



Board of County Commissioners

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Tammy Baney
Anthony DeBone
Alan Unger

June 4, 2013

Representative Chris Garrett, Chair
House Rules Committee
State Capitol
Salem, OR 97301

RE: HB 3536

Dear Chair Garrett and Members of the House Rules Committee:

I am writing on behalf of the Deschutes County Board of Commissioners regarding House Bill 3536.

Thank you for conducting this public hearing. We would like to attend in person, but it conflicts with a previously scheduled Board meeting.

Our Board understands the challenge the Cyrus family has had over the years finding a path to grow their cluster home development and golf course into a destination resort. However, this Bill creates concerns for us, and should be amended to require a small recreation community on a heritage guest ranch to be treated similarly to destination resorts and guest ranches while allowing a different mix of uses, densities, etc. as proposed in the Bill.

Specifically, a small recreation community on a heritage guest ranch should be required to conform to Deschutes County's:

- Comprehensive Plan;
- Destination resort requirements for application submission, and Conditional Use Permit and Conceptual Master Plan Applications in Deschutes County Code (DCC) 18.113.040-050;
- Applicable destination resort standards and approval criteria that mitigate development impacts such as transportation, wildlife, public safety, streams and drainage, wetlands and flood plains, and natural hazards in DCC 18.113.070(D-T);
- Systems Development Charges and fee schedule; and
- Procedures ordinance.

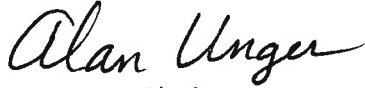
In addition, the Bill should clarify the developed recreation amenity requirements.

Please find attached DCC 18.113 for your convenience and reference.

Thank you again for this opportunity to provide comments on HB 3536.

Sincerely,

Deschutes County Board of Commissioners

A handwritten signature in black ink that reads "Alan Unger". The signature is written in a cursive, flowing style.

Alan Unger, Chair

Chapter 18.113. DESTINATION RESORTS ZONE - DR

- 18.113.010. Purpose.**
- 18.113.020. Applicability.**
- 18.113.025. Application to Existing Resorts.**
- 18.113.030. Uses in Destination Resorts.**
- 18.113.040. Application Submission.**
- 18.113.050. Requirements for Conditional Use Permit and Conceptual Master Plan Applications.**
- 18.113.060. Standards for Destination Resorts.**
- 18.113.070. Approval Criteria.**
- 18.113.075. Imposition of Conditions.**
- 18.113.080. Procedure for Modification of a Conceptual Master Plan.**
- 18.113.090. Requirements for Final Master Plan.**
- 18.113.100. Procedure for Approval of Final Master Plan.**
- 18.113.110. Provision of Streets, Utilities, Developed Recreational Facilities and Visitor-Oriented Accommodations.**

18.113.010. Purpose.

- A. The purpose of the DR Zone is to establish a mechanism for siting destination resorts to ensure compliance with LCDC Goal 8 and the County Comprehensive Plan. The destination resort designation is intended to identify land areas which are available for the siting of destination resorts, but which will only be developed if consistent with the purpose and intent of DCC 18.113 and Goal 8.
- B. The DR Zone is an overlay zone. The DR Zone is intended to provide for properly designed and sited destination resort facilities which enhance and diversify the recreational opportunities and the economy of Deschutes County. The DR Zone will ensure resort development that compliments the natural and cultural attractiveness of the area without significant adverse effect on commercial farming and forestry, environmental and natural features, cultural and historic resources and their settings and other significant resources.
- C. It is the intent of DCC 18.113 to establish procedures and standards for developing destination resorts while ensuring that all applicable County Comprehensive Plan policies are achieved.
- D. It is the intent of DCC 18.113 to ensure that all elements of a destination resort which are proposed are financially secured in a manner which will protect the public's interest should the development not be completed as proposed.
- E. It is not the intent of DCC 18.113 to site developments that are in effect rural subdivisions, whose primary purpose is to serve full-time residents of the area.

(Ord. 92-004 §13, 1992)

18.113.020. Applicability.

- A. The provisions of DCC 18.113 shall apply to proposals for the development of destination resorts, as defined in DCC Title 18, in areas designated DR by the County zoning maps. The provisions of DCC 18.113 shall not apply to any development proposal in an area designated DR other than a destination resort.
- B. When these provisions are applicable, they shall supersede all other provisions of the underlying zone. Other provisions of the zoning ordinance, made applicable by specific map designations, such as the SMIA, AH, CH, FP or LM, or otherwise applicable under the terms of the zoning ordinance text shall remain in full force and effect, unless otherwise specified herein.

C. The provisions of DCC 18.113 apply to destination resorts sited through the Goal 2 exception process. (Ord. 92-004 §13, 1992)

18.113.025. Application to Existing Resorts.

Expansion proposals of existing developments approved as destination resorts shall meet the following criteria:

- A. Meet all criteria of DCC 18.113 without consideration of any existing development; or
- B. Meet all criteria of DCC 18.113 for the entire development (including the existing approved destination resort development and the proposed expansion area), except that as to the area covered by the existing destination resort, compliance with setbacks and lot sizes shall not be required.

If the applicant chooses to support its proposal with any part of the existing development, applicant shall demonstrate that the proposed expansion will be situated and managed in a manner that it will be integral to the remainder of the resort.

(Ord. 92-004 §13, 1992)

18.113.030. Uses in Destination Resorts.

The following uses are allowed, provided they are part of, and are intended to serve persons at, the destination resort pursuant to DCC 18.113.030 and are approved in a final master plan:

- A. Visitor-oriented accommodations designed to provide for the needs of visitors to the resort:
 - 1. Overnight lodging, including lodges, hotels, motels, bed and breakfast facilities, time-share units and similar transient lodging facilities;
 - 2. Convention and conference facilities and meeting rooms;
 - 3. Retreat centers;
 - 4. Restaurants, lounges and similar eating and drinking establishments; and
 - 5. Other similar visitor-oriented accommodations consistent with the purposes of DCC 18.113 and Goal 8.
- B. Developed recreational facilities designed to provide for the needs of visitors and residents of the resort:
 - 1. Golf courses and clubhouses;
 - 2. Indoor and outdoor swimming pools;
 - 3. Indoor and outdoor tennis courts;
 - 4. Physical fitness facilities;
 - 5. Equestrian facilities;
 - 6. Wildlife observation shelters;
 - 7. Walkways, bike paths, jogging paths, equestrian trails;
 - 8. Other similar recreational facilities consistent with the purposes of DCC 18.113 and Goal 8.
- C. Residential accommodations:
 - 1. Single-family dwellings;
 - 2. Duplexes, triplexes, fourplexes and multi-family dwellings;
 - 3. Condominiums;
 - 4. Townhouses;
 - 5. Living quarters for employees;
 - 6. Time-share projects.
- D. Commercial services and specialty shops designed to provide for the visitors to the resort:
 - 1. Specialty shops, including but not limited to delis, clothing stores, bookstores, gift shops and specialty food shops;
 - 2. Barber shops/beauty salons;
 - 3. Automobile service stations limited to fuel sales, incidental parts sales and minor repairs;
 - 4. Craft and art studios and galleries;
 - 5. Real estate offices;
 - 6. Convenience stores;

- 7. Other similar commercial services which provide for the needs of resort visitors and are consistent with the purposes of DCC 18.113 and Goal 8.
- E. Uses permitted in open space areas generally include only those uses that, except as specified herein, do not alter the existing or natural landscape of the proposed open space areas. No improvements, development or other alteration of the natural or existing landscape shall be allowed in open space areas, except as necessary for development of golf course fairways and greens, hiking and bike trails, lakes and ponds and primitive picnic facilities including park benches and picnic tables. Where farming activities would be consistent with identified preexisting open space uses, irrigation equipment and associated pumping facilities shall be allowed.
- F. Facilities necessary for public safety and utility service within the destination resort.
- G. Other similar uses permitted in the underlying zone consistent with the purposes of DCC 18.113.030.
- H. Accessory Uses in Destination Resorts:
 - 1. The following accessory uses shall be permitted provided they are ancillary to the destination resort and consistent with the purposes of DCC 18.113 and Goal 8:
 - a. Transportation-related facilities excluding airports;
 - b. Emergency medical facilities;
 - c. Storage structures and areas;
 - d. Kennels as a service for resort visitors only;
 - e. Recycling and garbage collection facilities;
 - f. Other similar accessory uses consistent with the purposes of DCC 18.113 and Goal 8.

(Ord. 92-004 §13, 1992)

18.113.040. Application Submission.

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

- A. Conceptual Master Plan and Conditional Use Permit for Destination Resort. A conceptual master plan (CMP) shall be submitted which addresses all requirements established in DCC 18.113.040. The CMP application shall be processed as if it were a conditional use permit under DCC Title 22, shall be subject to DCC 18.128.010, 18.128.020 and 18.128.030 and shall be reviewed for compliance with the standards and criteria set forth in DCC 18.113.
- B. Final Master Plan. The applicant shall prepare a final master plan (FMP) which incorporates all requirements of the County approval for the CMP. The Planning Director shall review the FMP to determine if it complies with the approved CMP and all conditions of approval of the conditional use permit. The Planning Director shall have the authority to approve, deny or return the FMP to the applicant for additional information. When interpretations of the Planning Director involve issues which are discretionary, the FMP approval shall be treated as a land use permit in accordance with DCC Title 22.
- 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.

(Ord. 92-004 §13, 1992)

18.113.050. Requirements for Conditional Use Permit and Conceptual Master Plan Applications.

The CMP provides the framework for development of the destination resort and is intended to ensure that the destination resort meets the requirements of DCC 18.113. The CMP application shall include the following information:

- A. Illustrations and graphics to scale, identifying:
 - 1. The location and total number of acres to be developed as a planned destination resort;
 - 2. The subject area and all land uses adjacent to the subject area;

3. The topographic character of the site;
 4. Types and general location of proposed development uses, including residential and commercial uses;
 5. Major geographic features;
 6. Proposed methods of access to the development, identifying the main vehicular circulation system within the resort and an indication of whether streets will be public or private;
 7. Major pedestrian, equestrian and bicycle trail systems;
 8. Important natural features of the site, including habitat of threatened or endangered species, streams, rivers, wetlands and riparian vegetation within 200 feet of streams, rivers and wetlands.
 9. All uses proposed within landscape management corridors identified by the comprehensive plan or zoning ordinance.
 10. The location and number of acres reserved as open space, buffer area, or common area. Areas designated as "open space," "buffer area," or "common area" should be clearly illustrated and labeled as such;
 11. All proposed recreational amenities;
 12. Proposed overall density.
- B. Further information as follows:
1. A description of the natural characteristics of the site and surrounding areas, including a description of resources and the effect of the destination resort on the resources; methods employed to mitigate adverse impacts on resources; analysis of how the overall values of the natural features of the site will be preserved, enhanced or utilized in the design concept for the destination resort; and a proposed resource protection plan to ensure that important natural features will be protected and maintained. Factors to be addressed include:
 - a. Compatibility of soil composition for proposed development(s) and potential erosion hazard;
 - b. Geology, including areas of potential instability;
 - c. Slope and general topography;
 - d. Areas subject to flooding;
 - e. Other hazards or development constraints;
 - f. Vegetation;
 - g. Water areas, including streams, lakes, ponds and wetlands;
 - h. Important natural features;
 - i. Landscape management corridors;
 - j. Wildlife.
 2. A traffic study which addresses (1) impacts on affected County, city and state road systems and (2) transportation improvements necessary to mitigate any such impacts. The study shall be submitted to the affected road authority (either the County Department of Public Works or the Oregon Department of Transportation, or both) at the same time as the conceptual master plan and shall be prepared by a licensed traffic engineer to the minimum standards of the road authorities.
 3. A description of how the proposed destination resort will satisfy the standards and criteria of DCC 18.113.060 and 18.113.070;
 4. Design guidelines and development standards defining visual and aesthetic parameters for:
 - a. Building character;
 - b. Landscape character;
 - c. Preservation of existing topography and vegetation;
 - d. Siting of buildings; and
 - e. Proposed standards for minimum lot area, width, frontage, lot coverage, setbacks and building heights.
 5. An open space management plan which includes:
 - a. An explanation of how the open space management plan meets the minimum standards of DCC 18.113 for each phase of the development;

- b. An inventory of the important natural features identified in the open space areas and any other open space and natural values present in the open space;
 - c. A set of management prescriptions that will operate to maintain and conserve in perpetuity any identified important natural features and other natural or open space values present in the open space;
 - d. Deed restrictions that will assure that the open space areas are maintained as open space in perpetuity.
6. An explanation of public use of facilities and amenities on the site.
 7. A description of the proposed method of providing all utility systems, including the location and sizing of the utility systems;
 8. A description of the proposed order and schedule for phasing, if any, of all development including an explanation of when facilities will be provided and how they will be secured if not completed prior to closure of sale of individual lots or units;
 9. An explanation of how the destination resort has been sited or designed to avoid or minimize adverse effects or conflicts on adjacent lands. The application shall identify the surrounding uses and potential conflicts between the destination resort and adjacent uses within 660 feet of the boundaries of the parcel or parcels upon which the resort is to be developed. The application shall explain how any proposed buffer area will avoid or minimize adverse effects or conflicts;
 10. A description of the proposed method for providing emergency medical facilities and services and public safety facilities and services including fire and police protection;
 11. A study prepared by a hydrologist, engineering geologist or similar professional certified in the State of Oregon describing:
 - a. An estimate of water demands for the destination resort at maximum buildout, including a breakdown of estimated demand by category of consumption, including but not limited to residential, commercial, golf courses and irrigated common areas;
 - b. Availability of water for estimated demands at the destination resort, including (1) identification of the proposed source; (2) identification of all available information on ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) identification of the area that may be measurably impacted by the water used by the destination resort (water impact area) and an analysis supporting the delineation of the impact area; and (4) a statistically valid sampling of domestic and other wells within the impact area;
 - c. A water conservation plan including an analysis of available measures which are commonly used to reduce water consumption. This shall include a justification of the chosen water conservation plan. The water conservation plan shall include a wastewater disposal plan utilizing beneficial use of reclaimed water to the maximum extent practicable.
For the purposes of DCC 18.113.050, beneficial uses shall include, but are not limited to:
 - i. Irrigation of golf courses and greenways;
 - ii. Establishment of artificial wetlands for wildlife habitation.
 12. An erosion control plan for all disturbed land, as required by ORS 468. This plan shall include storm and melt water erosion control to be implemented during all phases of construction and permanent facilities or practices for the continuing treatment of these waters. This plan shall also explain how the water shall be used for beneficial use or why it cannot be used as such;
 13. A description of proposed sewage disposal methods;
 14. Wildfire prevention, control and evacuation plans;
 15. A description of interim development including temporary structures related to sales and development;
 16. Plans for owners' associations and related transition of responsibilities and transfer of property;
 17. A description of the methods of ensuring that all facilities and common areas within each phase will be established and will be maintained in perpetuity;
 18. A survey of housing availability for employees based upon income level and commuting distance;

19. An economic impact and feasibility analysis of the proposed development prepared by a qualified professional economist(s) or financial analyst(s) shall be provided which includes:
 - a. An analysis which addresses the economic viability of the proposed development;
 - b. Fiscal impacts of the project including changes in employment, increased tax revenue, demands for new or increased levels of public services, housing for employees and the effects of loss of resource lands during the life of the project.
 20. A solid waste management plan;
 21. A description of the mechanism to be used to ensure that the destination resort provides an adequate supply of overnight lodging units to maintain compliance with the 150-unit minimum and 2 to 1 ratio set forth in DCC 18.113.060(D)(2). The mechanism shall meet the requirements of DCC 18.113.060(L);
 22. If the proposed destination resort is in a SMIA combining zone, DCC 18.56 shall be addressed;
 23. If the proposed destination resort is in an LM combining zone, DCC 18.84 shall be addressed;
 24. A survey of historic and cultural resources inventoried on an acknowledged Goal 5 inventory;
 25. Other information as may reasonably be required by the Planning Director to address the effect of the proposed development as related to the requirements of DCC Title 18.
- (Ord. 2007-005 §2, 2007; Ord. 92-004 §13, 1992)

18.113.060. Standards for Destination Resorts.

The following standards shall govern consideration of destination resorts:

- A. The destination resort shall, in the first phase, provide for and include as part of the CMP the following minimum requirements:
 1. At least 150 separate rentable units for visitor-oriented overnight lodging as follows:
 - a. The first 50 overnight lodging units must be constructed prior to the closure of sales, rental or lease of any residential dwellings or lots.
 - b. The resort may elect to phase in the remaining 100 overnight lodging units as follows:
 - i. At least 50 of the remaining 100 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 5 years of the closure of sale of individual lots or units, and;
 - ii. The remaining 50 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 10 years of the closure of sale of individual lots or units.
 - iii. If the developer of a resort guarantees a portion of the overnight lodging units required under subsection 18.113.060(A)(1)(b) through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurance.
 - iv. The 2:1 accommodation ratio required by DCC 18.113.060(D)(2) must be maintained at all times.
 - c. If a resort does not chose to phase the overnight lodging units as described in 18.113.060(A)(1)(b), then the required 150 units of overnight lodging must be constructed prior to the closure of sales, rental or lease of any residential dwellings or lots.
 2. Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide seating for at least 100 persons.
 3. The aggregate cost of developing the overnight lodging facilities, developed recreational facilities, and the eating establishments and meeting rooms shall be at least \$ 7,000,000 (in 1993 dollars).
 4. At least \$ 2,333,333 of the \$7,000,000 (in 1993 dollars) total minimum investment required by DCC 18.113.060(A)(3) shall be spent on developed recreational facilities.
 5. The facilities and accommodations required by DCC 18.113.060(A)(2) through (4) must be constructed or financially assured pursuant to DCC 18.113.110 prior to closure of sales, rental or lease of any residential dwellings or lots or as allowed by DCC 18.113.060(A)(1).

- B. All destination resorts shall have a minimum of 160 contiguous acres of land. Acreage split by public roads or rivers or streams shall count toward the acreage limit, provided that the CMP demonstrates that the isolated acreage will be operated or managed in a manner that will be integral to the remainder of the resort.
- C. All destination resorts shall have direct access onto a state or County arterial or collector roadway, as designated by the Comprehensive Plan.
- D. A destination resort shall, cumulatively and for each phase, meet the following minimum requirements:
 - 1. The resort shall have a minimum of 50 percent of the total acreage of the development dedicated to permanent open space, excluding yards, streets and parking areas. Portions of individual residential lots and landscape area requirements for developed recreational facilities, visitor-oriented accommodations or multi-family or commercial uses established by DCC 18.124.070 shall not be considered open space;
 - 2. Individually-owned residential units that do not meet the definition of overnight lodging in DCC 18.04.030 shall not exceed two such units for each unit of visitor-oriented overnight lodging. Individually-owned units shall be considered visitor-oriented lodging if they are available for overnight rental use by the general public for at least 38 weeks per calendar year through one or more central reservation and check-in service(s) operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.
- E. Phasing. A destination resort authorized pursuant to DCC 18.113.060 may be developed in phases. If a proposed resort is to be developed in phases, each phase shall be as described in the CMP. Each individual phase shall meet the following requirements:
 - 1. Each phase, together with previously completed phases, if any, shall be capable of operating in a manner consistent with the intent and purpose of DCC 18.113 and Goal 8.
 - 2. The first phase and each subsequent phase of the destination resort shall cumulatively meet the minimum requirements of DCC 18.113.060 and DCC 18.113.070.
 - 3. Each phase may include two or more distinct noncontiguous areas within the destination resort.
- F. Destination resorts shall not exceed a density of one and one-half dwelling units per acre including residential dwelling units and excluding visitor-oriented overnight lodging.
- 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.
 - 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.
- H. Floodplain requirements. The floodplain zone (FP) requirements of DCC 18.96 shall apply to all developed portions of a destination resort in an FP Zone in addition to any applicable criteria of DCC 18.113. Except for floodplain areas which have been granted an exception to LCDC goals 3 and 4, floodplain zones shall not be considered part of a destination resort when determining compliance with the following standards;
- 1. One hundred sixty acre minimum site;
 - 2. Density of development;
 - 3. Open space requirements.
- A conservation easement as described in DCC Title 18 shall be conveyed to the County for all areas within a floodplain which are part of a destination resort.
- I. The Landscape Management Combining Zone (LM) requirements of DCC 18.84 shall apply to destination resorts where applicable.
- J. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland shall be a separate conditional use subject to all pertinent requirements of DCC Title 18.
- K. Time-share units not included in the overnight lodging calculations shall be subject to approval under the conditional use criteria set forth in DCC 18.128. Time-share units identified as part of the destination resort's overnight lodging units shall not be subject to the time-share conditional use criteria of DCC 18.128.
- L. The overnight lodging criteria shall be met, including the 150-unit minimum and the 2 to 1 ratio set forth in DCC 18.113.060(D)(2).
- 1. Failure of the approved destination resort to comply with the requirements in DCC 18.113.060(L)(2) through (6) will result in the County declining to accept or process any further land use actions associated with any part of the resort and the County shall not issue any permits associated with any lots or site plans on any part of the resort until proof is provided to the County of compliance with those conditions.
 - 2. Each resort shall compile, and maintain, in perpetuity, a registry of all overnight lodging units.
 - a. The list shall identify each individually-owned unit that is counted as overnight lodging.
 - b. At all times, at least one entity shall be responsible for maintaining the registry and fulfilling the reporting requirements of DCC 18.113.060(L)(2) through (6).
 - c. Initially, the resort management shall be responsible for compiling and maintaining the registry.
 - d. As a resort develops, the developer shall transfer responsibility for maintaining the registry to the homeowner association(s). The terms and timing of this transfer shall be specified in the Conditions, Covenants & Restrictions (CC&Rs).
 - e. Resort management shall notify the County prior to assigning the registry to a homeowner association.
 - f. Each resort shall maintain records documenting its rental program related to overnight lodging units at a convenient location in Deschutes County, with those records accessible to the County upon 72 hour notice from the County.
 - g. **As used in this section, "resort management" includes, but is not limited to, the applicant and the applicant's heirs, successors in interest, assignees other than a home owners association.**
 - 3. An annual report shall be submitted to the Planning Division by the resort management or home owners association(s) each February 1, documenting all of the following as of December 31 of the previous year:

- a. The minimum of 150 permanent units of overnight lodging have been constructed or that the resort is not yet required to have constructed the 150 units;
- b. The number of individually-owned residential platted lots and the number of overnight-lodging units;
- c. The ratio between the individually-owned residential platted lots and the overnight lodging units;
- d. The following information on each individually-owned residential unit counted as overnight lodging.
 - i. Who the owner or owners have been over the last year;
 - ii. How many nights out of the year the unit was available for rent;
 - iii. How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 18.113;
 - iv. Documentation showing that these units were available for rental as required.
- e. This information shall be public record subject to ORS 192.502(17).
4. To facilitate rental to the general public of the overnight lodging units, each resort shall set up and maintain in perpetuity a telephone reservation system..
5. Any outside property managers renting required overnight lodging units shall be required to cooperate with the provisions of this code and to annually provide rental information on any required overnight lodging units they represent to the central office as described in DCC 18.113.060(L)(2) and (3).
6. Before approval of each final plat, all the following shall be provided:
 - a. Documentation demonstrating compliance with the 2 to 1 ratio as defined in DCC 18.113.060(D)(2);
 - b. Documentation on all individually-owned residential units counted as overnight lodging, including all of the following:
 - i. Designation on the plat of any individually-owned units that are going to be counted as overnight lodging;
 - ii. Deed restrictions requiring the individually-owned residential units designated as overnight lodging units to be available for rental at least 38 weeks each year through a central reservation and check-in service operated by the resort or by a real estate property manager, as defined in ORS 696.010;
 - iii. An irrevocable provision in the resort Conditions, Covenants and Restrictions (“CC&Rs”) requiring the individually-owned residential units designated as overnight lodging units to be available for rental at least 38 weeks each year through a central reservation and check-in service operated by the resort or by a real estate property manager, as defined in ORS 696.010;
 - iv. A provision in the resort CC&R’s that all property owners within the resort recognize that failure to meet the conditions in DCC 18.113.060(L)(6)(b)(iii) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County;
 - v. Inclusion of language in any rental contract between the owner of an individually-owned residential unit designated as an overnight lodging unit and any central reservation and check-in service or real estate property manager requiring that such unit be available for rental at least 38 weeks each year through a central reservation and check-in service operated by the resort or by a real estate property manager, as defined in ORS 696.010, and that failure to meet the conditions in DCC 18.113.060(L)(6)(b)(v) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County.

(Ord. 2007-05 §2, 2007; Ord. 92-004 §13, 1992)

18.113.070. Approval Criteria.

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

- A. The subject proposal is a destination resort as defined in DCC 18.040.030.
- B. All standards established by DCC 18.113.060 are or will be met.
- C. The economic analysis demonstrates that:
 1. The necessary financial resources are available for the applicant to undertake the development consistent with the minimum investment requirements established by DCC 18.113.
 2. Appropriate assurance has been submitted by lending institutions or other financial entities that the developer has or can reasonably obtain adequate financial support for the proposal once approved.
 3. The destination resort will provide a substantial financial contribution which positively benefits the local economy throughout the life of the entire project, considering changes in employment, demands for new or increased levels of public service, housing for employees and the effects of loss of resource land.
 4. The natural amenities of the site considered together with the identified developed recreation facilities to be provided with the resort, will constitute a primary attraction to visitors, based on the economic feasibility analysis.
- D. Any negative impact on fish and wildlife resources will be completely mitigated so that there is no net loss or net degradation of the resource.
- E. Important natural features, including but not limited to significant wetlands, riparian habitat, and landscape management corridors will be maintained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands will be maintained. Alterations to important natural features, including placement of structures, is allowed so long as the overall values of the feature are maintained.
- F. The development will not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- G. Destination resort developments that significantly affect a transportation facility shall assure that the development is consistent with the identified function, capacity and level of service of the facility. This shall be accomplished by either:
 1. Limiting the development to be consistent with the planned function, capacity and level of service of the transportation facility;
 2. Providing transportation facilities adequate to support the proposed development consistent with Oregon Administrative Rules chapter 660, Division 12; or
 3. Altering land use densities, design requirements or using other methods to reduce demand for automobile travel and to meet travel needs through other modes.A destination resort significantly affects a transportation facility if it would result in levels of travel or access that are inconsistent with the functional classification of a facility or would reduce the level of service of the facility below the minimum acceptable level identified in the relevant transportation system plan.
 - a. Where the option of providing transportation facilities is chosen, the applicant shall be required to improve impacted roads to the full standards of the affected authority as a condition of approval. Timing of such improvements shall be based upon the timing of the impacts created by the development as determined by the traffic study or the recommendations of the affected road authority.
 - b. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.
- H. The development will not create the potential for natural hazards identified in the County Comprehensive Plan. No structure will be located on slopes exceeding 25 percent. A wildfire management plan will be implemented to ensure that wildfire hazards are minimized to the greatest extent practical and allow for safe evacuation. With the exception of the slope restriction of DCC 18.113.070, which shall apply to destination resorts in forest zones, wildfire management of destination

resorts in forest zones shall be subject to the requirements of DCC 18.40.070, where applicable, as to each individual structure and dwelling.

- I. Adequate public safety protection will be available through existing fire districts or will be provided onsite according to the specification of the state fire marshal. If the resort is located outside of an existing fire district the developer will provide for staffed structural fire protection services. Adequate public facilities to provide for necessary safety services such as police and fire will be provided on the site to serve the proposed development.
- J. Streams and drainage. Unless otherwise agreed to in writing by the adjoining property owner(s), existing natural drainages on the site will not be changed in any manner which interferes with drainage patterns on adjoining property. All surface water drainage changes created by the development will be contained on site in a manner which meets all standards of the Oregon State Department of Environmental Quality (DEQ). The erosion control plan for the subject development will meet all standards of ORS 468.
- K. Adequate water will be available for all proposed uses at the destination resort, based upon the water study and a proposed water conservation plan. Water use will not reduce the availability of water in the water impact areas identified in the water study considering existing uses and potential development previously approved in the affected area. Water sources shall not include any perched water table. Water shall only be taken from the regional aquifer. Where a perched water table is pierced to access the regional aquifer, the well must be sealed off from the perched water table.
- L. The wastewater disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on applicant's making application to DEQ for a Water Pollution Control Facility (WPCF) permit consistent with such an approved wastewater disposal plan. Approval shall also be conditioned upon applicant's compliance with applicable Oregon Administrative Rules regarding beneficial use of waste water, as determined by DEQ. Applicant shall receive approval of a WPCF permit consistent with this provision prior to applying for approval for its Final Master Plan under DCC 18.113.
- M. The resort will mitigate any demands it creates on publicly-owned recreational facilities on public lands in the surrounding area.
- N. Site improvements will be located and designed to avoid or minimize adverse effects of the resort on the surrounding land uses. Measures to accomplish this may include establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and appropriate fences, berms, landscaped areas and similar types of buffers; and setback of structures and other developments from adjacent land uses.
- O. The resort will be served by an on-site sewage system approved by DEQ and a water system approved by the Oregon State Health Division except where connection to an existing public sewer or water system is allowed by the County Comprehensive Plan, such service will be provided to the resort.
- P. The destination resort will not alter the character of the surrounding area in a manner that substantially limits, impairs or prevents permitted or conditional uses of surrounding properties.
- Q. Commercial, cultural, entertainment or accessory uses provided as part of the destination resort will be contained within the development and will not be oriented to public highways adjacent to the property. Commercial, cultural and entertainment uses allowed within the destination resort will be incidental to the resort itself. As such, these ancillary uses will be permitted only at a scale suited to serve visitors to the resort.

The commercial uses permitted in the destination resort will be limited in type, location, number, dimensions and scale (both individually and cumulatively) to that necessary to serve the needs of resort visitors. A commercial use is necessary to serve the needs of visitors if:

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

- R. A plan exists to ensure a transfer of common areas, facilities such as sewer, water, streets and responsibility for police and fire protection to owners' associations or similar groups if contemplated. If such transfer is not contemplated, the owner or responsible party shall be clearly designated. Adequate open space, facility maintenance and police and fire protection shall be ensured in perpetuity in a manner acceptable to the County.
- S. Temporary structures will not be allowed unless approved as part of the CMP. Temporary structures will not be allowed for more than 18 months and will be subject to all use and site plan standards of DCC Title 18.
- T. The open space management plan is sufficient to protect in perpetuity identified open space values. (Ord. 2007-5 §2, 2007; Ord. 92-032 §1, 1992; Ord. 92-004 §13, 1992)

18.113.075. Imposition of Conditions.

The standards made applicable by DCC 18.113 may be met by the imposition of conditions calculated to insure that the standard will be met.

(Ord. 92-004 §13, 1992)

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.

(Ord. 92-004 §13, 1992)

18.113.090. Requirements for Final Master Plan.

It shall be the responsibility of the applicant to provide a Final Master Plan (FMP) which includes text and graphics explaining and illustrating:

- A. The use, location, size and design of all important natural features, open space, buffer areas and common areas;
- B. The use and general location of all buildings, other than residential dwellings and the proposed density of residential development by location;
- C. Preliminary location of all sewer, water, storm drainage and other utility facilities and materials, and specifications and installation methods for water and waste water systems;
- D. Location and widths of all roads, streets, parking, pedestrian ways, equestrian trails and bike paths;
- E. Methods to be employed to buffer and mitigate potential adverse impacts on adjacent resource uses and property;
- F. Building elevations of visitor-oriented accommodations, recreational facilities and commercial services sufficient to demonstrate the architectural character of the proposed development;
- G. A description of all commercial uses including approximate size and floor area;
- H. The location of or distance to any emergency medical facilities and public safety facilities;
- I. When a phase includes a residential subdivision, a general layout of the subdivision shall include the number of lots, minimum and maximum lot sizes, and approximate location of roadways shall be included;
- J. A description of measures taken, with copies of deed restrictions, CC&R's and rental contracts, to implement the requirements of DCC 18.113.060(L).
- K. A description of measures taken, with copies of deed restrictions and a final management plan, to implement the open space management plan required by DCC 18.113.
- L. The status of all required off-site roadway improvements.
- M. Methods to be employed for managing automobile traffic demand.

N. A copy of a WPCF permit issued by DEQ consistent with the requirements of DCC 18.113.070(L).
(Ord. 2007-005 §2, 2007; Ord. 92-004 §13, 1992)

18.113.100. Procedure for Approval of Final Master Plan.

- A. The FMP shall be submitted in a form approved by the County Planning Director consistent with DCC Title 22 for a development permit. The Planning Director shall review the FMP and if the Planning Director finds that all standards of the CMP have been met, the FMP shall be approved in writing without notice. If approval the FMP involves the exercise of discretion, the FMP shall be treated as a land use action and notice shall be provided in accordance with DCC Title 22;
- B. If the Planning Director finds evidence in the FMP of a substantial change from the CMP, the Planning Director shall advise the applicant to submit an application for modification or amendment of the CMP.
(Ord. 92-004 §13, 1992)

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.
(Ord. 92-004 §13, 1992; Ord. 92-003 §1, 1992)

18.113.120. Conservation Easement to Protect Resource Site.

- A. If a tract to be used as a destination resort contains a resource site designated for protection in an acknowledged comprehensive plan pursuant to open spaces, scenic and historic areas and natural resource goals, that tract of land shall preserve the resource site by conservation easement sufficient to protect the resource values of the resource site in accordance with ORS 271.715 to 271.795.
- B. A conservation easement under DCC 18.113.120 shall be recorded with the property records of the tract on which the destination resort is sited.
(Ord. 2007-005 §2, 2007)