



## COMMUNITY DEVELOPMENT

### MEMORANDUM

**TO:** Board of County Commissioners

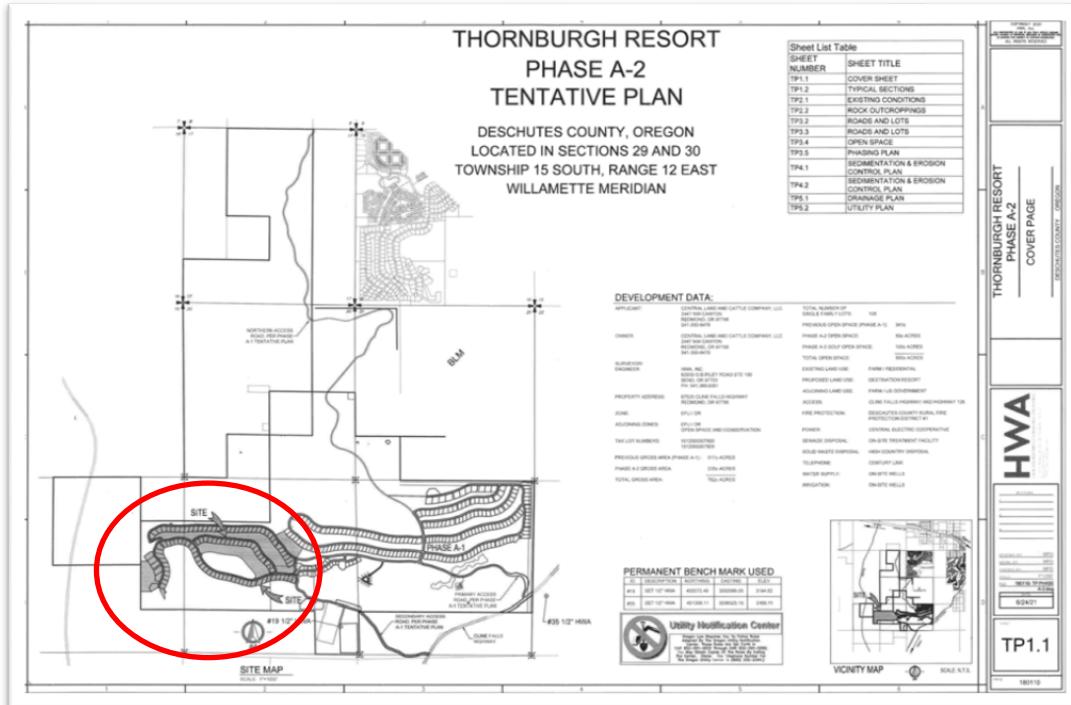
**FROM:** Caroline House, Senior Planner

**DATE:** March 2, 2022

**RE:** Appeal of Hearings Officer's approval of a Tentative Plan for a portion of Phase A (A-2) of the Thornburgh Destination Resort. This Tentative Plan includes 108 single-family residential dwelling lots (Appeal No. 247-22-000175-A).

On March 7, 2022, the Board of County Commissioners (Board) will consider whether to hear an appeal of a Hearings Officer decision, which was an appeal of a Staff decision (ref. Appeal No. 247-21-000948-A and File No. 247-21-000637-TP). The Hearings Officer decision addresses a limited scope of issues on appeal and approves the Tentative Plan for Phase A-2 of the Thornburgh Destination Resort.

**Figure 1: Phase A-2 Tentative Plan General Location**



## **I. BACKGROUND**

The Thornburgh Destination Resort Master Plan/Conceptual Master Plan was previously approved under File Nos. M-07-2/MA-08-6. The applicant has subsequently pursued required land use approvals for specific Site Plan reviews and Tentative Plan reviews to implement the Master Plan in phases.

## **II. PROCEDURAL HISTORY**

A Staff decision approving the Tentative Plan was issued on October 12, 2021. Christine Larson filed a timely appeal of the Staff decision on October 22, 2021. A public hearing before a Hearings Officer for the appeal was conducted December 8, 2021 and continued on January 4, 2022. The Hearings Officer issued an approval of the Tentative Plan on February 18, 2022. Annunziata Gould filed a timely appeal of the Hearings Officer's decision on March 2, 2022 (ref. Appeal No. 247-22-000175-A).

## **III. GOULD APPEAL**

Annunziata Gould, the appellant, requests the Board review the Hearings Officer's decision on appeal to address 21 different issues. Key issues on appeal include, but are not limited to, compliance with the Final Master Plan (FMP) conditions of approval, changes to the Resort's water rights, and the subject application being inextricably linked to pending appeals at the State Courts. The attached Notice of Appeal packet details all of the issues on appeal.

## **IV. BOARD OPTIONS**

There are two versions of Order No. 2022-011 attached to this memo; one to hear the appeal and one to decline to hear the appeal. In determining whether to hear an appeal, the Board may consider only:

1. The record developed before the Hearings Officer;
2. The notice of appeal; and
3. Recommendation of staff<sup>1</sup>

In addition, if the Board decides to hear the appeal, it may consider providing time limits for public testimony.

If the Board decides the Hearings Officer's decision shall be the final decision of the county, then the Board shall not hear the appeal and the party appealing may continue the appeal as provided

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<sup>1</sup> Deschutes County Code 22.32.035(D)

by law. The decision on the land use application and associated appeals becomes final upon the mailing of the Board's decision to decline review.

#### **V. 150-DAY LAND USE CLOCK**

The 150<sup>th</sup> day on which the County must take final action on these applications is March 16, 2022.

#### **VI. STAFF RECOMMENDATION**

Staff recommends the Board not hear this appeal because there is insufficient time on the land use clock to conduct an appeal hearing. Further, the appellant was able to present all relevant evidence at the hearing before the Hearings Officer.

#### **VII. RECORD**

The record for Appeal No. 247-21-000948-A and File No. 247-21-000637-TP are as presented at the following Deschutes County Community Development Department websites:

[https://aca-oregon.accela.com/oregon/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=21CAP&capID2=00000&capID3=005U4&agencyCode=DESCHUTES\\_CO&IsToShowInspection=](https://aca-oregon.accela.com/oregon/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=21CAP&capID2=00000&capID3=005U4&agencyCode=DESCHUTES_CO&IsToShowInspection=)

[https://aca-oregon.accela.com/oregon/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=21CAP&capID2=00000&capID3=009HJ&agencyCode=DESCHUTES\\_CO&IsToShowInspection=](https://aca-oregon.accela.com/oregon/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=21CAP&capID2=00000&capID3=009HJ&agencyCode=DESCHUTES_CO&IsToShowInspection=)

Attachments:

1. DRAFT Board Order 2022-011 Accepting Review of the Hearings Officer's Decision
2. DRAFT Board Order 2022-011 Declining Review of the Hearings Officer's Decision
3. Notice of Appeal (Appeal No. 247-22-000175-A)