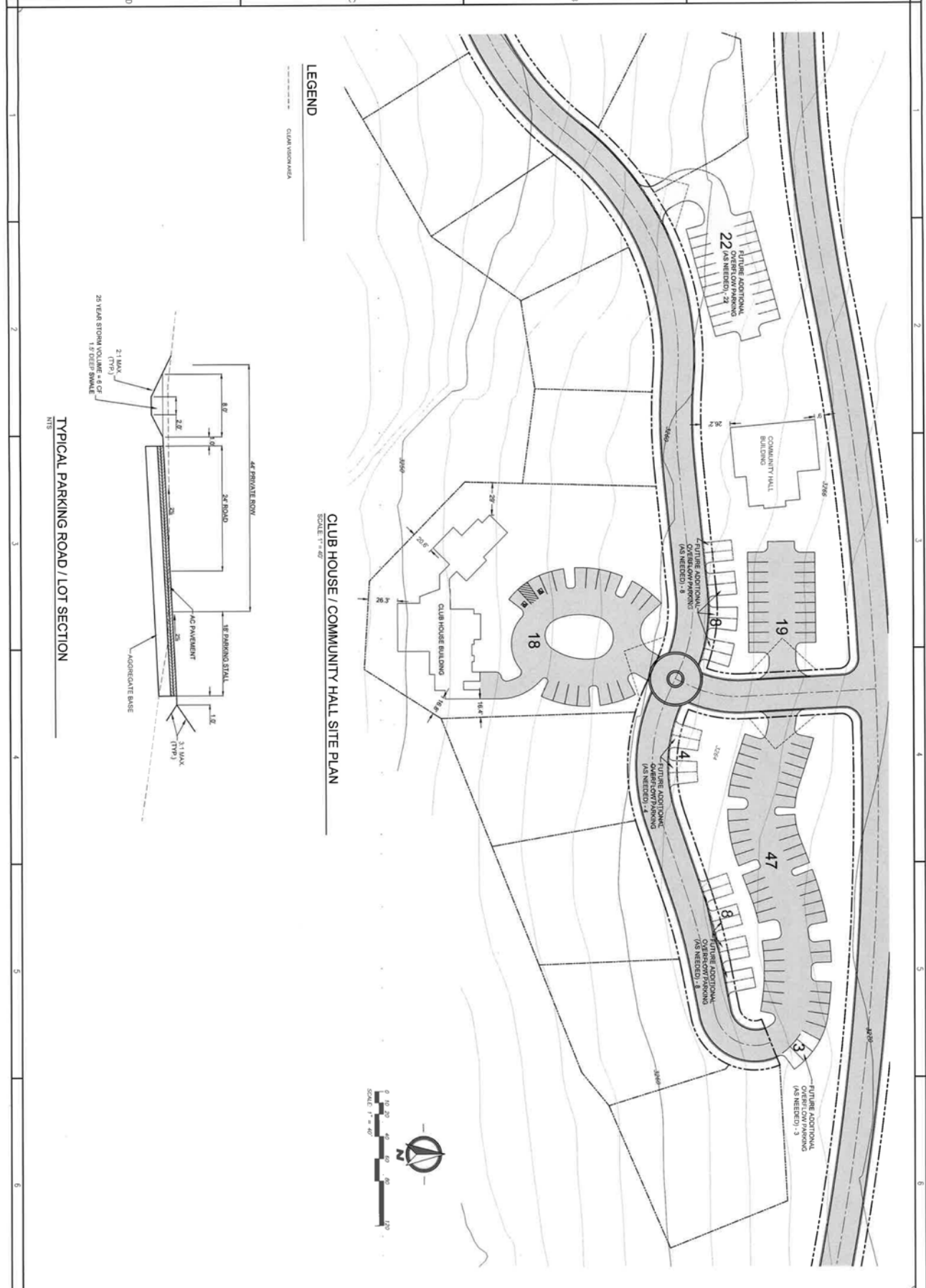
HWA
CORPORATION
18015 SP-CLUBHOUSE WAY
BEND, OREGON 97703
TEL: (541) 389-9351

DATE: 05/28/2021

SHEET: C1.0

180110

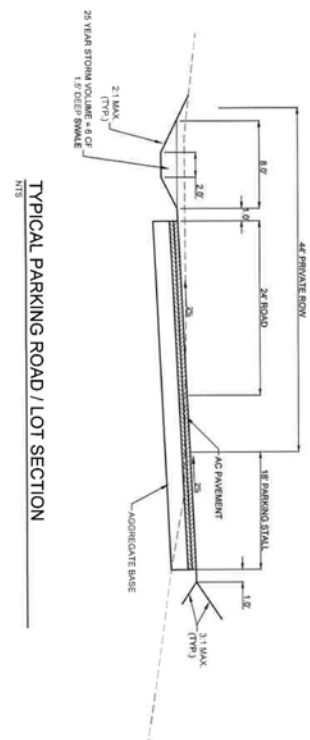
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LEGEND

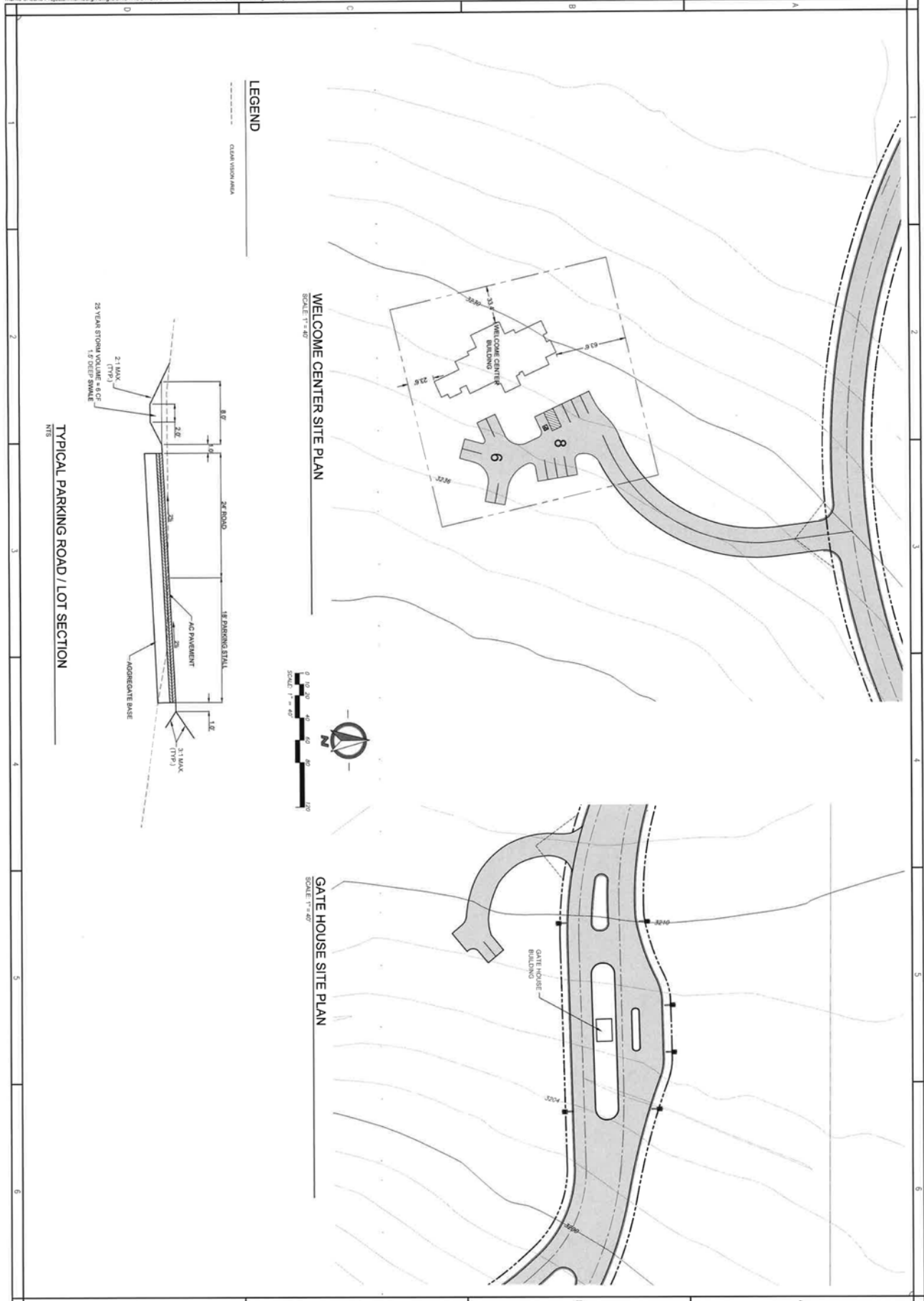
CLEAR VISION AREA

CLUB HOUSE / COMMUNITY HALL SITE PLAN
SCALE: 1" = 40'



<p>CONTRACT NO. 180110</p> <p>DATE: 05/28/2021</p>	<p>HWA</p> <p>CIVIL, ENGINEERING & SURVEYING CONSULTANTS</p> <p>1000 NE 10th Street, Suite 100, Bend, OR 97701</p> <p>503.325.4600</p>	<p>THORNBURGH RESORT PHASE A-1</p> <p>PHASE A-1 FACILITIES</p> <p>CLUB HOUSE AND COMMUNITY HALL</p> <p>SITE PLAN</p> <p>DESCHUTES COUNTY OREGON</p>	<p>CONTRACT NO. 180110</p> <p>DATE: 05/28/2021</p>
<p>SHEET: C2.0</p> <p>180110</p>	<p>DESIGNED BY: MFC</p> <p>DRAWN BY: MFC</p> <p>CHECKED BY: A.S. GUSTAFSON</p> <p>SCALE: AS SHOWN</p> <p>DATE: 05/28/2021</p>		<p>CONTRACT NO. 180110</p> <p>DATE: 05/28/2021</p>

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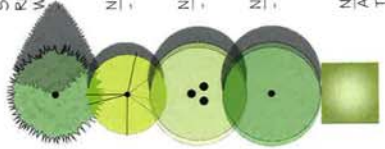


<p>C3.0</p>	<p>HWA <small>CIVIL ENGINEERING SURVEYING PLANNING</small></p>	<p>THORNBURGH RESORT PHASE A-1 PHASE A-1 FACILITIES WELCOME CENTER AND GATE HOUSE SITE PLAN</p>	<p><small>CONTRACT NO. 180110 DATE: 05/28/2021</small></p>
<p>DESIGNED BY: MFC CHECKED BY: MFC SCALE: AS SHOWN DRAWN BY: MFC</p>	<p>DATE: 05/28/2021</p>	<p>DESCHUTES COUNTY, OREGON</p>	<p>PROJECT NO. 180110</p>

SPECIFICATIONS	
SHEET#	BOOK#
PROJ. MOR.	KA
DRAWN:	DF
CHECKED:	DF
PROJ. NO.:	PT222
DATE:	05-27-21
SCALE:	1" = 50'-0"
REVISIONS:	
Δ	X
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Δ	X
Δ	X

CONCEPT PLANT SCHEDULE GATE HOUSE

EXISTING HERITAGE JUNIPER TREES TO BE SAVED THESE TREES ARE THE "HERITAGE" JUNIPERS THAT HAVE BEEN STAKED IN THE FIELD FOR THE PURPOSE OF SAVING IN PLACE. THESE TREES HAVE SIGNIFICANT CHARACTER AND/OR SIZE, RELATIVE TO OTHER TREES IN THE WORK AREA.



NEW ACCENT TREES - TALL

NEW ACCENT TREES - LARGE

NEW NATIVE TREES

NATIVE REVEG ZONE
AREAS OF DISTURBANCE TO BE TREATED WITH NATIVE VEGETATION TO BLEND IN SEAMLESSLY WITH THE ADJACENT UNDISTURBED NATIVE

TRANSITIONAL ZONE
TRANSITIONAL LANDSCAPING BETWEEN NATIVE REVEG/UNDISTURBED NATIVE AND ORNAMENTAL LANDSCAPING - TO INCLUDE SOME NATIVES AND SOME NON-NATIVES

ORNAMENTAL LANDSCAPING
HIGH DENSITY ACCENTED OR ORNAMENTAL LANDSCAPING NEAR BUILDINGS

SEE LEGENDS ON SHEET LC-4 FOR PLANTS FOR EACH ZONE AND TREE TYPE

ALL LOTS WILL HAVE LOW-VOLTAGE LANDSCAPE LIGHTING TO ILLUMINATE PATHS AND LANDSCAPE AS NECESSARY. LIGHTING WILL BE CONTAINED WITHIN THE LOT AND WILL NOT SPREAD INTO ADJACENT LOTS.

PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE OF THE TREES.



SPECIFICATIONS	SHEET	BOOK	KA
	PROJ. MOR.		DF
	DRAWN:		DF
	CHECKED:		DF
	PROJ. NO.:		P2122
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	SCALE:		1" = 60'-0"
REVISIONS:			
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CONCEPT PLANT SCHEDULE WELCOME CENTER

EXISTING HERITAGE JUNIPER TREES TO BE SAVED
THESE TREES ARE THE "HERITAGE"
JUNIPERS THAT HAVE BEEN STAKED IN
THE FIELD FOR THE PURPOSE OF
PRESERVING THEM. THE SIZE IS
SIGNIFICANT CHARACTER AND/OR SIZE,
RELATIVE TO OTHER TREES IN THE
WORK AREA.

NEW ACCENT TREES - LARGE

NEW NATIVE TREES

NATIVE REVEG ZONE
AREAS OF DISTURBANCE TO BE
TREATED WITH NATIVE VEGETATION TO
BLEND IN SEAMLESSLY WITH THE
ADJACENT UNDISTURBED NATIVE

TRANSITIONAL ZONE
TRANSITIONAL LANDSCAPING BETWEEN
NATIVE REVEG AND UNDISTURBED NATIVE
TO INCLUDE SOME NATIVES AND SOME
NON-NATIVES

ORNAMENTAL LANDSCAPING
HIGH DENSITY ACCENT OR
ORNAMENTAL LANDSCAPING NEAR
BUILDINGS

LAWN

SEE LEGENDS ON SHEET LC-4 FOR
PLANTS FOR EACH ZONE AND TREE TYPE

ALL LOTS WILL HAVE LOW-VOLTAGE
LANDSCAPE LIGHTING TO ILLUMINATE
PATHS AND LANDSCAPE AS
NECESSARY. LIGHTING WILL BE
CONTAINED WITHIN THE LOT AND WILL
NOT SPREAD INTO ADJACENT LOTS.

PLAN SHOWN IS CONCEPTUAL - FINAL ADJUSTMENTS TO
DISTURBANCE LIMITS AND DESIGN LAYOUT WILL BE
UNDERTAKEN DURING CONSTRUCTION. THE QUANTITY OF
EXISTING JUNIPER TREES SHOWN TO BE SAVED ON THE PLANS
MAY CHANGE DURING CONSTRUCTION AS WE DISCOVER HOW
CLOSE DISTURBANCE LIMITS COME TO THE ROOT STRUCTURE
OF THE TREES.



SHEETS	BOOK	KA
PROJ. MGR.	DF	DF
DRAWN	DF	DF
CHECKED	DF	DF
PROJ. NO.	P2122	
DATE	02-29-21	
SCALE	1" = 80'0"	
REVISIONS		
Δ X		
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