

**Wildlife Inventory
of the
Aspen Lakes Resort**

**Prepared for
Aspen Lakes Resort**

**Prepared by
Pacific Habitat Services, Inc.
Wilsonville, Oregon 97070
(503) 570-0800
(503) 570-0855 FAX**

28 October 2007

Wildlife Inventory of the Aspen Lakes Resort

Prepared for

The Aspen Lakes Resort
Attn: Matt Cyrus

Prepared by

Ron Gaines
Fred Small
Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, Oregon 97070
(503) 570-0800
(503) 570-0855 FAX
PHS Project Number: 3620

28 October 2007

TABLE OF CONTENTS

INTRODUCTION	1
SITE DESCRIPTION	1
METHODS.....	1
RESULTS	2
DISCUSSION.....	3
CONCLUSION	4
LITERATURE CITED	4
Figure 1- Area Map of the Aspen Lakes Property.....	5
Figure 2 – Wildlife species of the Eastern Cascades Juniper Scrub Habitat.....	6
Figure 3 - Wildlife Observed on the Aspen Lakes Property.....	7

INTRODUCTION

The Aspen Lakes Resort is proposing to expand the footprint of its development onto two parcels of land, one north and one south of their current development and golf course. Pacific Habitat Services (PHS) was asked to perform a wildlife inventory of the Aspen Lakes Resort to assess potential impacts the proposed expansion may have on species residing in the area.

SITE DESCRIPTION

The Aspen Lakes Resort is located approximately three miles northeast of Sisters, Deschutes County, Oregon. Currently this development has a lodge, a number of occupied residences and an operating 18-hole golf course. The current plan involves developing two adjoining parcels of land. The northern parcel, approximately 326 acres in size, is located T14S, R10E, Section 35. The second (southern) parcel, approximately 160 acres in size, is located in T15S, R10E, Section 12 (Figure 1).

The Aspen Lakes Resort is located in the western juniper woodlands of central Oregon. This plant community extends from California to the Columbia River and from the eastern flank of the Cascades to the Owyhee Plateau. The habitat on the existing development has been altered with the construction of homes and the golf course. Open space on the existing development consists of native juniper woodlands and manicured fairways and greens. A significant change that has taken place is the establishment of water elements (water hazards and decorative stream-like features).

METHODS

Information regarding wildlife use of the site was gathered from several sources. A search of the Oregon Natural Heritage Information Center (ORNHIC) data base was requested for any records of rare, threatened and endangered species on or within two miles of the proposed development site. Also requested from the ORNHIC was a review of the ORNHIC Wildlife Relationship Matrix for the Eastern Cascades Juniper/Shrub habitat type. Local officials from the Oregon Department of Fish and Wildlife (ODF&W) were canvassed for information on wildlife use of the site and visits were made to the proposed development site to identify unique habitat characteristics and to gain first hand knowledge of the types of wildlife found on the site.

To assess potential wildlife impacts on developed vs. undeveloped sites, wildlife observations were made on six, quarter-mile long transects. Two transects were placed on the northern parcel, two on the existing development and two on the southern parcel. Wildlife observations recorded along these transects were intended to document species diversity on undeveloped vs. developed sites and were not intended to be used to estimate wildlife abundance. Placing transects on the various parcels ensured that a relatively equal amount of time was spent on each parcel.

RESULTS

Results from the ORNHIC data base search showed no records of rare, threatened or endangered species of wildlife on or near the proposed development site. A copy of this information is included as Appendix A. Additional information from the ORNHIC on the Eastern Cascades Juniper/Shrub habitat indicated that this area is of good or high quality habitat for a number of species. A list of these species is presented in Figure 2.

Correspondence from ODFW biologist Stephen George concurred with the ORNHIC findings (copy enclosed). Mr. George did say that the property is located in historic mule deer winter range but is outside of the Deschutes County protection zone for mule deer winter range. Mr. George also added that the property includes valuable wildlife habitat for numerous wildlife species.

Site visits were conducted to the property on 24 February, 03 October 2006, 13 – 14 June 2007 and 13 September of 2007.

The Aspen Lakes Resort is located in a transition zone between two climax forest zones, the Ponderosa Pine and Western Juniper zones. The area includes vegetation communities ranging from mixed pine-juniper forest and scattered pine or juniper-dominated stands, to sagebrush flats, irrigated cottonwood plantations, and irrigated hayfields. The most prevalent community type in both study areas is a transitional forest community in which pine and juniper are codominant.

While Ponderosa pine (*Pinus ponderosa*) is dominant in small patches of the forested areas, both parcels appear to be too xeric for pure pine stands to develop. Instead, mixed stands of Ponderosa pine and western juniper (*Juniperus occidentalis*) are most common. Big sagebrush (*Artemisia tridentata*) is often an understory component. It was observed that much of the sagebrush understory on both parcels was dead. Evidence of fire was observed on some of large snags and stumps found on the property but the most likely reason for the condition of the sagebrush is that the juniper has outcompeted it, depriving it of essential water and nutrients (Miller et al, 2005). Healthy stands of big sagebrush and other shrubs, including bitterbrush (*Purshia tridentata*), rabbitbrush (*Chrysothamnus nauseosus*), and currant (*Ribes* sp.) persist in more open areas of the site, especially on the South Parcel.

The topography of the northern parcel is generally flat with several open rocky areas that provide meadow-like habitats. These areas are devoid of trees and are primarily vegetated by grasses.

The southern parcel exhibits more topographic relief than the northern parcel. Canopy cover is greatest in the north and decreases in the southern two thirds of the parcel. The southwest quarter of this parcel is irrigated and is under different forms of agriculture. There is also a sand mining operation in the very southwest corner of this parcel.

To determine which species of wildlife the property could potentially be of value, the ORNHIC Wildlife Relationship Matrix was referenced¹. This matrix ranks the importance of different habitat types in Oregon to the wildlife species found in the state. The rankings indicate the suitability of a particular habitat type for a particular species. The rankings range from 0 (not habitat) to 5 (high quality potential habitat). According to the Matrix, the habitat on property is considered good to high quality potential habitat for 32 bird species, 18 species of amphibian and reptile, and three species of mammal. A list of these species is presented in Appendix A. Figure 3 represents the species observed on the developed and undeveloped parcels.

A total of 61 different species of wildlife were observed during this investigation. Thirty two species of wildlife were observed on the existing development, 29 species on the northern parcel and 31 species on the southern parcel (Figure 3). By far, avifauna was the most common wildlife on the three areas surveyed followed by mammals and then reptiles. Twenty eight species of birds were observed on the existing development, 21 species of birds were observed on the northern parcel and 31 species on the southern parcel. Three species of mammals were observed on the existing development, six on the northern parcel and five on the southern parcel. One species of reptile was observed on the existing development, two on the northern parcel and one on the southern parcel.

DISCUSSION

Nearly all of the species observed on the undeveloped north and south parcels are likely present on the existing development at some point during the year even though they were not observed on any of the visits to the development. Black-capped chickadees, for example, were not observed on the existing development but there is no reason that they wouldn't use the edges and wooded areas of the existing development. The converse is not true for some of the species observed on the existing development, such as those that show an affinity for aquatic habitats. It isn't likely that spotted sandpipers or red-wing blackbirds would be seen in a juniper woodland. The number of species observed on one parcel over another was not that different.

Many of the species for which the Eastern Cascades Juniper/Shrub habitat type is considered good to high quality were not observed during any of our visits to the area. This may be due to the fact that the Aspen Lakes Resort property is located on the western edge of this habitat type. The type of wildlife found here may be strongly influenced by the pine and Douglas fir dominated habitats to the west of the Aspen Lakes Property.

While the establishment of water features has made it possible for a greater variety of wildlife to be found on the Aspen Lakes Property the water features themselves are not necessarily permanent. They are not self sustaining from a hydrological stand point. In most cases the presence of water in the various features around the existing development is entirely dependent upon managers of the existing development putting water in those

¹ This matrix was developed by the ONHP in support of ODF&W's Conservation Strategy for Oregon.

features. Because the water features are not permanent, self sustaining systems they are not in a true sense aquatic habitats.

CONCLUSION

Observations of wildlife on the undeveloped parcels near the Aspen Lakes Resort identified species that are adapted to a juniper woodland habitat. Most, if not all of these species could also be found on the existing development itself. Overall the diversity of wildlife species found in the vicinity of the Aspen Lakes Resort has increased due to the establishment of water features.

LITERATURE CITED

Miller, R.F., J.D. Bates, T.J. Svejcar, F.B. Pierson, and L.E. Eddleman. 2005. Biology, Ecology, and Management of Western Juniper (*Juniperus occidentalis*). Oregon State University Agricultural Experiment Station Technical Bulletin 152. 82pp.

Figure 1 - Area Map of the Aspen Lakes Property

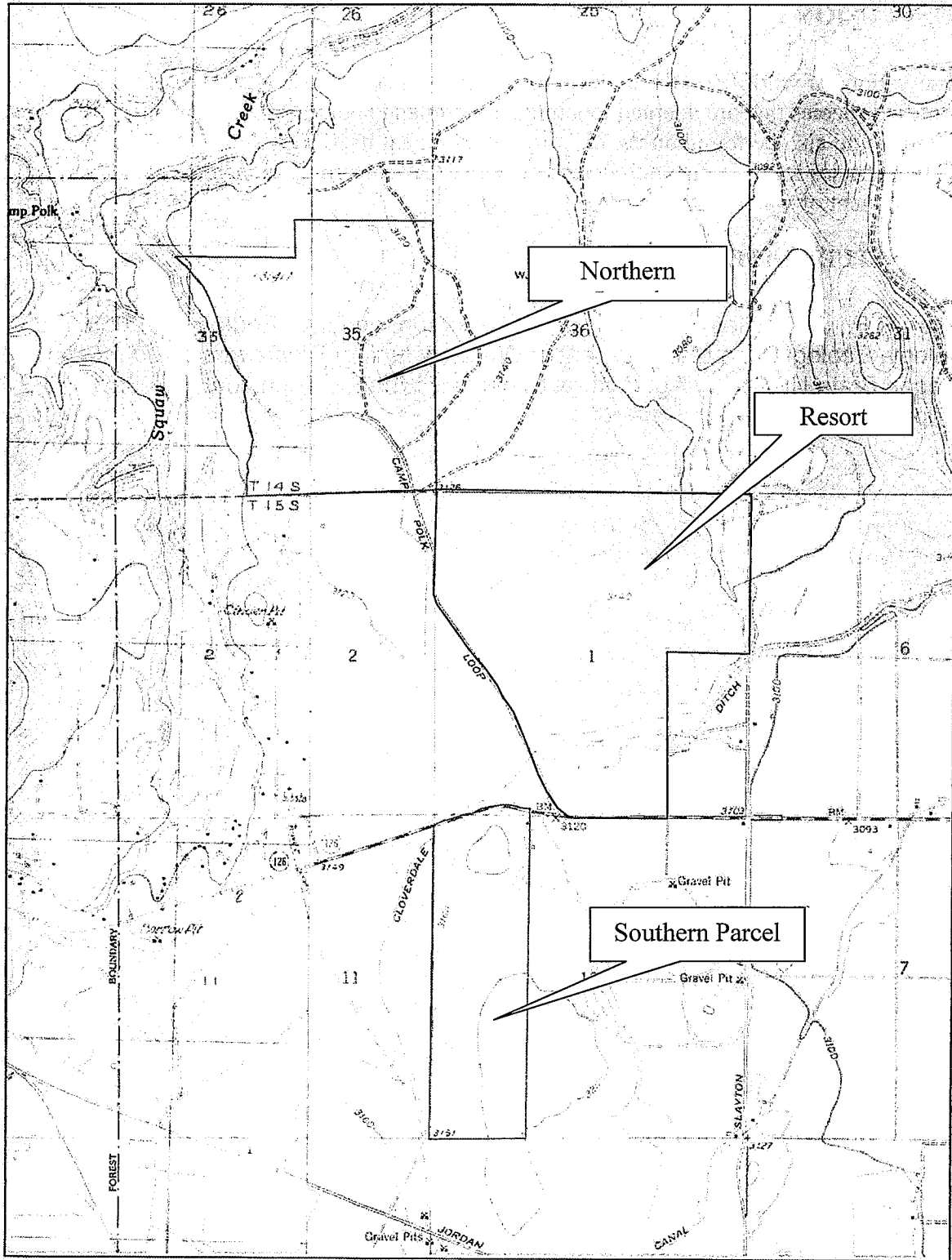


Figure 2 – Species for which the Eastern Cascades Juniper Scrub Habitat is considered good or high quality.

Birds	Herptofauna	Mammals
Turkey vulture	Great basin spadefoot	Pallid bat
Sharp-shinned hawk	Bullfrog	Deer mouse
Swainson's hawk	Northern alligator lizard	Mule deer
Red-tailed hawk	Southern alligator lizard	
Ferruginous hawk	Short-horned lizard	
Golden eagle	Sagebrush lizard	
American kestrel	Western fence lizard	
Prairie falcon	Side blotched lizard	
Mourning dove	Western skink	
Barn owl	Rubber boa	
Common nighthawk	Western racer	
Common poorwill	Sharptail snake	
Northern flicker	Ringneck snake	
Dusky flycatcher	Night snake	
Say's phoebe	California mountain kingsnake	
Western kingbird	Striped whipsnake	
Horned lark	Gopher snake	
Cliff swallow	Western rattlesnake	
Black-billed magpie		
American crow		
Common raven		
Rock wren		
Canyon wren		
House wren		
Mountain bluebird		
Loggerhead shrike		
Lazuli bunting		
Lark sparrow		
Fox sparrow		
Brown-headed cowbird		
Lesser goldfinch		
American goldfinch		

Figure 3 - Wildlife Observed on the Aspen Lakes Property

Common Name	Existing Development	North Parcel	South Parcel
Canada Goose			
Mallard			
Killdeer			
Spotted Sandpiper			
Turkey Vulture			
Northern Goshawk			
Red-tailed Hawk			
American Kestrel			
Prairie Falcon			
Falcon (sp)			
Great Horned Owl			
Morning Dove			
Night Hawk			
Hummingbird (sp)			
Northern Flicker			
Hairy Woodpecker			
Western Kingbird			
Flycatcher (sp)			
Western Wood Pewee			
Tree Swallow			
Violet-green Swallow			
Barn Swallow			
Scrub Jay			
Pinyon Jay			
Steller's Jay			
Clark's Nutcracker			
Black-billed Magpie			
American Crow			
Raven			
Black-capped Chickadee			
Mountain Chickadee			
Western Bluebird			
White-breasted Nuthatch			
Townsend's Solitaire			
Red-breasted Nuthatch			
American Robin			
Pygmy Nuthatch			

Hutton's Vireo			
Yellow-rumped Warbler			
Green-tailed Towhee			
Chipping Sparrow			
Brewer's Sparrow			
Junco			
White-crowned Sparrow			
Golden-crowned Sparrow			
Red-wing Blackbird			
Brewer's Blackbird			
American Gold Finch			
Red Crossbill			
House Finch			
Western Fence Lizard			
Western Skink			
Lizard (sp)			
Garter Snake			
Mountain Cottontail Rabbit			
Chimpunk (sp)			
Merrian's Ground Squirrel			
Douglas's Squirrel			
Bushy-tailed Woodrat			
Coyote			
Mule Deer			
Birds	28	21	31
Reptiles	1	2	2
Mammals	3	6	5
Total	32	29	37

Blue color indicates a particular species was observed on a particular parcel.

APPENDIX A

Scientific Name: *Thelypodium howellii* ssp. *howellii*

Common Name: **Howell's thelypody**

Federal Status: SOC

GRANK: G2T2

NHP List: 2-ex

Category: Vascular Plant

State Status:

SRANK: SH

HP Track: Y

ELCODE: PDBRA2N051

EO ID: 13579

First Obs:

Last Obs:

Confirmed:

Directions: CAMP POLK [LABELLED AS IN CROOK CO. WHICH INCLUDED DESCHUTES IN 1885].

<u>County Name</u>	<u>Ecoregion</u>	<u>Source Feature [Uncertainty Type (Distance)]</u>
Deschutes	BM EC	Point [Areal - Estimated (1500 m)]

<u>Town-Range</u>	<u>Sec</u>	<u>Note</u>	<u>QuadCode</u>	<u>QuadName</u>	<u>Watershed</u>
014S010E	34		44121-C4	Henkle Butte	1707030102 - SQUA CREEK
014S010E	26		44121-C5	Sisters	1707030112 - INDIAN FORD CREEK
014S010E	28				
014S010E	35				
014S010E	27				
014S010E	33				

<u>Owner Name/Type</u>	<u>Owner Comments</u>	<u>Managed Area Name</u>

EO Type: Minimum Elev.(m): Annual Observations

EO Data: HERBARIUM COLLECTION: T. HOWELL 343, 6-1885, GH AND CUSICK 2812, F, GH, MO, NY, ORE, POM, UC, US, WS [NO DATE GIVEN IN MONOGRAPH].

EO Comments:

Protection:

Management:

General: FROM AL-SHEBAZ, 1973. THE BIOSYSTEMATICS OF THE GENUS THELYPODIUM.

Scientific Name: *Penstemon peckii*

Common Name: **Peck's penstemon**

Federal Status: SOC

GRANK: G3

NHP List: 1

Category: Vascular Plant

State Status:

SRANK: S3

HP Track: Y

ELCODE: PDSCR1L4V0

EO ID: 5941

First Obs: 1901

Last Obs: 1901-07-16

Confirmed:

Directions: ONE MILE EAST OF HENKLE BUTTE LOOKOUT ON SQUAW CREEK - DRY SAND BANKS.

<u>County Name</u>	<u>Ecoregion</u>	<u>Source Feature [Uncertainty Type (Distance)]</u>
Deschutes	BM EC	Point [Areal - Estimated (800 m)]

<u>Town-Range</u>	<u>Sec</u>	<u>Note</u>	<u>QuadCode</u>	<u>QuadName</u>	<u>Watershed</u>
014S011E	30		44121-C4	Henkle Butte	1707030102 - SQUA CREEK
014S011E	19				
014S010E	24				
014S010E	25				

<u>Owner Name/Type</u>	<u>Owner Comments</u>	<u>Managed Area Name</u>

EO Type: Minimum Elev.(m): 884 Annual Observations

EO Data: HERBARIUM COLLECTION: CUSICK #2658, 7-16-01, UC-41726, WS. ID BY CUSICK AS P. CONFERTUS TENUIS. ANNOTATED 1941 BY D. KECK.

EO Comments: DRY SAND BANKS

Protection:

Management:

General:

Scientific Name: *Penstemon peckii*

Common Name: **Peck's penstemon**

Federal Status: SOC

GRANK: G3

NHP List: 1

Category: Vascular Plant

State Status:

SRANK: S3

HP Track: Y

ELCODE: PDSCR1L4V0

EO ID: 23322

First Obs: 1914

Last Obs: 1989-07-20

Confirmed: Y

Directions: CITY OF SISTERS, SISTERS CITY PARK. ON NORTH AND SOUTH SIDE OF HWY 20, MAINLY ALONG SQUAW CREEK

<u>County Name</u>	<u>Ecoregion</u>	<u>Source Feature [Uncertainty Type (Distance)]</u>
Deschutes	BM	Polygon [Area - Delimited (8 m)] Polygon [Area - Delimited (8 m)]
<u>Town-Range</u> <u>Sec</u> <u>Note</u>	<u>QuadCode</u> <u>QuadName</u>	<u>Watershed</u>
015S010E 04	44121-C5 Sisters	1707030111 - THREE CREEK
<u>Owner Name/Type</u>	<u>Owner Comments</u>	<u>Managed Area Name</u>
CITY; STATE	CITY OF SISTERS; STATE HIGHWAYS	STATE HIGHWAY MAINTENANCE DIST 10
<u>EO Type:</u>	<u>Minimum Elev.(m):</u> 960	<u>Annual Observations</u>
<u>EO Data:</u> 68 PLANTS COUNTED (1989), MOSTLY ON CREEK BANK, BOTH SIDES ON SOUTH SIDE OF HWY AND ON NORTH BANK ON NORTH SIDE OF HWY. SOME PLANTS QUITE LARGE, 1 PLANT 30+ STEMS, ABOUT 2 DM IN DIAMETER. HERBARIUM COLLECTION: PECK, #5935, 7-20-14, WILLU; #5992, 7-21-14, WILLU; #9769 8-3-20, WILLU. "DRY GROUND, SISTERS" ON ALL THREE HERBARIUM SHEETS.		
<u>EO Comments:</u> OPEN AREA UNDER PIPO. SOME JUOC. ALSO ALONG CREEK BANK. ON NORTH SIDE OF HWY GROWING ALONG CUT BANK AND ROCKY GRAVEL WITH PUTRE, JUOC, ARTR, CHNA.		
<u>Protection:</u>		
<u>Management:</u> HEAVILY USED, RECREATION AREA. PICNICING AND CAMPING		
<u>General:</u> 1989 ONHP SURVEY, SUE VRILAKAS. THREE OF PECK'S COLLECTIONS ALSO PLACED HERE.		

3 records tota

Exhibit A

OPEN SPACE MANAGEMENT PLAN

This document is an Open Space Management Plan that governs use of Open Space Tracts M, N, O and P, of the approved tentative plan for Golf Course Estates at Aspen Lakes, Phases III and IV, as required by Condition 21 of the tentative plan approval of said subdivision. Golf Course Estates at Aspen Lakes is located within the Aspen Lakes cluster development that was approved by Deschutes County in 1989 as CU-89-70. In order to guarantee compliance with the requirements of CU-89-70, the Aspen Lakes Development, LLC hereby agrees to the following management plan. This plan also serves to bind the Applicant to impose deed restrictions upon said open space tract and to comply with the County's deed restriction requirement.

Deed Restrictions

The Applicant agrees that any transfer of the real property by deed shall include the following deed restrictions:

The real property conveyed by this deed is an open space area of the Aspen Lakes Cluster Development approved in CU-89-70, as platted by Phase III and IV of Golf Course Estates at Aspen Lakes. Until such time as CU-89-70 is superseded or revised by a new land use approval, the following use restrictions, imposed by CU-89-70, apply to this property:

1. No further development may occur on this open space property, except for uses permitted in areas designated open space. This prohibition applies unless and until such time as the whole development is brought inside an urban growth boundary or until the property is no longer a part of the required open space for the cluster development approved in CU-89-70.
2. Fences, except for those immediately around a residential yard, must be constructed to allow safe animal movement through the fence. The top and bottom strands of any wire fences on the property must be of barbless smooth wire and be no higher than 48 inches, with the bottom strand at least 18 inches above the ground. Pole fences are allowed. Fence posts shall be equally spaced.
3. The owner of the property shall not allow dogs to roam at large on the property.

These deed restrictions are also hereby made a part of this management plan.

Property Description

Tract M is located in Phase IV of Golf Course Estates and is approximately 40.65 acres in size. Tract M adjoins Camp Polk Road, a public road on the west. Golden Stone Drive, a private road within Golf Course Estates, forms the southern boundary for much of this open space area. The open space tract extends along the northern boundary of the portion of the subdivision that is located in Section 1. Tract M adjoins the approved site of the Aspen Lakes Golf Course.

Tract M is wooded with juniper and ponderosa pine trees. There is a hill in the western portion of Tract M.

Tract N is located south and west of and adjacent to Camp Polk Road. Tract N is approximately 69.21 acres in size. The tract adjoins Open Space Tract A. That tract was a part of The Rim at Aspen Lakes and is subject to a management plan and deed restrictions already approved by Deschutes County. The management plan for Tract A lists the following as permitted uses for Tract A: irrigation system, community water system, golf course (including restrooms) and trails or paths.

Portions of Tract N have been cleared in the past. The resulting vegetation is a mix of juniper scrub and rabbitbrush. Overhead utilities are located along the western and southern boundaries of this area.

Tract O is a 234.53 acre open space area that surrounds Phase V of Golf Course Estates. The property is bounded by Camp Polk Road on the west and by the Panoramic View Estates subdivision on the east. Tract O is vegetated with juniper scrub and some stands of ponderosa pines.

Tract P is a small, .54 acre tract of land located at the intersection of Squaw Creek Drive and Camp Polk Road. This parcel is juniper scrub.

In addition to junipers and ponderosa pines, Great Basin sagebrush, bitterbrush, rabbitbrush and Idaho fescue are found throughout the open space areas. All open space tracts have low to moderate wildlife habitat value at the present time. The habitat value to wildlife is primarily provided by areas of cover and access to Squaw Creek.

The soils on the open space areas consist of Wangoa, Henkle, Wilt and Omahaling series soils. These soils are typical of a short growing season. The soils are generally shallow, prone to wind erosion and highly permeable. They are poor for forestry and most kinds of agriculture. With irrigation, some crops such as alfalfa can be grown. The vegetation supported by these soils has low to moderate value for livestock grazing.

The following text directs the long-term management of the open space tracts. These management methods have been based upon the approved Open Space Management Plan for the Rim at Aspen Lakes that were developed in consultation with Oregon Department of Fish and Wildlife, Deschutes County, silvaculturist Earl Nichols, Soils Conservation Service agent Ray Wilson, retired OSU Extension agricultural specialist Jim Burr and Karen Swirsky and Dave Bateman of

David Evans and Associates, Inc.

Homeowner Access for Recreation

Homeowner access to any open space tract may be granted by a contractual recreational agreement between the owner and the homeowners. Any such agreement shall limit homeowner use of the property to uses allowed by this management plan.

Animal Movement Corridors

The northern 50' of Tract M, excluding any area that is included in a platted residential lot or roadway, and the southern 50' of Tract N are designated as animal movement corridors. The existing vegetation in these areas shall be retained or enhanced to provide cover for wildlife moving through the area. Forest management practices, including controlled burns and brush clearing are allowed in this area as needed to minimize the risk of fire. Observation of existing wildlife patterns in the area confirm that most movement is north-south along Squaw Creek.

Conditional Use Approval

The listing of uses allowed on area designated open space includes uses that are permitted outright and uses that are allowed as conditional uses. Conditional use permit approval may be required by the County prior to the commencement of any conditional uses, notwithstanding the listing of the use on the following lists of allowed uses. Nothing in this plan shall be construed to allow a use not allowed in the underlying zone. The current zone is RR-10, rural residential.

Tract M

Tract M has several purposes. One is to maintain a wildlife movement corridor. A second purpose is to provide a buffer between Golden Stone Drive and the adjoining Panoramic View Estates along the northern 50' of Section 1 that is included within Tract M. In addition, Tract M preserves a hillside feature within the subdivision and provides open space adjacent to the approved Aspen Lakes Golf Course. A screening berm may be constructed between Golden Stone Drive and Panoramic View Estates.

A 10' wide emergency access route will be provided across Tract M to provide between Golden Stone Drive and Lake Drive in Panoramic View Estates. This route provides a second route out of the Panoramic View Estates subdivision in the event of a fire. An undeveloped 40' wide road easement also exists within this open space area of the subdivision.

Uses Allowed in Tract M:

- Irrigation System
- Community Water or Septic System Facilities
- Open Space Uses permitted in areas designated open space

- Forest Management Practices
- Trails and Paths

Prohibited Uses in Tract M:

- Uses not listed as allowed uses (except an irrigation system or community water or septic system facilities)
- Dumping of trash

Tract N

The purpose of Tract N is to complement uses allowed on Open Space Tract A and to provide a buffer between Camp Polk Road and the Rim at Aspen Lakes.

Uses Allowed in Tract N:

- Irrigation System
- Community Water or Septic System Facilities
- Open Space Uses permitted in areas designated open space
- Forest Management Practices
- Agricultural Use, including grazing and the growing of crops
- Trails and Paths

Prohibited Uses in Tract N:

- Uses not listed as allowed uses (except for fencing, an irrigation system or community water or septic system facilities)
- Dumping of trash

Tract O

The purpose of Tract O is to provide open space around the ten housing lots included in Phase V of Golf Course Estates. This large tract is suitable for farm and forestry operations and recreational use.

Uses Allowed in Tract O:

- Irrigation System
- Community Water or Septic System Facilities
- Open Space Uses permitted in areas designated open space
- Forest Management Practices
- Agricultural Use, including grazing and the growing of crops
- Trails and Paths

Prohibited Uses in Tract M:

- Uses not listed as allowed uses (except an irrigation system or community water or septic system facilities)
- Dumping of trash

Tract P

The purpose of Tract P is to provide an open space area for clear vision purposes adjacent to the intersection of two roadways and to provide for a connection between the wildlife movement corridor preserved on Tracts M and N. This parcel will be retained in its present natural state.

Termination of Open Space Management Plan

The obligation to maintain the Open Space Tracts in open space is derived from the County's approval of a cluster development in CU 89-70 and the tentative approval of TP 96-873. The obligations contained in this plan apply when the property is platted as an open space area on a final plat of Golf Course Estates at Aspen Lakes and shall continue as long as the maintenance of an area as open space is legally required in compliance with the cluster development land use approval and tentative plat approval, as said approvals may be amended.

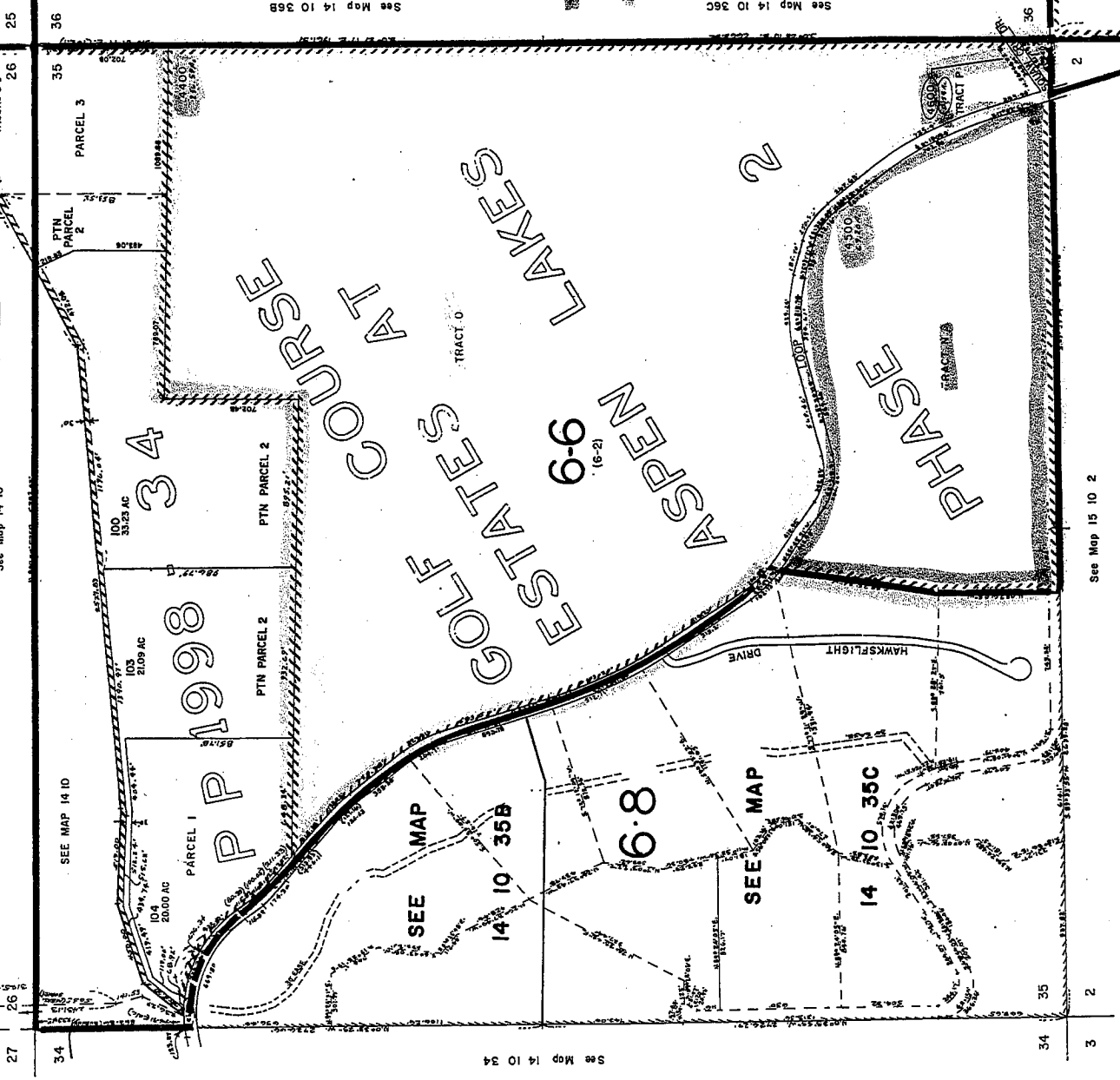
SECTION 35 T14S. R10E.W.M. Canceled numbers: 1700 thru 2600, 101, 102, 200, 300, 400, 500, 600, 700, 800, 900, 1000, 1200, 1300, 1400, 1500, 1600, 2700 thru 4300
DEACUTES COUNTY

1"=400'

6-2

See Map 14 10

- Revised Date
- 9-2-98
- 10-28-98
- 11-13-98
- 3-6-99
- 3-27-02



SEE MAP 14 10

SEE MAP

14 10 35B

6-8

SEE MAP

14 10 35C

34

AT COURSE

GOLF COURSE
LAKES
ESTATES
ASPEN
PHASE

6-6
(6-2)

2

See Map 14 10 34

See Map 15 10 2

See Map 14 10 36

See Map 14 10 36C

-TRACTO
-TRACTM
-TRACTP

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
ASPEN LAKES

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ASPEN LAKES ("Declaration") is made this 8th day of March, 1993, by KMB Enterprises, an Oregon partnership ("Declarant").

Declarant filed the Declarations, Restrictions, Protective Covenants and Conditions for GOLF COURSE ESTATES AT ASPEN LAKES, recorded in Book #237, Page #1406, in the Official Records in the Office of the County Clerk, Deschutes County, Oregon;

Declarant is still the owner of the real property described in Exhibit "A" and "B" attached to and made part of said Declaration. Declarant, hereby, amends and replaces in its entirety, all language in aforementioned filing, including the title, with this DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ASPEN LAKES.

Declarant is the owner of the real property described in Exhibit "A", which is attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article I) mutually beneficial restrictions under a general plan of improvements for the benefit of the owners of each portion of the Properties, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property subject to this Declaration. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns.

1.17 "Master Plan": The Master Plan for the Development of ASPEN LAKES as approved by CU-89-79 on the 8th day of August, 1989, as it may be amended, which plan includes the property described on Exhibit "A" and the property described on Exhibit "B" which Declarant may from time to time anticipate subjecting to this Declaration. The Master Plan may also include subsequent plans approved by Deschutes County for the development of all or a portion of the property described on Exhibit "B" which Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article IX. It is anticipated by the Master Plan that declarant may decide in the future to convert the Properties described in this Section to a "Destination Resort" as that term is defined in the Deschutes County Zoning Ordinance.

Article XV
DECLARANT'S RIGHTS

15.1 Transfer. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the By-Laws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Office of the County Clerk. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

So long as construction and initial sales of Units shall continue, the Declarant and Builders authorized by Declarant may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including but not limited to business offices, signs, model units, and sales offices. The Declarant's or Builder's unilateral right to use the Common Area for the purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Areas by Owners unless leased pursuant to a lease agreement with the Association providing for payment of reasonable rent.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted

recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

The Declarant, in its sole discretion, may convert all or part of the Properties in Exhibits "A" and/or "B" to a "mini destination resort" or "destination resort" ("Resort") as those terms are now or hereafter defined in the Deschutes County Zoning Ordinance or any other applicable ordinance. If additional or substitute restrictions are appropriate or required under the Resort designation, the Declarant shall have sole discretion in making those changes. By purchasing a Unit in ASPEN LAKES each Owner expressly consents to such conversion to Resort status and to such additional or substitute restrictions and no further consent shall be required from any Owner. However, these additional or substitute restrictions shall not apply to those Units in Section 1, Township 15 South, Range 10 East, of the Willamette Meridian, except as may be necessary to establish Neighborhoods as described in Section 1.23 of this Declaration.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 40 years after the conveyance of a Unit to a Retail Owner, or (b) upon recording by Declarant of a written statement that all sales activity has ceased. Thereafter, the Declarant or Builders may continue to use the Common Areas for purposes stated in this Section only pursuant to a rental or lease agreement between the Declarant or such Builder and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas.