

House Bill 3347

Sponsored by Representative WHISNANT; Representatives CONGER, HUFFMAN, MCLANE, Senator ATKINSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Pine Forest Development, LLC, to develop approximately 617-acre resort. Exempts development from statutes relating to destination resorts and other specified land use statutes, statewide land use planning goals and provisions of Deschutes County's acknowledged comprehensive plan and land use regulations.

Authorizes Caldera Springs Destination Resort to remove deed restrictions and restrictive covenants related to overnight use of residential units for specified payment to Deschutes County. Requires Deschutes County, upon receipt of payment, to form sanitary authority.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to resort development in Deschutes County; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. As used in sections 1 to 4 of this 2011 Act:

4 (1) **"Development area" means the Pine Forest Development Area, which is that certain**
5 **real property owned on June 1, 2011, by Pine Forest Development, LLC, consisting of ap-**
6 **proximately 617 contiguous acres in Deschutes County in portions of sections 8, 9, 16, 17, 20**
7 **and 21, township 20 south, range 11 east.**

8
9 (2) **"Owner" means the Pine Forest Development, LLC, or its successor in interest to the**
10 **Pine Forest Development Area.**

11 **SECTION 2. (1) Subject to subsection (2) of this section and subject to approval of a**
12 **master plan submitted to Deschutes County within seven years after the effective date of**
13 **this 2011 Act, the owner of the Pine Forest Development Area may develop a resort in the**
14 **development area as an outright permitted use:**

15 (a) **Notwithstanding provisions of ORS 92.010 to 92.192 that establish time frames for**
16 **submission of a final subdivision plat after tentative approval of a proposed subdivision plat.**

17 (b) **Notwithstanding ORS 197.435 to 197.467.**

18 (c) **Notwithstanding the lot size and dwelling standards of ORS 215.700 to 215.780.**

19 (d) **Without taking an exception under ORS 197.732 to any of the statewide land use**
20 **planning goals.**

21 (e) **Notwithstanding provisions of the acknowledged comprehensive plan or land use reg-**
22 **ulations of Deschutes County except as provided otherwise in sections 1 to 4 of this 2011 Act.**

23 (f) **Without adopting changes to the acknowledged comprehensive plan or land use regu-**
24 **lations of Deschutes County.**

25 (2) **The owner may pursue the development described in subsection (1) of this section if:**

26 (a) **Deschutes County receives payment described in section 3 of this 2011 Act within 180**
27 **days after the effective date of this 2011 Act;**

28 (b) **The owner submits an application for approval of a master plan under subsection (5)**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of this section within seven years after the effective date of this 2011 Act; and

2 (c) The owner obtains the land use approvals required by sections 1 to 4 of this 2011 Act.

3 (3) Upon satisfaction of the requirements of subsections (1) and (2) of this section, the
4 owner of the development area may develop in the development area:

5 (a) Up to 925 residential units, including single-family detached houses, cabins, condo-
6 miniums, townhouses, time-share and lodging units for use as permanent residences, rental
7 units or transient lodging units.

8 (b) Restaurants, meeting facilities, commercial and mixed uses necessary to meet the
9 needs of visitors to the development area.

10 (c) Developed recreational facilities, including, but not limited to, tennis courts, swim-
11 ming pools, an equestrian center and bicycle paths. Developed recreational facilities may not
12 include a golf course.

13 (d) Basic service uses and all utility, maintenance and security facilities necessary to
14 support the development.

15 (4) Development in the development area is subject to the following requirements:

16 (a) At least 50 percent of the development area must be dedicated to permanent open
17 space, excluding streets and parking areas.

18 (b) At least 25 percent of the residential units, including units in a recreational vehicle-
19 oriented development, must be designed to encourage and facilitate use as overnight lodging
20 accommodations and the units must incorporate the following design restrictions:

21 (A) Single-family detached houses may not be sited on lots or parcels that exceed 7,000
22 square feet.

23 (B) Single-family detached houses, condominium units and townhouses may not exceed
24 2,000 square feet.

25 (C) Single-family detached houses, condominium units and townhouses may be developed
26 with one single-car garage for each unit.

27 (c) The owner shall retain important natural features, including habitat of threatened
28 or endangered species, streams, rivers and significant wetlands. The owner may alter im-
29 portant natural features, including the placement of structures, so long as the overall values
30 of the feature are maintained.

31 (d) To avoid or minimize adverse effects of the development on uses on surrounding
32 lands, the owner shall develop buffers between the development and adjacent land uses, in-
33 cluding natural vegetation and, where appropriate, fences, berms, landscaped areas and
34 similar types of buffers.

35 (e) Roads, utility corridors and utility facilities necessary to serve the development area
36 are outright permitted uses within the development area and on nearby lands without taking
37 an exception under ORS 197.732 to the statewide land use planning goals or changing the
38 acknowledged comprehensive plan or land use regulations of Deschutes County.

39 (f) The owner shall develop the development area in consultation with the State Depart-
40 ment of Fish and Wildlife to minimize impacts on wildlife.

41 (g) The owner shall develop the development area in consultation with the State Forestry
42 Department to minimize wildfire risks.

43 (h) The owner may develop the development area in one or more phases.

44 (5) The owner may submit an application to Deschutes County for approval of a master
45 plan for the development and use of the development area. The master plan must:

1 (a) Demonstrate that development will occur in compliance with the requirements of
2 sections 1 to 4 of this 2011 Act.

3 (b) Include a proposed subdivision plat to create lots for the first phase of development
4 in the development area.

5 (c) Include a traffic study, prepared by a licensed transportation engineer, that:

6 (A) Addresses the impacts of the development on affected state highways, county roads
7 and city streets.

8 (B) Identifies transportation improvements needed to mitigate the impacts.

9 (C) Is submitted to the Department of Transportation for review when submitted to
10 Deschutes County as part of the master plan.

11 (6) The master plan and associated land division plans:

12 (a) Govern development of the development area in perpetuity.

13 (b) May be amended at any time following an administrative review by Deschutes County
14 and shall be approved by Deschutes County if the amended master plan would remain con-
15 sistent with the requirements of sections 1 to 4 of this 2011 Act.

16 (7) Deschutes County shall:

17 (a) Apply only the provisions of sections 1 to 4 of this 2011 Act as standards and criteria
18 for approval or amendment of the master plan and associated land division applications and
19 development permit applications submitted pursuant to sections 1 to 4 of this 2011 Act.

20 (b) Process the master plan and associated land division applications pursuant to the
21 procedural review provisions of the acknowledged comprehensive plan and land use regu-
22 lations.

23 (c) Condition final approval of the master plan and associated land division applications
24 upon a requirement that the owner pay \$1,500 to the South County Sanitary Authority es-
25 tablished under section 4 of this 2011 Act for each residential unit in the development area
26 upon:

27 (A) Final plat approval for each individual residential unit in the development area; and

28 (B) The issuance of a building permit for each individual residential unit in the develop-
29 ment area.

30 (8) Spending required under subsection (7) of this section is stated in 2011 dollars. The
31 spending required must be adjusted to the year in which calculations are made in accordance
32 with the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All
33 Items, as published by the Bureau of Labor Statistics of the United States Department of
34 Labor.

35 (9) Development and construction of uses within the development area may proceed when
36 the master plan has been approved and the final subdivision plat for the phase has been re-
37 corded.

38 (10) The development opportunities provided by sections 1 to 4 of this 2011 Act are fully
39 transferable and run with the land in the event of a change of ownership of the development
40 area.

41 (11) Seven years after the effective date of this 2011 Act, sections 1 to 4 of this 2011 Act
42 are void and have no further effect unless the owner has applied to Deschutes County for
43 approval of a master plan under sections 1 to 4 of this 2011 Act.

44 **SECTION 3.** (1) Within 180 days after the effective date of this 2011 Act, if the owner of
45 Caldera Springs Destination Resort pays \$3,000 to Deschutes County for each residential unit

1 or lot in the destination resort that is subject to a recorded restrictive covenant requiring
 2 the residential unit to be available for overnight rental use for at least 45 weeks per year,
 3 the owner, with the written approval of the owner of the individual residential units or lots,
 4 may request that Deschutes County and any other necessary party remove or amend the
 5 restrictive covenant, notwithstanding:

6 (a) Any land use approval or condition of approval applicable to Caldera Springs Desti-
 7 nation Resort;

8 (b) Any improvement agreement between the owner of Caldera Springs Destination Re-
 9 sort and Deschutes County;

10 (c) ORS 197.435 to 197.467;

11 (d) Statewide land use planning goals; and

12 (e) Provisions of the acknowledged comprehensive plan and land use regulations of
 13 Deschutes County that limit uses of forestlands or that regulate destination resorts.

14 (2) If payment is made under this section and the owner of the Caldera Springs Desti-
 15 nation Resort makes a written request to Deschutes County, the county shall take the action
 16 required to remove or amend the restrictive covenant, and restrictions or agreements re-
 17 lated to the restrictive covenant, within 30 days after receipt of the written request.

18 (3) When payment is made under this section and the deed restriction or restrictive
 19 covenants are removed or amended, the owner of the Caldera Springs Destination Resort is
 20 relieved of any obligation to:

21 (a) Guarantee through surety bonding or equivalent financial assurances the con-
 22 struction of the overnight lodging units in the destination resort; and

23 (b) Comply with a deed restriction or other restrictive covenant requiring individually
 24 owned residential units used as overnight lodging units to be available for overnight rental
 25 use by the general public for at least 45 weeks per calendar year.

26 (4) Residential units within Caldera Springs Destination Resorts for which a deed re-
 27 striction or restrictive covenant has been removed or amended pursuant to this section are
 28 overnight lodging for purposes of a land use decision or condition of approval applicable to
 29 Caldera Springs Destination Resort.

30 **SECTION 4.** (1) Within 180 days after the owner of the Caldera Springs Destination Re-
 31 sort makes the payment described in section 3 of this 2011 Act, the governing body of
 32 Deschutes County shall initiate the formation of a sanitary authority under ORS 450.600 to
 33 450.989, to be known as the South County Sanitary Authority, in the manner provided in ORS
 34 198.835. The order must:

35 (a) Set forth the name of the district and the boundaries as determined by the governing
 36 body of the county.

37 (b) Fix a place and a time, not less than 20 days nor more than 50 days after the date
 38 of the order, for a final hearing on the order. The governing body of the county shall cause
 39 notice of the hearing to be given by publication.

40 (c) Declare that written requests for an election will not be accepted.

41 (2) At the time of the final hearing, the governing body of the county shall enter an order
 42 forming the South County Sanitary Authority.

43 (3) The question of formation of the South County Sanitary Authority is not subject to
 44 a vote of electors.

45 (4) After three years have passed from the date of formation of the South County Sani-

1 tary Authority, the order of the governing body of the county forming the sanitary authority
2 is subject to referendum by electors within the jurisdiction of the sanitary authority.

3 (5) Notwithstanding contrary provisions of ORS 450.790, the governing body of the county
4 shall appoint five members to the initial board of directors of the sanitary authority.

5 (6) Because district elections are conducted in odd-numbered years under ORS 255.335
6 and based on the timing of the formation of the sanitary authority, the members of the ini-
7 tial board shall serve staggered terms of office as follows:

8 (a) Three members shall serve three-year or four-year terms, expiring on June 30 of the
9 odd-numbered year in which an election is held to fill the positions; and

10 (b) Two members shall serve one-year or two-year terms, expiring on June 30 of the
11 odd-numbered year in which an election is held to fill the positions.

12 (7) The Pine Forest Development Area may not be included within the jurisdiction of the
13 South County Sanitary Authority.

14 (8) The South County Sanitary Authority may exercise the authority granted by ORS
15 450.830 without:

16 (a) Taking an exception under ORS 197.732 to any statewide land use planning goal; and

17 (b) Any change in the acknowledged comprehensive plan or land use regulations of
18 Deschutes County.

19 **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public
20 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
21 on its passage.

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