



FINDINGS AND DECISION

FILE NUMBER: 247-22-000415-MC, 416-SP

SUBJECT PROPERTY/OWNER: Mailing Name: TETHEROW AB LLC
Map and Taxlot: 181112CC03400
Account: 280880
Situs Address: **NO SITUS ADDRESS**

APPLICANT: Tetherow AB LLC

REQUEST: Modification of Conditions to adjust the number of single-family and multi-family dwelling units within the Tetherow Destination Resort; modification of 247-19-000339-TP to adjust locations of single-family and multi-family units within the Highlands Ridge subdivision; and alternative site plan approval for multi-family units within the Highlands Ridge Phases 1 and 2 Development Tract A subdivision. Subject property is within the Urban Area Reserve Zone and Destination Resort Combining Zone.

STAFF CONTACT: Rachel Vickers, Associate Planner
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RECORD: Record items can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Title 17 of the Deschutes County Code, Subdivisions

Chapter 17.16, Approval of Subdivision Tentative Plans and Master Development Plans
Chapter 17.20, Zero Lot Subdivision

Title 19 of the Deschutes County Code, Bend Urban Growth Boundary Zoning Ordinance

Chapter 19.12, Urban Area Reserve Zone UAR 10
Chapter 19.76, Site Plan Review
Chapter 19.80, Off-Street Parking and Loading
Chapter 19.100, Conditional Use Permits

II. BASIC FINDINGS

LOT OF RECORD: The subject property was legally established as lots within the Highlands Ridge Subdivision Phases 1 & 2 Development Tract A plat recorded March 9, 2020, as Document No. 2022-10700.

SITE DESCRIPTION: The Subject Property is 3.60-acres in size, and developed with streets and infrastructure but otherwise is vacant. There is a gradual slope from west to east with no trees and some natural vegetation. The property is bounded by Meeks Trail to the south, Meeks Rim Drive to the west, Awbrey Hall Lane to the north, and Lots 14 through 20 within the same subdivision to the east.

SURROUNDING USES: Surrounding parcels are all part of the Tetherow Resort, with most part of the Highlands Ridge Phases 1 and 2 subdivision. Additional development tracts within the Highlands Ridge Phases 1 and 2 subdivision and the Tetherow Vacation Homes subdivision are located to the west across Meeks Rim Drive. The development tracts are vacant and the Tetherow Vacation Homes subdivision is developed with overnight lodging units. To the north across Awbrey Hall Lane are lots partially developed with single- family dwellings within the Highlands Ridge Phases 1 and 2 subdivision and further north is the Tetherow Golf Course. To the east, on either side of Howe Way, are lots within the Highlands Ridge Phases 1 and 2 subdivision, which are partially developed with single and multi-family dwellings. Further east, across Meeks Cutoff Rd., is the Tetherow Rim subdivision, which is developed with attached and detached single-family dwellings. To the south, across Meeks Trail, is the Tetherow Members pool. To the southeast, also across Meeks Trail, is the Outrider Overlook Phase I and II subdivisions, which are developed with attached and detached dwelling units. To the southwest is Skyline Ranch Rd. and open space parcels.

Land uses adjacent to Tetherow Resort include the recently platted Lodges at Bachelor View Phase 1 subdivision and the Braeburn Phase III subdivision, which are located south of the subject property across Century Drive. The Entrada Lodge (now LOGE Bend) is located to the southeast across Century Drive. The Deschutes National Forest is located further west of the Tetherow Resort. Properties further north of the Tetherow Golf Course are single-family lots in assorted Tetherow subdivisions. Further to the east is Alpine Park, a 14-acre park owned and operated by the Bend Park and Recreation District.

REQUEST: The Applicant requests modification of approval to amend the Conceptual Master Plan and Final Master Plan for the Tetherow Destination Resort; modification of 247-19-000339-TP to adjust locations of single-family and multi-family units with the Highlands Ridge subdivision; and alternative site plan approval for multi-family units within the Highlands Ridge Phases 1 and 2 Development Tract A subdivision.

PROCEDURAL HISTORY: Tetherow was approved as a destination resort consisting of 379 single-family residential units, 210 multi-family residential units, 300 overnight lodging units ("OLUs"), and a golf course under CU-04-94 (the "Conceptual Master Plan" or "CMP"), as modified in February 2005, and finalized under M-05-2 (the "Final Master Plan" or "FMP"), as modified in October 2005. Tentative Plan TP-06-973 ("Phase 1 Tentative Plan") was subsequently approved on October 11, 2006, allowing creation of 379 single-family dwelling lots, 10 resort core area tracts (including the subject Tracts), common area tracts, golf tracts, and 1 park tract. Initial platting occurred on September 24, 2007.

The approval of the CMP and FMP mandated that the first 50 OLUs had to be constructed prior to the closure of the sale of individual lots, 50 additional OLUs had to be constructed or financially assured within five (5) years of the initial lot sale, and 50 more OLUs had to be constructed or guaranteed within 10 years of the initial lot sale. Furthermore, the CMP/FMP approval required that a sufficient number of OLUs be constructed or financially assured to maintain a then-required 2:1 ratio between residential units and OLUs at all times. Tract AB received site plan approval for 198 OLUs per CU-07-11, SP-07-6, TP-07-990, and MC-08-6, which were financially assured through an improvement agreement and irrevocable line of credit.

Under SP-12-11, site plan approval was granted to "transfer" the 198 OLUs approved under SP-07-6 on Development Tract AB to Development Tract AA. The 198 units proposed for Tract AA were configured as two (2) hotel buildings with 94 and 74 overnight units, respectively, and four "cottages" containing 30 units between the four "cottages".

Through SP-12-22, the County granted another site plan approval for the same 198 OLUs under a different configuration – an outdoor conference/meeting tent area – and a 1,990 square foot guest services building on Development Tract AA. Under this approval, the proposed OLUs were to be configured as a 26-unit lodge building; a 94-unit three (3) story hotel; and a 78-unit three (3) story hotel. This proposal superseded all previous site plans on Tract AA. The 26-unit lodge building and guest services building, as indicated above, received building permits and certificates of occupancy, and are presently in use.

Through MC 13-3, the CMP and FMP were amended to apply the 2.5:1 ratio set forth in DCC 19.04.040 and DCC 19.106.060(D), which followed a change in State law and amendment to the County Code. Consequently, the County approved a modification to the SP-12-22 site plan in SP-14-2 to replace the 78-unit hotel with a 39-unit hotel building, thus reducing the number of approved OLUs on Tract AA to 159.

County File No. SP-14-2 approved a reduction of OLUs from 198 to 159 on Tract AA. However, under condition of approval #12 of that decision, the applicant is required to record a new or amended improvement agreement bonding units as approved under SP-14-2, prior to issuance of building permits under SP-14-2.

Through MC-13-8, the applicant obtained a Modification of the CMP and FMP maps to allow Development Tracts AC, AG, and AH as set forth in the Tetherow Phase 1 Final Plat (2007-51564) to be developed with a mix of residential housing types known as Other Residential Uses (ORUs)

without adding any new or additional uses to those contemplated by the original Tetherow approvals.

In MC 14-1, applicant VRE Lodge Homes LLC ("VRE") obtained approval to modify the CMP/FMP to convert the 29 townhome units on Development Tract AC to detached single-family dwellings, thus changing the overall mix of residential development to 408 single-family lots and 181 townhomes. MC 14-1 also approved a Tentative Subdivision Plan to establish 29 single-family lots.

Through 247-14-000141-TP, 247-14-000142-SP, 247-14-000143-MC, and 247-14-000196-MA, the Applicant obtained Modification of Approval to amend the CMP and FMP to allow for 6 single family houses on Development Tract AD. Also approved was a Tentative Plan for a phased subdivision comprised of 24 lots and three common area tracts as well as Site Plan Approval for 18 zero lot line duplex townhome units.

Through 247-14-000431-MC, the applicant obtained a Modification of Approval to amend the CMP and FMP to reduce the required availability of individually owned OLUs to the general public from 45 to 38 weeks per calendar year, as allowed under DCC 19.106 and state law, and to amend the Vehicle and Pedestrian Access Plan for Commercial/Recreational Development.

Through 247-14-000430-CU, 429-SP, and 428-TP, the applicant obtained Tentative Plan approval for a phased subdivision comprised of 22 lots, 3 development tracts, 11 common area tracts, and 6 private road tracts along with site plan approval for the development of 133 overnight lodging units in 23 structures and conditional use approval for off-site parking.

Through 247-15-000361-MC, the applicant modified the CMP, FMP, and MC-12-4 approvals for the Tetherow Destination Resort to amend the trip generation rates of single and multifamily dwellings, the definition of multi-family housing, and the dimensional standards for Commercial and Recreational development.

Through 247-15-000138-TP, 139-MC, and 140-SP, the applicant modified the CMP and FMP for the Resort to allow for 4 single family homes/lots in lieu of 4 townhomes on Development Tract AB South, and received approval to replat of a portion of Common Area Tract DB, as well as Tract A and B of the Outrider Overlook subdivision. A Tentative Plan approval for a subdivision comprised of 10 lots and Site Plan Approval for 6 of these lots as zero lot line duplex townhome units was also granted.

Through 247-15-000312-SP, the applicant received Site Plan approval for a Recreation Center facility within the Resort to include a 13,384-square-foot Fitness Center and indoor pool building, 25-meter outdoor pool, hot tub, outdoor decks and cabanas, gas fire pit, bocce ball court, related ancillary facilities, and vehicular parking area.

Under 247-15-000102-MC and 247-15-000101-TP, the applicant received a Modification of Approval to modify the CMP and FMP to allow for 15 single-family dwellings on Development Tracts AG and AH. The applicant also received a Tentative Plat for a phased subdivision comprised of 15 lots, 1

common area tract, and 1 private road tract. This approval is not yet final as of the writing of this decision.

Through 247-15-484-MC/485-TP/486-SP, the applicant modified the CMP and FMP to allow for 29 single-family dwellings in lieu of 29 multi-family units, and gained Site Plan approval for 55 OLUs on 11 lots, all on Development Tract Y.

Under, 247-17-000125-MC the Applicant modified the approved Tentative Subdivision Plan (247-15-485-TP) to add 3 single-family residential lots, increasing the total residential lots within the subdivision from 29 to 32; and to amend the CMP and FMP with regard to residential units mix, adding the 3 single-family residential lots and deleting 3 multi-family residential units. The 589 total approved residential units for the entire Resort remains the same. No increase in total residential units is proposed.

Through 247-19-251-SP, 252-MC, 253-LL, the applicant received site plan approval to establish a pool facility; modified the CMP and FMP to establish member amenity zone for the pool; adjusted a common property line between TL 7300 on Assessor map 18-11-12CD, and TL 2300 on Assessor map 18-11-12 to accommodate the pool. As noted above, the pool facility will be constructed on a previously platted residential lot. The loss of that residential lot will be incorporated into the subdivision proposed as part of the present applications.

Through 247-19-000339-TP, 247-19-000340-LL, 247-19-000341-MC, 247-19-000342-SP, the Tetherow Highlands subdivision was approved for 42 residential lots including 16 single-family lots (Lots 1-6, 12-15, 21, 29, 30, and 34-36), a modification of the CMP/FMP to convert 15 "multi-family" units to single-family units, and site plan approval for a communal parking lot.

In 247-20-000883-MC, 884-TU, 885-SP, the Applicant received approval for a Modification of Approval to amend the Conceptual Master Plan and Final Master Plan for the Tetherow Destination Resort to convert Lots 6, 12, 13, and 15 of the Highlands Ridge Phases 1 & 2 subdivision from single-family to "multi-family", and to allow on-street and/or off-site parking spaces to satisfy parking requirements for dwellings. The Applicant also obtained site plan approval to construct "multi-family units" comprised of cottages and townhomes with temporary use approval to allow for construction prior to final land use approval.

Finally, in 247-22-000063-SP, the Applicant obtained site plan approval for a multi-family unit on Lot 10 within the Highlands Ridge subdivision and a modification to the CMP/FMP to allow on-street/communal parking to meet the off-street parking requirements of dwellings.

A table showing the current status of resort development under the CMP/FMP as modified is set out below:

	<u>OLUs</u>	<u>Multi-Family Res. Units</u>	<u>Single-family Res. Units</u>
CMP/FMP Approved	<u>300</u> (CMP/FMP)	<u>110</u> (CMP/FMP)	<u>479</u> (CMP/FMP)
Site Plan/ Subdivision Approved	<u>238 (SP-12-10, SP-12-22, SP-14-2, 247-14-429-SP, 247-15-000486-SP, 247-17-000850-SP)</u>	<u>110 (TP-09-1010, 247-14-000141-TP, 247-15-000138-TP, 247-19-000339-TP)</u>	<u>479 (TP-06-973, TP-14-1023, 247-14-000141-TP, 247-15-000138-TP, 247-15-000101-TP, 247-15-000485-TP, 247-17-000121-MC, 247-17-000125-MC, 247-19-000339-TP)</u>
Constructed/ Platted	<u>237 constructed (24 on Parcel 1 of PP 2013-04, 26 on Development Tract CA, 132 in Tetherow Vacation Homes, 55 within Trailhead at Tetherow)</u>	<u>104 (TP-09-1010, 247-14-000141-TP, 247-15-000138-TP, 247-19-000339-TP)</u>	<u>473 (TP-06-973, TP-14-1023, 247-14-000141-TP, 247-15-000138-TP, 247-15-000101-TP, 247-15-000485-TP, 247-17-000121-MC, 247-17-000125-MC, 247-19-000339-TP)</u>
Financially Assured	<u>19 presently financially assured (247-17-000484-SP)</u>	<u>N/A</u>	<u>N/A</u>
Remaining	<u>62 unapproved</u>	<u>23 platted but unapproved^[1]</u>	<u>0 unplatted</u>
Ratio (Res./OLU)	<u>2.47 (589 (approved residential units)/238 (constructed or financially assured residential units)</u>		

^[1] Multi-family units in Highlands Ridge have only received subdivision approval under 247-19-000339-TP. The purpose of this application is to obtain site plan approval for a portion of the multi-family units within Highlands Ridge. Additional site plan applications are forthcoming to obtain approval for the remainder of the multi-family units.

REVIEW PERIOD: The subject application(s) were submitted on May 23, 2022 and deemed incomplete by the Planning Division on June 21, 2022. The applicant provided an incomplete letter response and paid the Hearing Officer Deposit on August 12, 2022, and the subject application(s) were deemed complete. The applicant agreed to toll the clock for 14 days from September 3, 2022 to September 16, 2022. The 150th day on which the County must take final action on this application is January 23, 2023.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on June 1, 2022, to several public agencies and received the following comments:

Deschutes County Building Division, Randy Scheid

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

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

Deschutes County Senior Transportation Planner, Peter Russell

I have reviewed the transmittal materials for File 247-22-000415-MC/416-SP to lower the number of single-family homes from 479 to 474 and increase the number of multi-family units from 110 to 115 within Tetherow Destination Resort; this modifies 247-19-000339 and modifies the location of units within the Highlands Ridge Phases 3 and 4. The property does not have a situs address but is legally described as County Assessors Tax Map as 18-11-12CC, Tax Lot 3400.

The conclusions of the April 19, 2019, traffic study submitted in support of 247-19-000339 remain valid as the current submittal reduces the number of single-family homes and increases the number of multi-family units. As single-family units have a higher trip-generation rate than multi-family units, the net result is the current proposal will generate less weekday and p.m. peak hour trips.

The property is surroundED by Meeks Trails, Awbrey Hall Lane, and Meeks Rim Drive, all of which are private roads and thus the access permit requirements of Deschutes County Code (DCC) 17.48.210(A) do not apply.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,757 per p.m. peak hour trip. The ITE indicates Recreational Home will generate at a rate of 0.29 p.m. peak hour trips per home. This results in an initial SDC of \$1,380 per multi-family dwelling unit (\$4,757 X 0.29). The Board has further decreed under Res. 2013-020(4)(A)(1) that SDCs in Tetherow be charged at a 50% rate. The applicable SDC for the multi-family dwelling is \$690 (\$1,380/2). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

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

ON JULY 1, 2022, THE SDC RATE GOES UP TO \$5,080 PER P.M. PEAK HOUR TRIP AND THAT SDC AMOUNT WILL BE GOOD THROUGH JUNE 30, 2022.

The following agencies did not respond to the notice: Bend Fire Department, Bend Metro Parks and Recreation, Bend Planning Department, Bend Water Department, Deschutes County Assessor's Office, Deschutes County Environmental Soils Division, Deschutes County Road Department, Deschutes County Surveyor, Deschutes National Forest, and Water Master – District 11.

PUBLIC COMMENTS: The Planning Division mailed notice of the conditional use application to all property owners within 250 feet of the subject property on June 1, 2022. The applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on December 14, 2021. Staff received comments from two neighbors that raised concerns regarding drainage and flooding within the development. Those comments are included, in their entirety, in the record and are incorporated herein by reference.

STAFF COMMENT: The application was deemed incomplete and staff requested the applicant address the public concerns surrounding drainage and flooding within the Tetherow development. In response to the incomplete letter, the applicant provided materials from a licensed engineering firm that addressed the public concerns for this land use file. Staff reviewed the incomplete letter response and deemed the application complete.

III. **FINDINGS & CONCLUSIONS**

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.36, Limitations on Approvals

Section 22.36.040, Modification of Approval.

A. *An applicant may apply to modify an approval at any time after a period of six months has elapsed from the time a land use action approval has become final.*

FINDING: This standard is met because the CMP for Tetherow was approved on January 5, 2005, and the FMP was approved on September 29, 2005. These decisions became final shortly thereafter.

B. *Unless otherwise specified in a particular zoning ordinance provision, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.*

FINDING: The changes in circumstances supporting this modification request are different economic conditions and a changed marketplace for townhomes and single-family dwellings. A detailed description of these changes in circumstances is set out in the burden of proof for M-12-4 as follows:

The passage of more than 10 years from those initial studies, various socio-economic trends, various economic and world events since the initial approvals, including the severe economic recession from 2007-2011, have changed the marketplace and demand for various residential units.

...

The proposed change in the residential product mix is desirable, because the successful sale and development of the residential property is critical to funding and operating the resort's recreational amenities, and to the development of the associated resort overnight lodging. A lack of response to the market changes, could seriously inhibit the success of the resort, which would not benefit the applicant, nor the public.

Staff concurred with this assessment and made similar findings in approving MC 14-1, 247-15-000102-MC, and 247-19-000341-MC, which similarly adjusted the overall mix of single-family and multi-family dwellings within the Resort. The Applicant is similarly in a position of reacting to current market demand for single-family dwellings versus multi-family dwellings. The Applicant is specifically requesting to convert Lots 21, 29, 30, 34 and 35 from single-family to multi-family, and to convert Lots 10 and 11 from multi-family to single-family. This modification responds to the rapidly changing marketplace for residential units and the success of other multi-family products within Tetherow Resort.

This modification request is not being filed as a substitute for an appeal. It recognizes and reacts to changes in circumstances that were not present when the initial CMP and FMP approvals were granted almost 10 years ago – or even two (2) years ago – when the application for the Highlands Ridge was filed that established the initial allocation of residential units.

The proposed modification to multi-family is specific to five (5) lots, which comprise less than 0.5% of the total acreage of the Resort and less than 1% of the total residential structures approved in the Resort. The proposal allows for a limited amount of multi-family housing in lieu of the full allocation of single-family housing approved for the Subject Property. The existing CMP and FMP approvals allow for a mix of single-family and multi-family units at the Resort. Therefore, this modification request is not an application for a substantially new proposal.

This modification request will not have significant additional impacts on surrounding properties. There are no changes to the uses allowed or in the number of units allowed in either the Resort or Highlands Ridge. The modification will actually reduce the number of trips generated by the Resort by 0.95 total PM peak-hour trips as multi-family dwellings generate 0.19 trips/unit less than single-family units, as documented in the Highlands Ridge traffic report attached as **Exhibit 4** submitted as part of the Highlands Ridge subdivision application. Existing infrastructure was found to be sufficient to support the existing trip load in previous decisions.

C. *An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in DCC 22.36.040, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.*

FINDING: Staff finds this criterion presents a large number of requirements that staff addresses separately, for clarity.

What discreet aspects of the approval are proposed for modification?

The proposed modification is directed at the discrete issues of the mix of residential uses permitted at the Resort (specifically the mix within Highlands Ridge). The modification does not affect the scope and scale of the Resort or the mix of development areas and open space. It does not affect the recreational facilities that define and qualify the Resort as a destination resort. The previously supplied Highlands Ridge Traffic Report submitted as Exhibit 4 confirms that the project will not adversely impact roads and there are no differences in demands on other infrastructure between the townhomes and the single-family dwellings.

Is this a substantially new proposal?

The proposed modification to multi-family is specific to five (5) lots, which comprise less than 0.5% of the total acreage of the Resort and less than 1% of the total residential structures approved in the Resort. The proposal allows for a limited amount of multi-family housing in lieu of the full allocation of single-family housing approved for the Subject Property. The existing CMP and FMP approvals allow for a mix of single-family and multi-family units at the Resort. Therefore, this modification request is not an application for a substantially new proposal.

Are there significant impacts on surrounding properties?

Several comments submitted into the record discussed concerns surrounding draining and flooding issues with changing the lots from single to multi-family. The applicant has submitted a statement from an engineer stating this proposed change will not have an adverse impact on drainage and flooding for surrounding properties.

Is the proposal is a modification, as defined in DCC 22.36.040?

A modification is defined in DCC 22.36.040.

"Modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site layout (including but not limited to changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.

Staff finds the proposed changes fall within the definition of "Modification of application".

What criteria applicable to that particular aspect of the proposal?

Staff finds the criteria applicable to modification are those identified in this decision.

Is the proposal greater in scope than allowable as a modification?

Staff finds that proposed changes fall within the definition of "Modification of application" but do not exceed that definition in a way that would constitute a substantially new proposal.

D. An application for a modification shall be handled as a land use action.

FINDING: This application has been processed as a land use action in accordance with the applicable provisions of DCC Title 22.

Title 17 of The Deschutes County Code, Subdivisions

Chapter 17.20, Zero Lot Subdivision.

Section 17.20.010, Requirements.

In addition to the general provisions for subdivision and partitioning set forth in DCC Title 17, any application for a zero lot line subdivision or partition shall meet the following requirements:

A. The tentative plan shall indicate all lot divisions, including those along the common wall of duplex units.

FINDING: The tentative plan approved in 247-19-000339-TP showed all lot divisions, which are also shown on the submitted Site Plan, submitted as Exhibit 7.

B. Independent utility service shall be provided to each unit, including, but not limited to, water, electricity and natural gas, unless common utilities are approved by the affected utility agency and are adequately covered by easements.

FINDING: All of the proposed attached units will have independent utility services.

C. Prior to the granting of final approval for creation of a zero lot line subdivision or partition, the Planning Director shall require the applicant(s) to enter into a written agreement in a form approved by the County Legal Counsel that establishes the rights, responsibilities and liabilities of the parties with respect to maintenance and use of any common areas of the unit, such as, but not limited to, common walls, roofing, water pipes and electrical wiring. Such agreement shall be in a form suitable for recording, and shall be binding upon the heirs, executors, administrators and assigns of the parties.

FINDING: Staff includes this criterion as a condition of approval. This agreement shall be recorded prior to the issuance of further development permits on the zero lot line lots.

D. Each zero lot line subdivision or partition proposal shall receive site plan approval prior to submission of the final plat. Site plan approval shall be granted only upon a finding that the design, materials and colors proposed for each dwelling are harmonious and do not detract from the general appearance of the neighborhood.

FINDING: The Applicant is requesting to convert an existing subdivision into a partial zero-lot line subdivision and site plan approval for the proposed attached dwellings. As shown on the submitted Architectural Drawings attached as Exhibit 6, the plans include a design, materials, and colors for each proposed attached unit. Such designs, materials, and colors are harmonious and do not detract with the general appearance of Tetherow Resort because they are of a similar design, materials, and colors of existing development within Tetherow Resort.

Title 19, the "Zoning Ordinance" of the Bend Urban Area and of the land withdrawn from the City of Bend by the County by City Resolution 2459

Tetherow Conceptual Master Plan or "CMP" (CU-04-94) as modified in February 2005, and finalized under the Final Master Plan or "FMP" (M-05-2).

CMP#1/FMP#2. *All development in the resort shall require tentative plat approval through Title 17 of the County Code, the County Subdivision/Partition Ordinance, and/or Site Plan Review through Title 19 of the County Code, the Bend Urban Growth Boundary Ordinance.*

FINDING: The applicant requests site plan approval under Title 19 of the DCC to allow for multi-family housing within Highlands Ridge Phases 1 and 2, Development Tract A. This condition is met by the submittal of this application.

CMP#3/FMP#3. *As specified by the County Road Department:*

FINDING: The proposal has no impact on the design or location of roadways within Tetherow Resort.

CMP#6/FMP#4. *All portions of the proposed resort must be managed and operated in an integrated manner. Failure to comply with this standard would void resort approval.*

FINDING: The proposal is consistent with the location of the proposed uses as set forth in the CMP and FMP as proposed to be modified. The project is consistent with existing and proposed access points on adjoining Resort properties and ensures adequate circulation within Highlands Ridge and within the remainder of the Resort. Highlands Ridge will be subjected to the CCRs for Tetherow Resort and thus subject to a common governance structure. Accordingly, the proposal allows for management and operation of the Resort in an integrated manner.

CMP#7/FMP#5. *During all phases of the development, the developer and/or its successors in interest shall ensure that individually-owned residential units shall not exceed two and one half 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).*

FINDING: The required ratio of 2.5:1 individually-owned residential units to visitor-oriented lodging, and the availability of the visitor-oriented lodging for 38 weeks, is ensured through CMP, FMP, and TP conditions of approval. Continued compliance with these requirements is discussed in detail under findings for DCC 19.106.060(D)(2) below, which are incorporated herein by reference.

CMP #10/FMP #8. *The applicant and its successors shall guarantee that all open space used to meet the 50% open space requirement of Section 19.106.030(E) and 19.106.060(D). In addition, all trails currently depicted on the conceptual plan map as being "public trails" shall remain open and available to the public. ...*

FINDING: The proposal has no effect on the amount of open space, which was found to be sufficient in 247-19-000339-TP, the subdivision approval that created the Subject Property.

CMP #11/FMP #9. *The applicant and its successors in interest shall guarantee that all development would comply with the financial commitment and minimum development requirements set out in DCC 19.106.060(A). Guarantees shall be in the form satisfactory to the county to ensure that the development would be completed consistent with this approval, and may include bonds, certificates of participation, and deed restrictions to ensure compliance with open space and developed recreation standards. Failure to comply with these requirements would void the resort approval.*

FINDING: The various Tetherow entities have executed an Improvement Agreement with the County consistent with County policy to financially assure the resort obligations set out in DCC 19.106.06(A). The proposal has no impact on existing financial commitments or minimum development requirements set out in DCC 19.106.060(A).

FMP #10. *All single-family dwellings, multi-family units, commercial structures, and other resort facilities are exempted from the requirements of meeting the solar setback standards.*

FINDING: This exemption from the solar setback standards will apply to the proposed single- and multi-family dwellings in Highlands Ridge.

CMP#16/FMP#12. *All development within the proposed resort shall meet all fire protection requirements of the Bend Fire Department.*

FINDING: No comments were received in response to a request for comment sent to the Bend Fire Department. Staff finds that this condition is binding on the present application and includes it as a condition of approval.

CMP#17/FMP#13. *No development shall be allowed on slopes of 25% or more on the site.*

FINDING: 247-19-000339-TP found that the Subject Property does not contain slopes of more than 25 percent.

CMP#21/FMP#15. *Proposed drywells shall be approved by the Department of Environmental Quality (DEQ).*

FINDING: Drywells supporting the Subject Property were approved under 247-19-000339-TP and a condition of approval requiring compliance with this criterion was imposed, which will be a continuing obligation for the Subject Property.

CMP#22/FMP#16. *Building heights and setbacks shall conform to the limits set forth in this decision and shall be incorporated into the Design Guidelines for the resort.*

SINGLE-FAMILY RESIDENTIAL

A. *Height Regulations. No building or structure shall be hereinafter erected, enlarged, or structurally altered to exceed 35 feet in height, except within the height restriction area depicted on the attached Exhibit "C" where no buildings or structures in excess of 30 feet above existing grade shall be constructed.*

FINDING: The Subject Property is not located within the height restriction area. As shown on the submitted Architectural Plans attached as Exhibit 6, none of the proposed dwellings exceed 35 feet in height.

B. *Lot Requirements. The following lot requirements shall be observed.*

- 1.** *Lot Area. No lot area requirements apply. other than the overall density shall not exceed 1 dwelling unit per 4000 square feet of lot area.*
- 2.** *Lot Width. Every lot shall have a minimum average width at the building site of 45 feet.*
- 3.** *Frontage. Every lot shall have a minimum width at the street of 20 feet.*

FINDING: All of the single-family lots were found to be compliant with these standards in 247-19-000339-TP. Lot 36 (the only proposed single-family lot) is at least 4,000 square feet, 40 feet in average width, and has at least 25 feet of street frontage

- 4.** *Front Yard. The front yard shall be a minimum of ten feet.*
- 5.** *Side Yard. The side yard shall be a minimum of five feet.*
- 6.** *Rear Yard. The rear yard shall have a depth of not less than five feet, except the rear yard setback may be zero for properties adjoining a common area that is 5 feet or grater in depth.*
- 7.** *Lot Coverage. The maximum lot coverage by buildings and structures shall be 45% of the total lot area.*
- 8.** *All lot dimensional requirements may be waived for an approved zero lot line project.*

FINDING: The Site Plan submitted as Exhibit 7 depicts the applicable setbacks and demonstrates that these standards will be met. The Site Plan submitted as Exhibit 7 also shows that none of the proposed structures exceed the maximum 45% lot coverage.

MULTI-FAMILY RESIDENTIAL

A. *Height Regulations. No building or structure shall be hereinafter erected, enlarged, or structurally altered to exceed 50 feet in height, except within the height restriction area depicted on the attached Exhibit "C" where no buildings or structures in excess of 30 feet above existing grade shall be constructed.*

FINDING: The Subject Property is not located within the height restriction area. As shown on the submitted Architectural Plans attached as Exhibit 6, none of the proposed dwellings exceed 50 feet in height.

B. *Lot Requirements. The following lot requirements shall be observed.*

- 1.** *Lot Area. No lot area requirements apply. other than the overall density shall not exceed 1 dwelling unit per 2000 square feet of lot area.*
- 2.** *Lot Width. Every lot shall have a minimum average width at the building site of 25 feet.*
- 3.** *Frontage. Every lot shall have a minimum width at the street of 20 feet.*

FINDING: All of the multi-family lots were found to be compliant with these standards in 247-19-000339-TP. The single-family standards meet or exceed these multi-family standards, and thus the lots converted from single-family to multi-family meet or exceed these standards.

- 4.** *Front Yard. The front yard shall be a minimum of ten feet.*
- 5.** *Side Yard. The side yard shall be a minimum of five feet.*
- 6.** *Rear Yard. The rear yard shall have a depth of not less than five feet, except the rear yard setback may be zero for properties adjoining a common area that is 5 feet or greater in depth.*
- 7.** *Lot Coverage. The maximum lot coverage by buildings and structures shall be 50% of the total lot area.*
- 8.** *All lot dimensional requirements may be waived for an approved zero lot line project.*

FINDING: The Site Plan submitted as Exhibit 7 depicts the applicable setbacks and demonstrates that these standards will be met. All of the multi-family lots back up to common areas of at least 5 feet (5') in width. The Applicant is proposing a zero-lot line project (townhomes), and thus side yard setbacks for a side yard where a shared wall will be located should receive a waiver from the side yard standards pursuant to subsection 8. The Site Plan submitted as Exhibit 7 also shows that none of the proposed structures exceed the maximum 50% lot coverage.

Chapter 19.12, Urban Area Reserve Zone UAR 10

Section 19.12.030, Conditional Uses.

The following conditional uses may be permitted subject to a conditional use permit and the provisions of DCC 19.76 and 19.100.

...

O. *Destination resort, where mapped in the Bend Area General Plan destination resort map, subject to DCC 19.106.*

FINDING: The Subject Property is part of Tetherow Resort, which received conditional use approval as part of the CMP and FMP approval. It is mapped for a destination resort on the Bend Area General Plan Destination Resort Map. This application is thus subject to the provisions of DCC 19.76, Site Plan Review.

Section 19.12.040, Height Regulations.

No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height.

FINDING: The Dimensional Guidelines adopted as part of the CMP/FMP approval process govern the height of structures within the Resort. The Dimensional Guidelines provide for 35 feet for single-family and 50 feet for multi-family residential structures, except where special height restrictions apply. As addressed above, the Subject Property is not located within a special height restriction area, and none of the proposed multi-family structures exceed 50 feet in height and none of the single-family structures exceed 35 feet in height.

Section 119.12.050, Lot Requirements.

The following requirements shall be observed:

- A. *Lot Area. Each lot shall have a minimum area of 10 acres.***
- B. *Lot Width. Each lot shall have a minimum average width of 300 feet with a minimum street frontage of 150 feet.***
- C. *Front Yard. The front yard shall be a minimum of 50 feet from the existing street right of way line or the ultimate street right of way as adopted on the Comprehensive Plan or Official Map, except that any lot of record less than one acre in size lawfully created prior to (effect date of this title) shall have a minimum front yard of 30 feet.***
- D. *Side Yard. There shall be a minimum side yard of 10 feet.***
- E. *Rear Yard. There shall be a minimum rear yard of 50 feet.***
- F. *Solar Setback. The solar setback shall be as prescribed in DCC 19.88.210.***

FINDING: Lot size requirements are established by the CMP/FMP and are addressed herein.

Section 19.12.060, Off street Parking.

Off-street parking shall be provided as required in DCC 19.80.

FINDING: Off-street parking requirements in DCC 19.80 are addressed below.

Section 19.12.070, Other Required Conditions.

See DCC 19.88 applying to special uses where applicable.

FINDING: None of the standards in DCC 19.88 are applicable to this application.

Chapter 19.76, Site Plan Review

Section 19.76.020, Site Plan Requirements.

In all zones, except for a single-family, duplex or triplex unit on one lot, all new uses, buildings, outdoor storage or sales areas and parking lots or alterations thereof shall be subject to the provisions of DCC 19.76.020. Site plan approval shall not be required where a proposed alteration of an existing building does not exceed 25 percent of the size of the original structure unless the Planning Director finds the original structure or proposed alteration does not meet the requirements of DCC Title 19 or other ordinances of the County.

FINDING: Multi-family developments, which for purposes of the CMP/FMP includes townhomes, cottages, and cabins, are subject to site plan review under the conditions of the CMP/FMP. Site plan review is also required by DCC 19.12.030 as identified above.

Section 19.76.070, Site plan criteria.

Approval of a site plan shall be based on the following criteria:

A. *Safety and Privacy. Residential site plans shall be designed to provide a safe living environment while offering appropriate opportunities for privacy and transitions from public to private spaces.*

FINDING: The Applicant is proposing a residential site plan. Each structure would have its own driveway providing for adequate transition from public to private spaces and landscaping to afford privacy.

B. *Special Needs of Handicapped. When deemed appropriate, the site plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs, drop curbs and handicapped parking stalls.*

FINDING: Special needs of the disabled were considered in 247-19-000339-TP when the streets, sidewalks, and communal parking facilities were approved. Conformance with ADA standards for the structures is a technical review evaluated during building permit review.

C. *Preservation of Natural Landscape. The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve the applicant's functions. Preserved trees and shrubs shall be protected during construction.*

FINDING: The majority of the Subject Property is generally level, with a slight downward slope toward the east. Flat site conditions will reduce the need for grading and filling and thus preserve vegetation. The Subject Property lies within an area that was burned in the Awbrey Hall fire of 1990. The site is completely devoid of trees with the exception of a few smaller trees that naturally regenerated. Existing on-site vegetation includes manzanita, bitterbrush, sagebrush, and grasses, which will mostly be preserved within common areas. Natural vegetation on the individual lots would be removed and replaced with landscaping.

D. *Pedestrian and Vehicular Circulation and Parking. The location and number of points of access to the site, the interior circulation patterns, designs of parking areas and the separation between pedestrians and moving and parked vehicles shall be designed to promote safety and avoid congestion on adjacent streets.*

FINDING: The lots are accessed from existing internal private roadways that connect to Skyline Ranch Road and Meeks Trail. The existing private street system was approved under 247-19-000339-TP and will provide convenient access to each lot.

E. *Buffering and Screening. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires and the like), loading and parking and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts to the site and neighboring properties.*

FINDING: No areas, structures, or facilities for storage, machinery, or equipment are proposed. The proposed dwellings all feature garages to allow for screened storage of personal property.

F. *Utilities. All utility installations above ground, if such are allowed, shall be located so as to minimize adverse impacts on the site and neighboring properties.*

FINDING: With the exception of standard power transformers, pedestals, and similar franchise utility facilities/appurtenances, all utilities will be underground. Landscaping will be used to minimize adverse impacts from above-ground utility facilities.

G. *Public Facilities. The proposed use shall not be an undue burden on public facilities, such as the street, sewer or water system.*

FINDING: The burden of proof provides the following findings to address this criterion.

The Applicant entered into a License and Sewer and Water Agreement with the City of Bend. Pursuant to Condition of Approval #13 of the Phase 1 Tentative Plan approval, and 247-19-000339-TP, the Applicant constructed all sewer and water lines necessary to support the Subject Property to City of Bend standards.

Street improvements and traffic circulation patterns for the overall Resort were approved as part of the CMP/FMP decisions and within Highlands Ridge under 247-19-000339-TP. No additional road improvements are necessary or appropriate.

Staff agrees with the applicant's findings. Additionally, no required road improvements were identified by the Road Department or the Senior Transportation Planner. This criterion will be met.

Section 19.76.080, Required Minimum Standards.

A. *Minimum Landscaping Standards. All developments subject to site plan approval shall meet the following minimum standards for landscaping:*

...

FINDING: As noted previously (See (247-14-000141-TP, 247-14-000142-SP, 247-14-000143-MC, and 247-14-000196), the proposed multi-family development falls within the County Code's definitions of "single-family", "two-family", or "duplex dwelling" and not within the County's definition of "multi-family dwelling". The proposed development is only multi-family for purposes of the CMP/FMP. Accordingly, the minimum landscaping requirements are not applicable to this application even though the proposed dwellings constitute multi-family dwellings for purposes of the CMP/FMP. These criteria do not apply.

B. *Shared Areas. Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development as follows...*

FINDING: This proposal does not include any apartment residential development.

C. *Storage. Areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc.*

FINDING: The proposed dwellings feature garages, which will allow for the storage of bicycles, barbecues, luggage, outdoor furniture, etc.

D. *Drainage. Surface drainage shall be contained on site.*

FINDING: Adam Erlandson, PE, responded to this criterion as follows:

This memorandum is intended to provide a brief narrative of the designed and constructed infrastructure system at Tetherow Development Tract AB North (Highland Ridge Subdivision).

In accordance with the conditions of approval within the original subdivision approval, the stormwater infrastructure system for Highlands Ridge was designed and has been constructed in accordance with the Central Oregon Stormwater Manual and Deschutes County Road Department requirements.

The stormwater management system for the project, based on the above requirements, includes a network of catch basins to collect stormwater runoff generated from the project, including the forthcoming Phases 3 and 4. These catch basins are piped to sedimentation manholes and then to stormwater infiltration galleries (drywells) for retention and ultimate disposal. The drywells were performance tested during construction and observed to function as intended with the infrastructure system design.

Given the design of the stormwater system constructed for Highlands Ridge, and other stormwater systems within Tetherow, it is extremely unlikely that Highlands Ridge, contributed to any flooding or erosion issues within the Tetherow Cascades Vista subdivision, which does not abut Highlands Ridge.

It is also unlikely that the common stormwater infrastructure system within Highlands Ridge caused any flooding or erosion within the Tetherow Rim subdivision. Based on my observations, stormwater/erosion issues experienced within the Tetherow Rim subdivision appear to be from a combination of factors. These include the private drainage facilities within the Tetherow Rim Subdivision either being insufficient or not working properly and a lack of temporary erosion and sediment control measures being implemented during the course of private home construction on some of the lots with Highlands Ridge, that are north of Awbrey Hall Lane (Highlands Ridge, Phases 1 & 2).

As can be shown on the enclosed photo exhibit, stormwater origination within Highlands Ridge appears to come directly from some of the northerly lots and not from roadways or common areas within Highlands Ridge. While the owners/contractors of those private lots need to improve course of construction mitigation efforts, it should be noted that final site stabilization and drainage control measures on those lots should be permanently addressed and implemented on each lot, upon final home construction completion.

In contrast, course of construction mitigation measures have been employed on Development Tract A within Highlands Ridge (Tax Lot 181112CC03400). Moreover, this parcel generally slopes to the south. It is thus unlikely that Development Tract A contributed to any adjacent flooding issues.

Staff finds this criterion will be met.

E. *Bicycle Parking. The development shall provide the number and type of bicycle parking facility as required in DCC 19.80.080 and 19.80.090. The location and design of bicycle parking facilities shall be shown on the site plan.*

FINDING: DCC 19.80.080 and 19.80.090 do not require bicycle parking for residential development. Nonetheless, the proposed dwellings feature garages, which will allow for secure bicycle parking and storage.

F. *Internal Pedestrian Circulation. Internal pedestrian circulation shall be provided in new office parks and commercial developments through the clustering of buildings, construction of hard surface pedestrian walkway, and similar techniques.*

Walkways shall connect building entrances to one another and from building entrances to public street and existing or planned transit stops. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connection on adjacent properties planned or used for commercial, multifamily, institutional or park use.

FINDING: No office or commercial buildings are proposed at this time.

G. *Public Transit Orientation. New retail, office and institutional buildings on parcels within 600 feet of existing or planned transit routes shall provide preferential access to transit through the following measures:*

- 1. Orienting building entrances to a transit facility; or*
- 2. Locating buildings as close as possible to the transit route street.*

FINDING: This proposal does not include any new retail, office, or institutional buildings. This criterion does not apply.

Chapter 19.80, Off Street Parking and Loading

Section 19.80.020. Off-Street Loading.

FINDING: The proposed development is not commercial in nature. No truck loading spaces are required.

Section 19.80.030. Off-Street Parking.

Off-street parking space shall be provided and maintained as set forth in DCC 19.80.030 for all uses in all zones, except for the CB zone. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 19 is changed. Improved off-street parking shall mean paved with two inches of paving.

FINDING: All of the off-street parking areas will include at least two inches (2") of paving. A condition of approval has been imposed to ensure compliance.

Section 19.80.040. Number of Spaces Required.

Off-street parking shall be provided as follows:

A. Residential.

One, two and three-family dwellings: 2 spaces per dwelling unit.

FINDING: The Architectural Plans submitted as Exhibit 6 show that all of the proposed dwellings feature a garage with at least one (1) space, and the submitted Site Plan attached as Exhibit 7 shows that those lots with a single-car garage can either park within the driveway, within parking stalls located on Varner Way, or within the communal parking lot on Common Area AA of Highlands Ridge Phases 1 & 2.

Section 19.80.050. General Provisions-Off-Street Parking.

A. More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of the requirements of the several uses computed separately.

FINDING: Each proposed lot and tract will accommodate a single use. This criterion does not apply.

B. Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures or parcels are under separate ownership, the right to

joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

FINDING: All of the on-street and communal parking facilities are available to the lots within the Subject Property by virtue of the Subject Property's membership in the Tetherow Owners Association, which is memorialized in the recorded CCRs for Tetherow Resort.

C. *Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwellings. All other off-street parking shall be located on the lot with the use or, if not located on the same lot, shall be first approved as a conditional use. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the use. The burden of proving the existence of such off-premises parking arrangements rests upon the person who has the responsibility of providing parking.*

FINDING: The proposed residential lots all feature at least a one (1) car garage, with most featuring a two (2) car garage or a second on-site parking space. The Applicant previously modified the CMP/FMP approval to authorize on-street parking to satisfy parking requirements for dwellings and to allow for use of communal parking facilities as discussed in detail above. The proposed on-street parking spaces are located with 100 feet of all of the lots proposed to be supported by on-street parking spaces and are thus proximate and convenient. Staff notes the communal parking lot is not being used to meet required parking demand in this development.

D. *Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.*

FINDING: The applicant acknowledges this requirement and adds that the Resort Covenants, Conditions and Restrictions do not allow storage of inoperable vehicles or materials in required parking spaces. Staff includes a condition of approval to ensure compliance.

E. *Parking, Front Yard Unless otherwise provided, required parking and loading spaces for multifamily dwellings, commercial and industrial use shall not be located in a required front yard, but such space may be located within a required side or rear Yard*

FINDING: As discussed above, the subject dwellings are not multi-family dwellings for purposes of site plan criteria.

Section 19.80.060. Development and Maintenance Standards for Off-Street Parking Areas.

Every parcel of land hereafter used as a public or private area, including commercial parking lots, shall be developed as follows:

A. *An off-street parking area for more than five vehicles shall be effectively screened by a site-obscuring fence, hedge or planting on each side which adjoins a residential use*

or property situated in a residential zone or the premises of any school or like institution.

FINDING: No off-street parking areas for five (5) or more vehicles are proposed. This criterion is not applicable.

B. *Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in an R zone.*

FINDING: Staff finds that all adjoining property is in the UAR10 zone, which is an "R" zone. Staff includes a condition of approval to ensure compliance.

C. *Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street or right of way other than an alley.*

FINDING: Under 247-14-0000431-MC, the Applicant modified the Vehicle and Pedestrian Access Plan ("VPAP") for the Subject Property to allow groups of more than two (2) parking spaces to be located such that their use will require backing movements or other maneuvering within a street or right of way. In any event, the proposed dwellings are not subject to this criterion per the exception for single-family and duplex dwellings. This criterion does not apply.

D. *Areas used for standing and maneuvering of vehicles shall be paved surfaces maintained adequately for all weather use and so drained as to contain any flow of water on the site.*

FINDING: All driveways will be paved to allow for all weather use. Staff finds this criterion will be met.

E. *Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.*

FINDING: The proposal is for residential use. This criterion is not applicable.

F. *Access aisles shall be of sufficient width for all vehicular turning and maneuvering.*

FINDING: No access aisles are proposed. This criterion does not apply.

G. *Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and*

defined throughout by the use of rails, fences, walls or other barriers or markers. Service drives to drive-in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.

FINDING: No service drives are proposed. This criterion does not apply.

H. *Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points 30 feet from their intersection.*

FINDING: No service drives are proposed. This criterion does not apply.

I. *Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail so placed to prevent a motor vehicle from extending over an adjacent property line, pedestrian walkway, bikeway, or a street right-of-way.*

FINDING: No parking is proposed adjacent to a property boundary.

Section 19.80.070, Off-Street Parking Lot Design.

All off-street parking lots shall be designed in accordance with county standards for stalls and aisles set forth in the following drawings and table:

SEE TABLE AT END OF CHAPTER 19.80

- A.** *For one row of stalls, use C plus D as minimum bay width.*
- B.** *Public alley width may be included as part of dimension D, but all parking stalls must be on private property, off the public right of way.*
- C.** *For estimating available parking area, use 300-325 sq. ft. per vehicle for stall, aisle and access areas.*
- D.** *For narrow lots, equivalent size stalls and aisles may be approved by the Public Works Director.*
- E.** *For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls not exceed 30 percent of the total required stalls. A compact stall shall be eight feet in width and 17 feet in length with appropriate aisle width.*

FINDING: No off-street parking lot is proposed.

Section 19.80.080. Required Bicycle Parking.

A. *On-site bicycle parking shall be provided as listed below. Fractional spaces shall be rounded to the next highest number. Bicycle parking for multiple uses or large commercial developments may be provided in one or more locations.*

FINDING: The table provided in the DCC does not prescribe bicycle parking requirements for the proposed development. Prior decisions have not imposed bicycle parking requirements for similar development. However, bicycle parking can be accommodated within the garages of the individual residential units.

Chapter 19.106, Destination Resorts

Section 19.106.030, Uses in Destination Resorts..

The following standards shall govern consideration of destination resorts:

...

C. Residential accommodations:
1. Single-family dwellings;

FINDING: The Applicant seeks site plan approval for residential accommodations. Such uses are permitted in an approved destination resort. Tetherow Resort received final master plan approval as a destination resort in M-05-2.

Section 19.106.040, Application Submission.

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

...

C. Site plan review. Each element or development phase of the destination resort must receive additional site plan review and approval pursuant to DCC 19.76 or subdivision review and approval pursuant to 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 19.106 and the FMP.

FINDING: The Applicant satisfies this criterion because it has applied for subdivision (prior approval) and site plan (current approval) review for the proposed development. The criteria for site plans were addressed above. The criteria for DCC 19.106 are addressed in further detail below.

Section 19.106.060. 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 lodging;***

FINDING: The current status of OLUs at the Resort is discussed above. Two hundred and thirty-eight OLUs have been constructed or are financially assured to date.

2. *Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide eating for at least 100 persons;*

FINDING: These requirements have been met through prior approvals and constructions. No changes are proposed to the previously approved and constructed visitor-oriented eating establishments and meeting rooms.

3. *At least \$7 million shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. The spending minimums provided for are stated in 1993 dollars; and*

FINDING: No reduction in the amount spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations is proposed. This criterion has already been met.

4. *The facilities and accommodations required by this DCC 19.106.060 must be physically provided or financially assured pursuant to DCC 19.106.110 prior to closure of sales, rental or lease of any residential dwellings or lots.*

FINDING: For an OLU to count toward the 2.5:1 required ratio, it must be physically provided or financially assured, in addition to meeting other requirements described in detail below. As discussed above, 238 OLUs are to be constructed or financially assured.

- 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.*

FINDING: No changes are proposed to the previously approved contiguous acreage of the Resort. This criterion has been met.

- C. *All destination resorts shall have direct access onto a state, county, or city arterial or collector roadway, as designated by the Bend Urban Area General Plan.*

FINDING: No changes are proposed to the previously approved accesses for the Resort. This criterion has been met.

- 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 19.76.080 shall not be considered open space; and*

FINDING: Currently, more than 51% of the total acreage of the Resort has been dedicated to open space in compliance with this criterion as determined in 247-19-000339-TP. This proposal does not increase or reduce the acreage dedicated to open space.

2. *Individually-owned residential units that do not meet the definition of overnight lodging in DCC 19.04.040 shall not exceed two and one-half such units for each unit of visitor-oriented overnight lodging constructed or financially assured within the resort.*

FINDING: The current status of individually-owned residential units and completed/financially-assured OLUs is summarized in the findings above. The Applicant's proposal will not increase the ratio of OLUs to residential lots beyond the 2.5:1 ratio as a sufficient number of OLUs have been constructed or are financially assured.

3. *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 a central reservation system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.*

FINDING: Existing individually-owned OLUs are subject to condition of approval agreements that ensure that such OLUs relied upon for meeting ratio requirements are available for overnight rental use by the general public for at least 38 weeks per calendar year through a central reservation system operated by the Resort or by a real estate property manager, as defined in ORS 696.010.

E. Phasing. *A destination resort authorized pursuant to DCC 19.106.060 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 19.106 and Goal 8;*
2. *The first phase and each subsequent phase of the destination resort shall cumulatively meet the minimum requirements of DCC 19.106.060 and DCC 19.76.070, and;*
3. *Each phase may include two or more distinct non-contiguous areas within the destination resort.*

FINDING: No resort phasing is included in this proposal.

F. 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 19.88.210 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 Bend Urban Area General Plan relating to solar access, fire protection, vehicle*

access, and to protect resources identified by LCDC Goal 5 which are identified in the Bend Urban Area General Plan. At a minimum, a 100 foot setback shall be maintained from all streams and rivers. No lot for a single-family residence shall exceed an overall project average of 22,000 square feet in size.

FINDING: Dimensional standards are discussed in detail above under the finding for "CMP #22/FMP #16" and incorporated here by reference.

2. *Exterior setbacks and buffers.*

- a. *A destination resort shall provide for the establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and where appropriate, fences, berms, landscaped areas, and other similar types of buffers.***
- b. *Exterior setbacks shall also be provided to ensure that improvements and activities are located to minimize adverse effects of the resort on uses on surrounding lands.***

FINDING: This application does not impact exterior resort setbacks and buffers, as the subject property is located internal to the resort.

G. *Floodplain requirements. The Flood Plain Zone (FP) requirements of DCC 19.72 shall apply to all developed portions of a destination resort in an FP Zone in addition to any applicable criteria of DCC 19.106. Except for flood plain areas which have been granted an exception to LCDC goals 3 and 4, Flood Plain 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. *Open space requirements.***

A conservation easement as described in DCC Title 19 shall be conveyed to the County for all areas within a flood plain which are part of a destination resort.

FINDING: The subject property does not include any areas zoned Flood Plain.

H. *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 19.*

FINDING: No excavation, grading or fill and removal within the bed and banks of a stream or river or in a wetland are included in this proposal.

I. *Time share units not included in the overnight lodging calculations shall be subject to approval under the conditional use criteria set forth in DCC 19.100. 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 19.100.

FINDING: No time share units are included in this proposal.

- J. *The overnight lodging criteria shall be met, including the 150-unit minimum and the 2-1/2 to 1 ratio set forth in DCC 19.106.060(D)(2).*
 1. *Failure of the approved destination resort to comply with the requirements in DCC 19.106.060(J)(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.*

FINDING: As noted previously, the Resort continues to meet this standard.

2. *Each resort shall compile, and maintain, in perpetuity, a list of all overnight lodging units.*
...

FINDING: This proposal does not change the previously approved Resort reporting requirements.

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 19.106;*
 - 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).*

FINDING: This proposal does not change the previously approved Resort reporting requirements.

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.*

FINDING: This proposal does not change the previously approved Resort reservation requirements.

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 person or entity responsible for maintaining the registry described in DCC 19.106.060(J)(2).*

FINDING: This decision does not change requirements established under 247-14-000431-MC for this criterion.

6. *Before approval of each final plat, all the following shall be provided:*
 - a. *Documentation demonstrating compliance with the 2-1/2 to 1 ratio as defined in DCC 19.106.060(D)(2);*

FINDING: As noted above, this criterion continues to be met.

- b. *Documentation on all individually-owned residential units counted as overnight lodging, including all of the following:*
 - i. *Deed restrictions, that may be in the form of, but is not limited to, conditions of approval agreements, 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 service operated by the resort or by a real estate property manager, as defined in ORS 696.010;*
 - a. *A modification of approval application approval shall be required to remove the overnight lodging unit designation.*
 - b. *The modification of approval application approval must be obtained prior to County releasing any deed restrictions requiring minimum rental availability for an individually-owned residential unit counted as overnight lodging.*
 - ii. *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 service operated by the resort or by a real estate property manager, as defined in ORS 696.010;*

- iii. *A provision in the resort CC&R's that all property owners within the resort recognize that failure to meet the conditions in DCC 19.106.060(J)(6)(b)(ii) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County;*
- iv. *Inclusion of language in any rental management contract between the owner of an individually-owned residential unit designated as an overnight lodging unit and any central reservation service or real estate property manager requiring that such unit be available for rental at least 38 weeks each year through a central reservation 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 19.106.060(J)(6)(b)(iv) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County.*

FINDING: As noted previously, the Resort continues to meet this standard.

Section 19.106.070. 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 19.04.040.*

FINDING: Staff finds the subject applications support the Resort's continued compliance with the destination resort definition under DCC 19.04.040.

- B. *All standards established by DCC 19.106.060 are or will be met.*

FINDING: Findings of compliance with DCC 19.106.060 are addressed in this decision.

- 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 19.106;*
- 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, and;*
- 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.*

FINDING: The economic analysis was approved as part of the initial CMP approval. This proposal does not affect the prior findings of fact made in the CMP and FMP for this approval criterion.

D. *The destination resort incorporates design components, setbacks, and buffers to protect designated wildlife areas.*

FINDING: The proposal does not reduce or otherwise affect the buffers already approved under the existing CMP and FMP approvals.

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.*

FINDING: The existing CMP and FMP approvals identify no important natural features on the subject property.

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.*

FINDING: The proposal does not reduce the buffers already approved under the existing CMP and FMP approvals. The subject property is insulated from any forest practices occurring on the lands west of Tetherow by the intervening Tetherow open space tracts and development lots.

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 OAR 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.

FINDING: The proposed project will not adversely impact traffic at the Resort, as confirmed by the comments provided by the Deschutes County Transportation Planner.

H. The development will not create the potential for natural hazards identified in the Bend Urban Area General 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.

FINDING: This proposal does not affect the buffers between adjacent wildlands and the Resort. In addition, this proposal does not change the Firewise development standards adopted as part of the FMP approval. Per the Grading and Drainage Plan, no residential or commercial structures will be constructed on slopes that meet or exceed 25 percent.

I. Adequate public safety protection will be available through existing fire districts or will be provided on-site 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 or contract with or annex to the existing district. Adequate public facilities to provide for necessary safety services such as police and fire will be available to serve the proposed development.

FINDING: Adequate public facilities to provide for necessary safety services are available to serve the proposed development. The City of Bend will continue to provide sewer and water service. Fire protection will continue to be provided by the Bend Fire Department. Notice of this application was provided to the City of Bend, Deschutes County Road Department, and the Deschutes County Transportation Planner. No infrastructure deficiencies were identified.

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 Chapter 468B.

FINDING: No natural drainages exist on-site. The subdivision and parking lot include drywells, catch basins, and vegetated swales to address surface water drainage. The Tentative Plan for the subdivision included a condition of approval requiring the applicant to provide certification by a licensed professional engineer that drainage facilities have been designed and constructed in

accordance with the current Central Oregon Stormwater Manual to receive and/or transport at least the design storm (as defined in the current Central Oregon Stormwater Manual) for all surface drainage water, including stormwater coming to and/or passing through the development. This condition was met prior to the platting of the subdivision.

An erosion control plan compliant with all standards of ORS Chapter 468B was approved at the time of CMP approval.

K. *Adequate water will be available for all proposed uses at the destination resort, based upon the water study, a water service agreement with the city of Bend or a proposed water conservation plan as required by DCC 19.106.050. 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 identified in the water plan 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.*

FINDING: This proposal does not materially affect the previous determination of compliance with this criterion. Water service is provided by the City of Bend. The City of Bend did not identify any adverse impacts to water resources or the provision of water to the Resort.

L. *Unless a sewer service agreement exists, the waste water 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 waste water 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 19.106.*

FINDING: This proposal does not materially affect the previous determination of compliance with this criterion. Sewer service is provided by the City of Bend. The City of Bend did not identify any adverse impacts to the provision of sewer service to the Resort.

M. *The resort will mitigate any demands it creates on publicly owned recreational facilities on public lands in the surrounding area.*

FINDING: This proposal does not materially affect the previous determination of compliance with this criterion.

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.

FINDING: The subject tract is buffered from surrounding residential development to the north, east and south of Tetherow by open space lands and development lots surrounding the subject property, and differences in elevation (with respect to lands to the south). Accordingly, the proposal will have no significant impacts on such properties.

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, or by municipal sewer and water as allowed by the Bend Urban Area General Plan.*

FINDING: Water and sewer utilities are provided to the resort by the City of Bend. The City of Bend did not identify any adverse impacts to the provision of sewer or water service 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.*

FINDING: Staff finds that this proposal will result in no new off-site impacts that substantially limit, impair or prevent permitted or conditional uses of surrounding properties, as discussed in subsection (N), above.

Q. *The commercial uses developed as part of the resort will be contained within the project and not oriented to public highways adjacent to the property. The commercial uses permitted in the destination resort will be limited in type and levels of use necessary to meet 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 resorts, 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.*

FINDING: No commercial uses are included in this proposal. No changes to previously approved commercial uses are included in this proposal.

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.*

FINDING: The use of the CC&Rs, as contemplated in the CMP and FMP for transfer of such areas to a homeowner's association, where applicable, would not change under this proposal.

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 19.*

FINDING: No temporary structures are included in this proposal.

T. *The open space management plan is sufficient to protect in perpetuity identified open space values.*

FINDING: The Resort will continue to meet the minimum 50 percent open space requirement.

Section 19.106.080. 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 19.106.080, means an alteration in the type, scale, location, phasing or other characteristic of the proposed development such that findings of fact on which the original approval was based would be materially affected.

FINDING: The proposed modification is insubstantial. The modification does not affect either the scope or scale of the Resort, or the mix of development areas. It does not significantly affect any of the utility or road facilities necessary to serve Tetherow. Accordingly, the proposed modification does not materially affect any of the findings of fact in the original approval.

Section 19.106.110. 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.*

FINDING: The Applicant has constructed all streets, utilities, and recreational facilities required to support the proposed dwellings under 247-19-000339-TP. Tetherow Resort owners have presently constructed or financially guaranteed 238 OLUs. The Resort is already subject to agreements with the City of Bend for water and sewer. Will-serve letters for power and gas were included in the record for 247-19-000339-TP.

B. *Financial assurance or bonding to assure completion of streets and utilities, developed recreational facilities and visitor-oriented accommodations in the FMP*

shall be required pursuant to the security requirements for site plan review and subdivision review established by the Deschutes County Code.

FINDING: The Applicant has constructed all streets, utilities, and recreational facilities required to support the proposed dwellings under 247-19-000339-TP. Tetherow Resort owners have presently constructed or financially guaranteed 238 OLUs. The Resort is already subject to agreements with the City of Bend for water and sewer. Will-serve letters for power and gas were included in the record for 247-19-000339-TP.

SYSTEM DEVELOPMENT CHARGE

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,080 per p.m. peak hour trip. County staff has determined a local trip rate of 0.81 p.m. peak hour trips per single-family dwelling unit; therefore the applicable SDC is \$4,115 (\$5,080 X 0.81). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final. The SDC applies to the new dwellings.

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

IV. CONCLUSION

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

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

V. DECISION

APPROVAL, subject to the following conditions of approval.

VI. CONDITIONS OF APPROVAL

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The applicant shall obtain any necessary permits from the Deschutes County Building Division and Environmental Soils Division.
- C.** In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- D.** **On the zero lot line lots,** the applicant(s) shall enter into a written agreement in a form approved by the County Legal Counsel that establishes the rights, responsibilities and liabilities of the parties with respect to maintenance and use of any common areas of the unit, such as, but not limited to, common walls, roofing, water pipes and electrical wiring. Such agreement shall be in a form suitable for recording, and shall be binding upon the heirs, executors, administrators and assigns of the parties. This agreement shall be recorded prior to the issuance of further development permits on the zero lot line lots.
- E.** All of the off-street parking areas shall include at least two inches (2') of paving.
- F.** Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
- G.** Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property.
- H.** Except as modified herein all requirements and conditions of prior approvals, including 247-19-000339-TP, 247-19-000340-LL, 247-19-000341-MC, 247-19-000342-SP, 247-20-000883-MC, 884-TU, and 885-SP remain in effect. The specific prior conditions referenced in this decision are reiterated for easy reference:
 - 1.** All development within the proposed resort shall meet all fire protection requirements of the Bend Fire Department.
 - 2.** Proposed drywells shall be approved by the Department of Environmental Quality (DEQ).

VII. DURATION OF APPROVAL, NOTICE, AND APPEALS

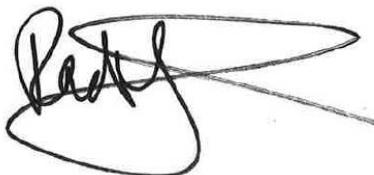
The applicant shall initiate the use for the proposed development within two (2) years of the date this decision becomes final, or obtain approval of an extension under Title 22 of the County Code, or this approval shall be void.

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$250.00 and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

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

DESCHUTES COUNTY PLANNING DIVISION



Written by: Rachel Vickers, Associate Planner



Reviewed by: Will Groves, Planning Manager

Attachment(s): Site Plan

Lot	Lot Area	%	Type	Plan Name	Plan SF	Footprint	Cov (Perchel)	Area Covered	% Actual	Total SF
21	4072	50.0%	Townhome	Ponderosa 2-Car	2855	1,978	157	1,203	48.9%	2,792
22	3,113	50.0%	Townhome	Cottage-A	1,652	1,278	25	1,227	48.2%	1,677
23	1,557	50.0%	Townhome	Pines 2-Car	1,653	1,278	25	1,227	48.2%	1,644
24	2,854	50.0%	Townhome	Cottage-B	1,659	1,278	25	1,220	48.3%	1,655
25	2,785	50.0%	Townhome	Cottage-C	1,645	1,278	25	1,222	48.3%	1,673
26	2,850	50.0%	Townhome	Cottage-D	1,645	1,278	25	1,220	48.3%	1,644
27	2,802	50.0%	Townhome	Cottage-E	1,645	1,278	25	1,201	38.6%	1,625
28	3,091	50.0%	Townhome	Cottage-F	1,649	1,281	26	1,407	50.0%	1,695
29	4829	45.0%	Townhome	Pines 2-Car	2,219	1,433	26	1,407	45.5%	1,125
30	4,105	45.0%	Townhome	Pines 2-Car	2,219	1,433	26	1,722	35.7%	2,508
31	4,095	45.0%	Townhome	Pines 2-Car	2,219	1,433	26	1,722	41.1%	2,508
32	3,232	50.0%	Townhome	Cottage-B	1,647	1,246	26	1,372	42.2%	1,073
33	2,968	50.0%	Townhome	Cottage-B	1,647	1,246	26	1,372	42.2%	1,073
34	1,768	50.0%	Townhome	Pines 2-Car	2,219	1,433	26	1,612	45.6%	2,398
35	3,516	50.0%	Townhome	Ponderosa 2-Car	2,635	1,970	157	2,127	45.4%	2,792
36	4,680	50.0%	Townhome	S-F-Deluxe	1,647	1,243	26	1,568	37.3%	1,234
37	3,656	50.0%	Townhome	Pines 2-Car	2,219	1,433	26	1,459	38.9%	2,245
38	2,939	50.0%	Townhome	Cottage-A	1,649	1,281	26	1,459	44.3%	1,125
39	2,933	50.0%	Townhome	Cottage-A	1,649	1,281	26	1,407	48.0%	1,125
40	1,467	50.0%	Townhome	Cottage-A	1,649	1,281	26	1,407	48.0%	1,125
41	4,200	50.0%	Townhome	Cottage-A	1,649	1,281	26	1,407	48.0%	1,125
42	2,932	50.0%	Townhome	Cottage-A	1,649	1,281	26	1,407	48.0%	1,125
Total	60,346				31,903	22,903	3,190	31,881	44.4%	37,903

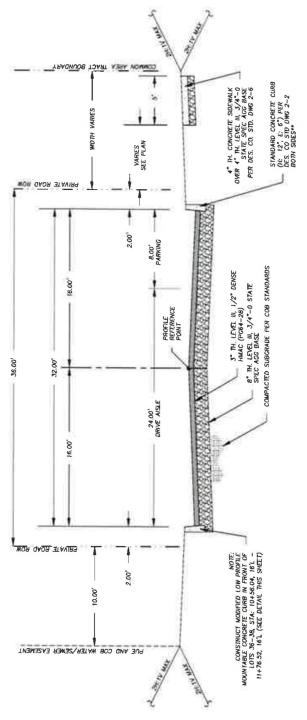
VERSION 1



Lot	Lot Area	%	Area Allowed	Type	Plan Name	Plan SF	Footprint	Cov Porch(s)	Area Covered	% Actual	Total SF	
11	8772	50.0%	2166	Townhome	Pinetree 2-Car	2075	1970	2127	48.6%	2792		
22	2753	50.0%	1322	Townhome	Cedar 2-Car	2052	1978	48	11.0%	49.75		
23	3153	50.0%	1552	Townhome	Cedar 2-Car	1989	1989	48	11.0%	56.85		
24	2584	50.0%	1232	Townhome	Cedar 2-Car	1954	1230	48	49.6%	14.4		
25	2785	50.0%	1322	Townhome	Cedar 2-Car	1947	1346	48	13.7%	49.85	1035	
26	2850	50.0%	1425	Townhome	Cedar 2-Car	1933	1089	48	13.7%	49.3%	1073	
27	2802	50.0%	1401	Townhome	Cedar 2-Car	1089	1381	26	11.0%	38.65	1441	
28	3051	50.0%	1546	Townhome	Pinetree 2-Car	2219	1483	289	14.07	50.0%	1125	
29	4829	45.0%	2179	Townhome	Pinetree 2-Car	2219	1483	289	17.22	35.7%	2508	
30	4105	45.0%	1847	Townhome	Pinetree 2-Car	2219	1483	289	41.5%	41.5%	2508	
31	4095	45.0%	1843	Townhome	Pinetree 2-Car	2219	1483	289	17.22	42.1%	2508	
32	3232	50.0%	1626	Townhome	Cottage 1-Car	1047	1446	26	13.72	42.1%	1073	
33	2988	50.0%	1484	Townhome	Cottage 1-Car	2219	1433	179	16.12	46.2%	1073	
34	3536	50.0%	1768	Townhome	Pinetree 2-Car	2655	1970	157	17.22	45.4%	2398	
35	4680	50.0%	2340	Townhome	Pinetree 2-Car	2655	1970	157	41.05	41.05	2394	
36	4220	45.0%	1850	Townhome	Pinetree 2-Car	2219	1483	26	14.89	39.5%	2245	
37	3856	50.0%	1828	Townhome	Pinetree 2-Car	2219	1483	26	44.59	44.59	2245	
38	3939	50.0%	1847	Townhome	Pinetree 2-Car	2219	1483	26	14.87	45.9%	1125	
39	40	3939	50.0%	1450	Townhome	Pinetree 2-Car	2219	1451	16	14.87	30.05	1125
40	2940	50.0%	1470	Townhome	Pinetree 2-Car	2219	1451	16	14.87	30.05	1125	
41	42	2932	50.0%	1466	Townhome	Pinetree 2-Car	2219	1451	16	14.87	30.05	1125
Total									33265	45.0%	37939	



VERSION 2



VARNER WAY - TYPICAL SECTION

SETBACKS: S.R.

LOT COVERAGE (COUNTY): 45%

SEABACKS: M.R.

LOT COVERAGE (COUNTY): 50%

EASEMENT - ADDITIONAL: P.L.

EASEMENT - WATER AND/ OR SEWER EASEMENT

BUILDING SETBACK (AS RECD):

9 x 20 PARKING SPACE (AS RECD)		
COTTAGE	1,047 SF	2 BED 2 BATH
CEDAR	1,369 SF	2 BED 2 BATH
PINES	2,219 SF	3 BED 2.5 BATH
PONDEROSA	2,636 SF	4 BED 3.5 BATH
MANZANITA	1,652 SF	2 BED 2.5 BATH
LARCH	1,704 SF	3 BED 2.5 BATH