



NOTICE OF DECISION

The Deschutes County Planning Division has approved the land use application(s) described below:

FILE NUMBER: 247-21-000637-TP

**SUBJECT PROPERTY/
OWNER:**

Mailing Name: CENTRAL LAND & CATTLE COMPANY LLC
Map and Taxlot: 1512000007800
Account: 124948
Situs Address: 67555 CLINE FALLS RD, REDMOND, OR 9775

APPLICANTS: Central Land and Cattle Company, LLC
Kameron DeLashmutt

REQUEST: The applicant is seeking tentative plan approval for a portion of Phase A (A-2) of the Thornburgh Destination Resort. The tentative plan ("Tentative Plan") includes 108 single-family residential dwelling lots. The Tentative Plan proposes to plat the subdivision in four phases.

STAFF CONTACT: Angie Brewer, Senior Planner
Email: Angie.Brewer@deschutes.org
Telephone: (541) 385-1704

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6

Title 17 of The Deschutes County Code, Subdivisions

Chapter 17.12, Administration and Enforcement

Chapter 17.16, Approval of Subdivision Tentative Plans.

Chapter 17.24, Final Plat.

Chapter 17.36, Design Standards.

Chapter 17.44, Park Development.

Chapter 17.48, Design and Construction Specifications.

Title 18 of the Deschutes County Code, the County Zoning Ordinance:

Chapter 18.04, Definitions

Chapter 18.113, Destination Resorts Zone

Title 22, Deschutes County Development Procedures Ordinance

DECISION: Staff finds that the application meets applicable criteria, and approval is being granted subject to the following conditions:

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 subdivision plat shall substantially conform to the provisions of the tentative plan for the subdivision, as approved.
- C.** Grading of building sites shall conform to the following standards, unless physical conditions demonstrate the property of other standards:
 - 1. Cut slope ratios shall not exceed one foot vertically to one and one half feet horizontally.
 - 2. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.
 - 3. The composition of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.
 - 4. When filling or grading is contemplated by the subdivider, s/he shall submit plans showing existing and finished grades for the approval of the Community Development Director. In reviewing these plans, the Community Development Director shall consider the need for drainage and effect of filling on adjacent property. Grading shall be finished in such a manner as not to create steep banks or unsightly areas to adjacent property.
- D.** All exterior lighting must comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the DCC.
- E.** Where construction disturbs native vegetation in open space areas that are to be retained in substantially natural condition, Applicant shall restore the native vegetation in conformance with the Wildlife Mitigation Plan.
- F.** As identified in the CC&Rs required by the FMP, private roadways must be maintained by the Thornburgh Resort Owners Association or a sub-association formed for a particular element of the resort or this tentative plan.
- G.** The first 50 OLU's must be constructed prior to the closure of sales of individual lots or units.

PRIOR TO FINAL PLAT APPROVAL

- H.** The owner shall submit:

1. A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat; or
 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county.
- I.** The owner shall submit:
1. A certification by a city-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat; or
 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary.
- J.** Water and sewer lines shall be constructed to County and City standards and specifications. Required water mains and service lines shall be installed prior to the curbing and paving of new streets in all new subdivisions.
- K.** The required water system shall be constructed and operational, with lines extended to the lot line of each and every lot depicted in the proposed subdivision.
- L.** The owner shall submit correspondence from the County Surveyor approving the subdivision name. County Surveyor signature on the plat shall also demonstrate compliance.
- M.** Owner shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, owner shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- N.** Street names and numbers shall conform to the established pattern in the County and shall require approval from the County Property Address Coordinator.

- O.** All roads shall be named in conformance with the provisions of the Deschutes County uniform road naming system set forth in DCC Title 16.
- P.** The following minimum road standards shall apply for private roads:
1. The minimum paved roadway width shall be 20 feet in planned unit developments and cluster developments with two foot wide gravel shoulders;
 2. Minimum radius of curvature, 50 feet;
 3. Maximum grade, 12 percent;
 - a. Table A of DCC 17.48 allows for steeper gradients.
 4. At least one road name sign will be provided at each intersection for each road;
 5. A method for continuing road maintenance acceptable to the County;
 6. Private road systems shall include provisions for bicycle and pedestrian traffic.
 - a. Shoulder bikeways shall be a minimum of four feet wide, paved and striped, with no on street parking allowed within the bikeway, and when private roads are developed to a width of less than 28 feet, bike paths constructed to County standards shall be required.
- Q.** The developer will design and construct the road system in accordance with DCC 17. Road improvement plans shall be approved by the Road Department prior to construction.
- R.** Prior to final plat approval by Road Department: Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
 - The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).
 - Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
 - Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

- S. Fire apparatus access needs identified by Redmond Fire & Rescue's July 9, 2021 letter shall be addressed on the plat prior to approval. Dead ends and stub streets shall be finished as paved cul-de-sacs.
- T. The owner shall provide a certification by a licensed professional engineer that the drainage facilities have been designed and constructed in accordance with the current Central Oregon Stormwater Manual (COSM) to receive and/or transport at least the design storm for all surface drainage water including stormwater coming to and/or passing through the development.
 1. The drainage facilities shall be designed for maximum allowable development.
- U. Noncurbed Sections.
 1. Road culverts shall be concrete or metal with a minimum design life of 50 years.
 2. All cross culverts shall be 18 inches in diameter or larger.
 3. Culverts shall be placed in natural drainage areas and shall provide positive drainage.

PRIOR TO, OR CONCURRENT WITH, FINAL PLAT RECORDING

- V. Codes, Covenants and Restrictions (CC&Rs) required by the CMP/FMP must be recorded concurrently with the recording of the final plat.
- W. The final plat for each phase shall be filed in accordance with DCC 17.24.020 through 17.24.110.
- X. The subdivision plat (file no. 247-21-000637-TP) shall be recorded.

PRIOR TO ISSUANCE OF BUILDING PERMITS

- Y. The owner shall secure confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted July 9, 2021 comment letter have been met.

PRIOR TO CONSTRUCTION OF ROAD IMPROVEMENTS

- Z. Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and the approved master plan

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.

This Notice was mailed pursuant to Deschutes County Code Chapter 22.24.

THORNBURGH RESORT PHASE A-2 TENTATIVE PLAN

DESCHUTES COUNTY, OREGON
LOCATED IN SECTIONS 29 AND 30
TOWNSHIP 15 SOUTH, RANGE 12 EAST
WILLAMETTE MERIDIAN

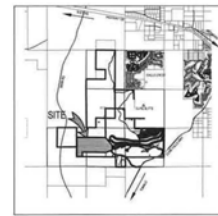
SHEET NUMBER	SHEET TITLE
TP1.1	COVER SHEET
TP1.2	TYPICAL SECTIONS
TP2.1	EXISTING CONDITIONS
TP2.2	ROCK OUTCROPPINGS
TP3.2	ROADS AND LOTS
TP3.3	ROADS AND LOTS
TP3.4	OPEN SPACE
TP3.5	PHASING PLAN
TP4.1	SEDIMENTATION & EROSION CONTROL PLAN
TP4.2	SEDIMENTATION & EROSION CONTROL PLAN
TP5.1	DRAINAGE PLAN
TP5.2	UTILITY PLAN

DEVELOPMENT DATA:

APPLICANT:	CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479	TOTAL NUMBER OF SINGLE FAMILY LOTS:	108
OWNER:	CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANYON REDMOND, OR 97756 541-350-8479	PREVIOUS OPEN SPACE (PHASE A-1):	341± ACRES
SURVEYOR/ENGINEER:	HWA, INC. 6205 O RILEY ROAD STE 100 BEND, OR 97703 PH 541-339-8381	PHASE A-2 GOLF OPEN SPACE:	98± ACRES
PROPERTY ADDRESS:	6753 CLINE FALLS HIGHWAY REDMOND, OR 97756	PHASE A-2 GOLF OPEN SPACE:	150± ACRES
ZONE:	EFU / DR	TOTAL OPEN SPACE:	500± ACRES
ADJOINING ZONES:	EFU / DR OPEN SPACE AND CONSERVATION	EXISTING LAND USE:	FARM / RESIDENTIAL
TAX LOT NUMBERS:	1512000007800 1512000007900	ADJOINING LAND USE:	FARM / US GOVERNMENT
PREVIOUS GROSS AREA (PHASE A-1):	517± ACRES	ACCESS:	CLINE FALLS HIGHWAY AND HIGHWAY 126
PHASE A-2 GROSS AREA:	235± ACRES	FIRE PROTECTION:	DESCHUTES COUNTY RURAL FIRE PROTECTION DISTRICT #1
TOTAL GROSS AREA:	752± ACRES	POWER:	CENTRAL ELECTRIC COOPERATIVE
		SEWAGE DISPOSAL:	ON-SITE TREATMENT FACILITY
		SOLID WASTE DISPOSAL:	HIGH COUNTRY DISPOSAL
		TELEPHONE:	CENTURY LINK
		WATER SUPPLY:	ON-SITE WELLS
		IRRIGATION:	ON-SITE WELLS

PERMANENT BENCH MARK USED

ID	DESCRIPTION	NORTHING	EASTING	ELEV.
#19	SET 10" HWA	455072.49	325089.05	3194.82
#20	SET 10" HWA	451306.11	325925.10	3189.51



VICINITY MAP SCALE: N.T.S.

SITE MAP SCALE: 1"=100'

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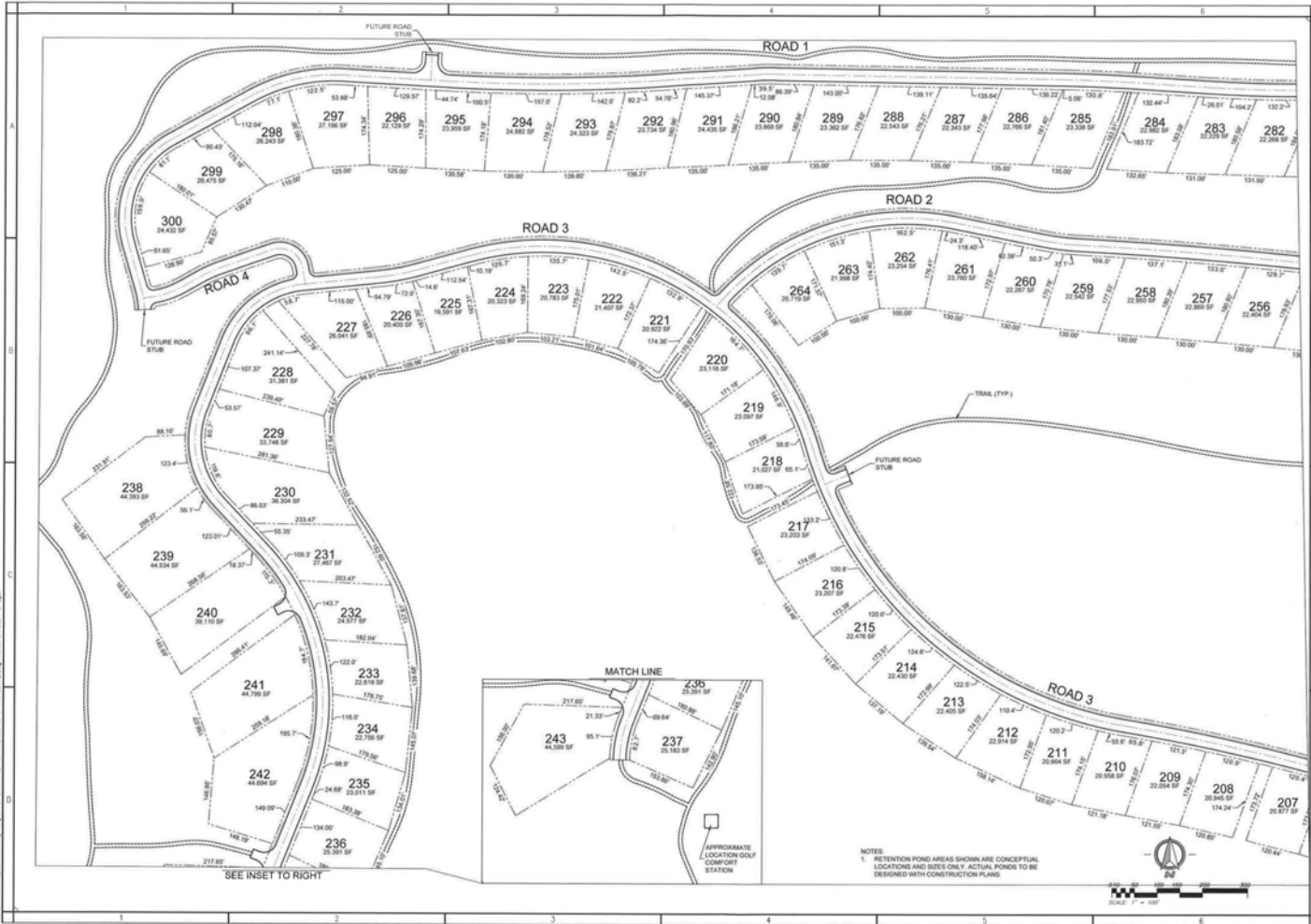
THORNBURGH RESORT
PHASE A-2
COVER PAGE

HWA
HWA, INC.
6205 O RILEY ROAD STE 100
BEND, OR 97703
PH 541-339-8381

DATE: 6/24/21

TP1.1

180110



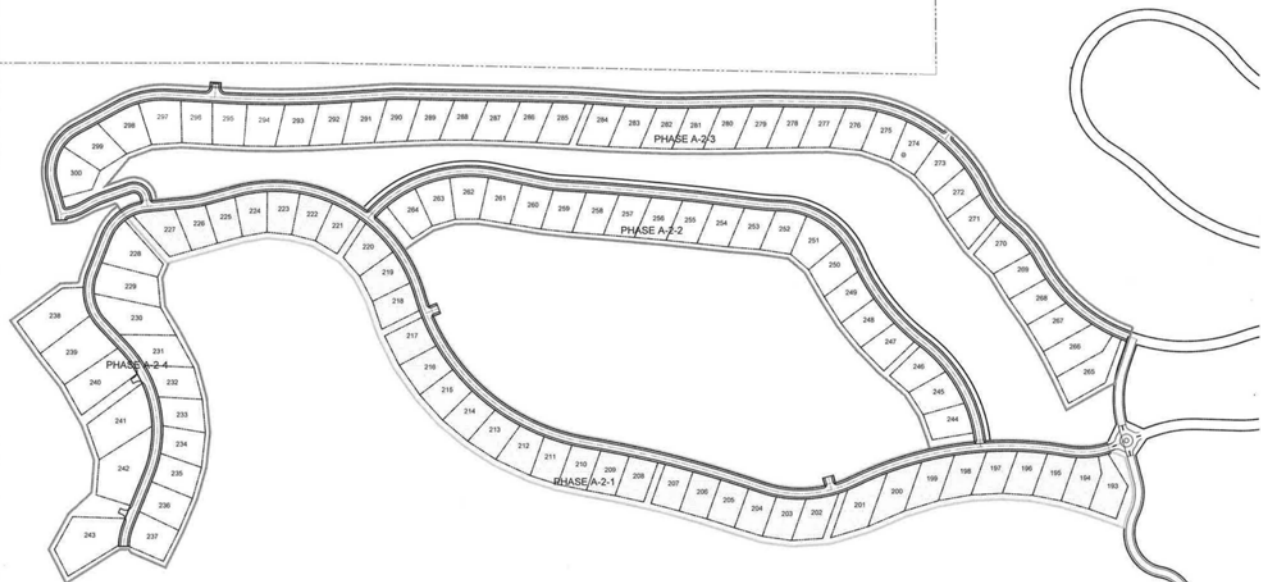
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THORNBURGH RESORT
PHASE A-2
ROADS AND LOTS
 DESCHUTES COUNTY, OREGON



DATE	6/24/21
BY	
CHECKED BY	
DATE	
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TP3.2
 180110



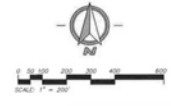
THORNBURGH RESORT
 PHASE A-2
 PHASING PLAN
 DESCHUTES COUNTY OREGON

HWA
 HAWKINS CONSULTANTS, INC.
 1000 NE Oregon Street, Suite 200
 Bend, Oregon 97701
 Phone: (503) 325-1111
 Fax: (503) 325-1112
 Email: hwa@hwaconsultants.com

PROJECT NO.	180110-TP PHASE A-2
DATE	6/24/21

TP3.5

180110



H:\Projects\180110\180110-TP PHASE A-2.dwg, PLOT DATE: 6/24/21, 11:23 AM



FINDINGS AND DECISION

FILE NUMBER: 247-21-000637-TP

**SUBJECT PROPERTY/
OWNER:** Mailing Name: CENTRAL LAND & CATTLE COMPANY LLC
Map and Taxlot: 1512000007800
Account: 124948
Situs Address: 67555 CLINE FALLS RD, REDMOND, OR 9775

APPLICANTS: Central Land and Cattle Company, LLC
Kameron DeLashmutt

REQUEST: The applicant is seeking tentative plan approval for a portion of Phase A (A-2) of the Thornburgh Destination Resort. The tentative plan ("Tentative Plan") includes 108 single-family residential dwelling lots. The Tentative Plan proposes to plat the subdivision in four phases.

STAFF CONTACT: Angie Brewer, Senior Planner
Email: Angie.Brewer@deschutes.org
Telephone: (541) 385-1704

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. **APPLICABLE CRITERIA**

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6
Title 17 of The Deschutes County Code, Subdivisions
Chapter 17.12, Administration and Enforcement
Chapter 17.16, Approval of Subdivision Tentative Plans.
Chapter 17.24, Final Plat.
Chapter 17.36, Design Standards.
Chapter 17.44, Park Development.
Chapter 17.48, Design and Construction Specifications.
Title 18 of the Deschutes County Code, the County Zoning Ordinance:
Chapter 18.04, Definitions
Chapter 18.113, Destination Resorts Zone
Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS

LOT OF RECORD: The subject property, in its entirety, was determined to be a lot of record by the Board of Commissioners in its decision approving the Conceptual Master Plan, CU-05-20, DC No. 2006-151. Pursuant to DCC 22.04.040(B)(2), subsequent verification is not required for this decision.

SITE DESCRIPTION: The subject property is a part of a tract of approximately 1,980 acres of land adjacent to Cline Buttes that has been approved for the development of the Thornburgh Destination Resort. The subject property is mostly undeveloped land with sloping terrain, natural vegetation, rock outcroppings and ridge tops. The property adjoins and lies west of Cline Falls Road. Some structures in the southwest part of the property will be removed during development of the resort as noted on the tentative plan.

REVIEW PERIOD: The subject application was submitted on June 25, 2021 and deemed complete by the Planning Division on July 25, 2021. The applicant extended the clock from July 25 to September 15 for a total of 52 days. The 150th day on which the County must take final action on this application is February 22, 2022.

PROPOSAL: The applicant is seeking tentative plan approval for a part of Phase A of the Thornburgh Destination Resort. This specific plat is identified by the applicant as Phase A-2. The Destination Resort Final Master Plan ("FMP") was approved by the County Board of Commissioners in file no. M-07/MA-08-6. The Tentative Plan includes 108 single-family residential dwelling lots. The plan proposes to plat the subdivision in four phases.

Figure 1: Phase A-2 Tentative Plan General Location

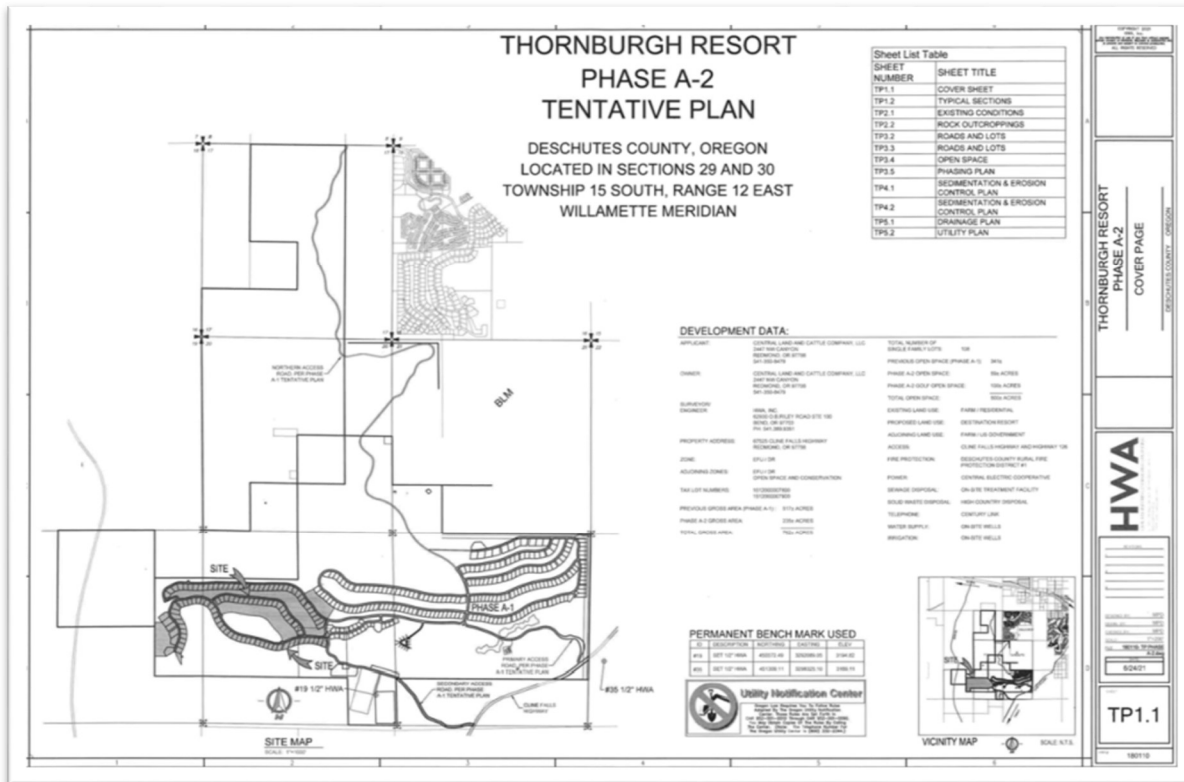
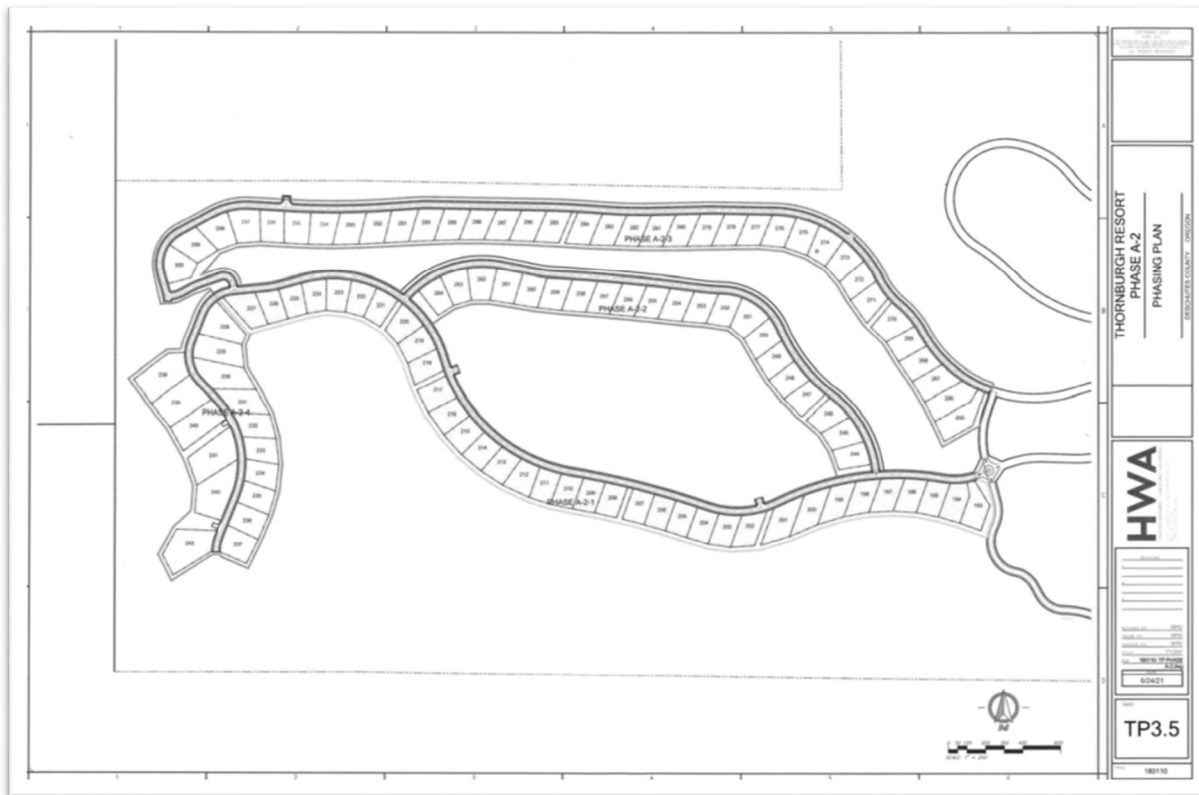


Figure 2: Phase A-2 Tentative Plan Subdivision Phases



SURROUNDING LAND USES: The subject property is surrounded by land zoned Exclusive Farm Use – Sisters/Cloverdale Subzone (“EFU-SC”). The surrounding EFU-SC land owned by Central Land and Cattle Company not included in the tentative plan has received approval to be developed as a destination resort. Land northeast of the subject property zoned EFU-SC is developed as the Eagle Crest Destination Resort, a rural residential subdivision, and as a surface mine. The Surface Mining (SM) zoned property is at least 0.75 mile away from the subject property. An Open Space and Conservation zoned property is located east of the property, south of the SM zoned property, and is owned and managed by the Bureau of Land Management (“BLM”). The remainder of the surrounding land is owned by the USA or State of Oregon. Most public lands are a part of the Cline Butte Recreation Area and are developed for public recreational use and conservation.

LAND USE HISTORY: The applicant has provided the following summary for land use history:

Conceptual Master Plan: Deschutes County approved a conceptual master plan (CMP) for the resort in File CU-05-20 in 2005. The decision was appealed by Annunziata Gould and remanded. The CMP was approved on remand by the Board of Commissioners in April 2008 in County Document No. 2008-151. Ms. Gould unsuccessfully appealed the 2008 approval. Approval of the CMP was final December 9, 2009.

A declaratory ruling process initiated by Loyal Land Company regarding the status of the CMP was filed in 2011. The County approved the application twice. The current status of this matter is that it has been remanded to the County. Loyal Land has not initiated a review on remand. This review is irrelevant to the review of the proposed tentative plan, however, because Deschutes County has approved the final master plan (FMP) for the resort. All unsatisfied requirements of the CMP were made a part of the FMP.

Final Master Plan: Thornburgh Resort Company filed for approval of its FMP in 2007. It amended the application in 2008. The application was approved by the County, appealed by Ms. Gould to Land Use Board of Appeals (LUBA) and remanded. In 2015, the County denied approval of the FMP. Central Land and Cattle Company, LLC appealed to the LUBA, who overturned the Hearing Officer and the remanded FMP. A Deschutes County hearings officer reviewed the application on remand and approved the FMP in a decision dated January 1, 2018. Ms. Gould appealed the approval to the Board of Commissioners (Board) who declined review. Ms. Gould has appealed the decision to the LUBA who denied all of her assignments of error. She did not appeal the FMP to the Oregon Court of Appeals. The approval, therefore, is a final decision of Deschutes County.

Phase A-1 Tentative Plan and Site Plan Review – Through file nos. 247-18-000386-TP, 247-18-000454-SP, and 247-18-000592-MA, the County approved a Tentative Plan for Phase A-1 of the Resort. It also approved a Site Plan Review for utility facilities. The County decision was appealed to LUBA and LUBA remanded (LUBA No. 2018-140) on one issue, Tentative Plan Condition of Approval No. 17. The LUBA decision was appealed to the Court of Appeals (A171603). The appeal was dismissed because the Court concluded Ms. Gould’s attorney had missed the filing deadline. The Oregon Supreme Court accepted review of the dismissal.

Meanwhile, the applicant initiated remand proceedings for LUBA No. 2018-140 on August 2, 2019. The County Hearings Officer found he did not have jurisdiction to issue a decision. Central Land appealed that decision in file no. 247-19-000611-A. The Board of Commissioners heard the appeal and issued a decision that removed Condition of Approval No. 17 from the decision and affirmed the approval of the tentative plan and site plan approvals. The Board's decision was appealed to LUBA (LUBA 2019-136). LUBA stayed the appeal pending the outcome of the Supreme Court decision of case S067074. Central Land has filed a request to consolidate this decision with LUBA No. 2018-140 and to remand the case to Deschutes County. LUBA has not yet acted on Central Land's request¹.

Golf Course and Lakes Site Plan: On December 11, 2019, Applicant submitted a site plan, application #247-19-000881-SP for approval of a Golf Course and Lakes. The application was approved via Administrative Decision on April 1, 2020. Annunziata Gould appealed the decision, and it was heard by the Board of Commissioners. On August 31, 2020, the Board issued a decision affirming the approval of the Golf Course and Lakes site plan. Annunziata Gould appealed this decision to the Oregon Land Use Board of Appeals. LUBA affirmed the Board's decision. A copy of LUBA's decision² is included as Exhibit 22 of this burden of proof.

Impermissible Collateral Attacks: Over the last 15 years the Thornburgh Resort has been the subject of more than 30 appeals by Annunziata Gould in numerous forums. At the time of this application, after 16 years, there are 4 separate appeals pending. In the long history of her appeals, Ms. Gould repeatedly raises issues resolved by the CMP and FMP. The law provides that when multiple, serial land use decisions are required, as they are for the Thornburgh CMP and FMP, issues that were or could have been resolved in an earlier stage review are not subject to collateral attack in a subsequent proceeding. LUBA has explained the rule as follows:

"As a general principle, issues that were conclusively resolved in a final discretionary land use decision, or that could have been but were not raised and resolved in that earlier proceeding, cannot be raised to challenge a subsequent application for permits necessary to carry out the earlier final decision."

Safeway, Inc. v. City of North Bend, 47 Or LUBA 489, 500 (2004).

The Thornburgh FMP is the master plan that establishes the plan to be followed when site plan and partition applications are filed with the County. It is based on issues decided by the CMP. According to LUBA:

"All requirements of the CMP approval are now requirements of the county's FMP approval. The FMP approval has effectively incorporated and displaced the CMP approval."

¹ Staff notes the applicant initiated the remand with Deschutes County and the Hearings Officer approved the Phase A-1 Tentative Plan (247-21-000731-A, 18-386-TP, 18-454-SP, 18-542-MA; LUBA No. 2018-140; Court of Appeals A171603) on October 4, 2021.

² Staff notes on September 15, 2012 the Court of Appeals affirmed without opinion (A176353) LUBA's decision.

Gould v. Deschutes County, 74 Or LUBA 326, 346 (2016).

Central Land and Cattle Company, LLC (CLCC), therefore, is not required to demonstrate compliance with the CMP or FMP approval criteria of DCC Chapter 18.113 during the review of this tentative plan. The informational requirements of DCC 18.113.050 apply to a CMP application only. DCC 18.113.060 and 18.113.070, with limited exceptions, are CMP approval criteria only. The standards of DCC 18.113.090 are FMP approval criteria met by the FMP that are not applicable during the County's review of a tentative plan.

In *Gould v. Deschutes County, 79 Or LUBA 561 (2019)*, LUBA held that challenges to the first subdivision tentative plan based on issues settled by the CMP and FMP are impermissible collateral attacks on the Thornburgh CMP and FMP. LUBA found that challenges to Resort plans for OLU's (*dicta*) and the wildlife mitigation plans are not permissible. Additionally, LUBA found that the removal of dams on Deep Canyon Creek and the provision of mitigation water is required by the FMP and is not relevant to the review of the tentative plan as long as the tentative plan does not alter the mitigation plan that is a part of the FMP. *Gould, 79 Or LUBA at 583; See Exhibit A, LUBA TP Opinion, page 37-38.* During the proceedings for the golf course site plan, the Board of Commissioners ("Board" and "BOCC") agreed with LUBA's application of the no collateral attack rule.

The same is the case here. This tentative plan does not propose to modify the CMP or FMP. Rather, it proposes development authorized by the CMP/FMP. The applicant is not proposing any change to the mitigation plan, so it is not relevant in this tentative plan review. *See Exhibit 6, LUBA TP Opinion, page 37-38.* LUBA also determined, and the Board agreed (*See Exhibit 4: BOCC TP Decision*), that compliance with the terrestrial wildlife plan will be determined by annual reporting as set out in Condition 38 – not during review of the tentative plan – where the development application does not alter any mitigation requirement of the FMP mitigation plan. The same reasoning applies to this tentative plan. *See, page 37 of LUBA opinion.*

In the Golf Course proceeding the Applicant identified arguments that were impermissible collateral attacks and the specific issues barred by the rule. The Board in that proceeding adopted those findings to support approval of the golf course site plan application. *See Exhibit 1: BOCC Golf SP Dec. Exhibit A.* It found that DCC 18.113.040(C) requires the applicant to address only those parts of DCC 18.113 that are relevant criteria for the review of development applications. This part of the code does not authorize re-litigation of the relevant approval criteria for approval of the CMP and FMP unless the applicant's plan proposes a revision of the CMP/FMP.

The BOCC's Exhibit A is divided into 17 separate categories of issues resolved by the CMP/FMP, a summary of which is discussed below:

1. Availability of Water – CMP 18.113.070(K). DCC 18.113.070(K) is a CMP approval criterion, not a site plan criterion. The CMP determined that groundwater and

mitigation water is available for all resort uses and that there would be no impact to neighboring wells. No relevant site plan/tentative plan criterion requires the applicant to revisit these settled issues.

2. Availability of Mitigation Water – CMP DCC 18.113.070(K). Same as 1.
3. Condition 10 of the CMP & FMP. This informational condition has very limited requirements as noted by the BOCC. Attempts to expand the limited requirements of this condition to include elements not required by the CMP/FMP are collateral attacks on the CMP.
4. Availability/Adequacy of Big Falls Ranch Mitigation Water – FMP/FWMP 18.113.070(D). This was resolved by the FMP's approval of the Fish and Wildlife Mitigation Plan ("FWMP") and compliance is dictated with its internal annual reporting requirements.
5. Liens on Applicant's water assets impairs its ability to use them. Same as #1.
6. Removal of Deep Canyon Creek Dams – FMP 18.113.070(D). This is a CMP criterion deferred by the BOCC until review of the FMP. This was resolved with the FMP's approval of the FWMP. The applicant isn't proposing any change to the FWMP so this issue is not a relevant issue in the County's review of this application.
7. Mitigation of Impacts to Wildlife – FMP 18.113.070(D). This was resolved by approval of the terrestrial wildlife mitigation plan ("WMP") by the FMP. Unless there is a change to the WMP, or related plans the Applicant is not required to fill in any details at this time. Compliance is governed by the annual reporting.
8. Economics, including Affordable Housing – CMP 18.113.070(C)(1-4) & 18.113.050(B)(19). This was resolved in the CMP.
9. Drainage – CMP 18.113.070(J). DCC 18.113.070(J) is a CMP criterion. Applicant is addressing the related tentative plan criterion below.
10. Waste-Water Disposal – CMP 18.113.070(L). DCC 18.113.070(L) is a CMP criterion that was resolved in the CMP with the imposition of Condition 15 requiring a Water Pollution Control Facility (WPCF) Permit, which applicant has complied with by obtaining such permit. This tentative plan will comply with the WPCF permit.
11. Traffic and Access – CMP 18.113.050(B)(2) & 18.113.070(G). These issues were resolved in the CMP, including the imposition of related CMP/FMP Conditions 4, 17 and 29. The Applicant is complying with those conditions.
12. Fire and Safety Issues – CMP 18.113.070(I). This is a CMP criterion resolved in the CMP, including the imposition of Conditions 4, 17, 19, and 24. According to RRFD, the serving fire district, until combustible materials are delivered for structures there are

no fire, water or access issues to address. When they are, the applicant will comply with those requirements. Those requirements, however, are not land use approval criteria.

13. Protection, preservation, enhancement and maintenance of Natural Features and Resources – CMP 18.113.050(B)(1,4,5), & 18.113.070(E). The CMP provides a plan that dictates how natural features and resources are to be protected. This plan is now a part of the controlling FMP. Compliance with CMP/FMP Condition 34 and the CMP/FMP’s rock outcrop preservation plan achieve compliance with site plan criterion DCC 18.124.060(B). No rock outcroppings are affected in this application as is shown in the Tentative Plan, TP 2.2.
14. Lighting/Compliance with DCC Section 15.10. This was resolved in the CMP and FMP by the imposition of Condition #31. This plan is not proposing lighting so this criterion is irrelevant.
15. Bend Population Exceeds 100,000. This was resolved when Thornburgh applied for CMP approval in 2005, a point in time that the population within the Bend UGB was far less than 100,000. Furthermore, the County’s destination resort map is the sole basis for determining whether land is eligible for resort siting. ORS 197.455(2). The County’s resort map designates Thornburgh for resort development.
16. Lot of Record. This issue was resolved in the BOCC’s CMP decision.
17. Well Indemnification. This was resolved in the CMP with the imposition of Condition 11. The 2008 FMP decision found that the requirements of Condition 11 were satisfied. Additionally, well indemnification is not required to achieve compliance with relevant tentative plan criteria.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice of the TP application on July 1, 2021 to several public agencies. Staff received the following responses.

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 247-21-000637-TP for 108 single-family residential lots as part of Phase A in the Thornburgh destination resort at 67555 Cline Falls Highway, aka County

Assessors Map 15-12-00, Tax Lot 7800. The proposal is consistent with the approved Conceptual Master Plan (CMP) and Final Master Plan (FMP) and no additional traffic analysis is required.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,757 per p.m. peak hour trip. County staff has determined a local trip generation rate for single-family homes of 0.81 trips per home. Therefore the applicable SDC is \$3,853 ($\$4,757 \times 0.81$) per single-family home. 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.

Deschutes County Road Department, Cody Smith, County Engineer

Prior to construction of road improvements:

- Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. . Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and the approved master plan

Prior to final plat approval by Road Department:

- Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a register professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
- The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).
- Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
- Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

Central Oregon Irrigation District (COID), Kelly O'Rourke
COID has no facilities or water rights within the project area.

Redmond Fire and Rescue, Wade Gibson, Deputy Fire Marshal
Deputy Fire Marshal Wade Gibson provided comments with regards to (1) water: fire safety during construction, water supply for dwellings, fire hydrants, and sprinkler systems; (2) access: visible addressing, street names, exterior doors, gates and walkways, fire apparatus access roads, fire lanes, aerial access, dead ends, additional access, key boxes, and residential development.

Prineville Bureau of Land Management, Autumn Loewen, Land Law Examiner
At this time, the Prineville BLM has "no comment" on the tentative plan approval for part of Phase A of the Thornburgh Destination Resort. The tentative plan ("Tentative Plan") including 108 single-family residential dwelling lots.

Oregon Department of State Lands
We have completed our review of the Wetland Land Use Notification that was prepared for Kameron DeLashmutt - Kameron DeLashmutt The WLUN form was submitted to the Department for review/response and given the file number WN2021-0757

The results and conclusions from that review are explained in the attached pdf documents. If the attached documents are illegible or difficult to open, you may contact the Department and request paper copies. Otherwise, please review the attachments carefully and direct any questions or comments to Jurisdiction Coordinator, Jessica Imbrie at (503) 986-5250 or Jessica.Imbrie@dsl.state.or.us. Thank you for your interest in the project.

Wetland Land Use Notice Response		
		
Response Page		
Department of State Lands (DSL) WN# WN2021-0757		
Responsible Jurisdiction		
Staff Contact Will Groves	Jurisdiction Type County	Municipality Deschutes
Local case file # 247-21-000637-TP	County Deschutes	

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information

Additional Comments

Based on this site plan, Phase A-1 appears larger than the area approved under WN2021-0609. The site plan that was provided for WN2021-0609 review (pages 192-215 of application) showed a total of 24 cabin lots (#193-216). This site plan includes many more lots and 3 tentative access roads for Phase A-1.

My response below will address potential impacts for both Phases A-1 and A-2, given that WN2021-0609 did not address the entirety of Phase A-1.

Many intermittent streams are mapped on the subject site. Based on aerial imagery, it appears that most or all streams may be ephemeral, but some of them need a site check. Please be aware that if any streams are intermittent, they are probably jurisdictional. Please contact our department to check streams that flow longer than directly following rainfall/snowmelt.

It appears that Phases A-1 and A-2 propose impacts to these mapped streams. A permit is required for any project that totals 50 cubic yards or greater of impacts (fills, removals, or other ground disturbances) below the ordinary high water line of a jurisdictional stream.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

- A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

7/30/2021

Response by:

Jessica Imbrie

Response Phone:

(503) 986-5250

The following agencies did not respond to the notice:

US Fish and Wildlife Service; Oregon Department of Fish and Wildlife; Oregon Department of Agriculture; Oregon Department of Transportation Region 4; Water Master District 11; Tumalo Town District Improvement Company; Redmond City Planning; Redmond School District 2J; Redmond Parks and Recreation; Redmond Area Parks and Recreation District; Deschutes County Assessor;

Deschutes County Environmental Health; Deschutes County Environmental Soils Division; and the Deschutes County Surveyor.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the subject property on July 1, 2021. As of the date of this document, comments received are generally summarized here:

- Concerns about limited water being diverted from the planting of crops to recreation while we face long term drought and increase wildfire risks.
- Golf courses should not be a priority under drought conditions.
- Concerns about the lack of water management and planning for the future of water resources.
- Concerns about wasted water.
- Farmers are limited in their use of water under drought conditions, why does a golf course get so much water for non-essential use?
- Concerns that golf course water usage will increase existing problems with drying wells and worsen existing constraints on irrigation.
- More information is needed to understand the health of our aquifers before we approve another destination resort.

III. **FINDINGS & CONCLUSIONS**

Title 17 of The Deschutes County Code, Subdivisions

Chapter 17.12, Administration and Enforcement

Section 17.12.080, Statement of Water Rights.

All applicants for a subdivision or partition shall be informed by the Planning Director or his designee of the requirement to include a statement of water rights on the final plat.

FINDING: Staff includes this criterion to inform the applicant of the requirement to include a statement of water rights on the final plat.

Section 17.12.100, Sale of Subdivision Lots Prohibited Before Final Approval.

No person shall sell any lot in any subdivision until final approval of the land division has been granted by the County. Final approval occurs when the plat of the subdivision or partition is recorded with the County Clerk. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved.

FINDING: Staff includes this criterion to inform the applicant of these requirements.

Chapter 17.16, Approval of Subdivision Tentative Plans.

Section 17.16.030 Informational Requirements

FINDING: Section 17.06.030 identifies the specific information that must be shown on the tentative plan categorically identified as “general information required”, “information concerning existing conditions”, “Information concerning proposed subdivision”, and “information for lots located in Surface Mining (SMIA) zones.” The applicant provided the following response to this requirement:

The applicant has submitted a Tentative Plan and this burden of proof that provides the information required by (A)(1)-(5) of DCC 17.16.030. The applicant has also submitted a title report, **Attachment B**. Will serve letters were previously obtained from Central Electric Cooperative, Bend Cable Company, High Desert Disposal, Cascade Natural Gas and Century Link and are attached as **Exhibit 26** of this burden of proof.

The resort is within the boundaries of the Deschutes County Rural Fire Protection District #1. See Exhibit 25: RRFD Annexation Approval. The tentative plan is designed with fire hydrants spaced pursuant to relevant code and statutes and will be served by a water system designed to meet the relevant codes and safety requirements.

DCC 18.113.060(G)(1) states that: “The minimum lot area, width, lot coverage, frontage, and yard requirements and building heights otherwise applying to structures in underlying zones and the provisions of DCC 18.116 relating to solar access shall not apply within a destination resort. These standards shall be determined by the Planning Director or Hearings Body at the time of the CMP.” No solar setbacks were applied during the county’s review of the CMP.

No street trees are required or planned. A transportation impact analysis was provided and reviewed concurrently with review of the CMP. Exactions were imposed by the County to offset the impact of full development of all parts of the Thornburgh Destination Resort.

Staff concludes the information requirements of Section 17.16.030 are addressed in the Tentative Plan application materials.

Section 17.16.040, Protective Covenants and Homeowner Association Agreements.

Landowner covenants, conditions, and restrictions and homeowner association agreements are not relevant to approval of subdivisions and partitions under DCC Title 17, unless otherwise determined by the County to carry out certain conditions of approval, such as road maintenance or open space preservation. Any provisions in such agreements not in conformance with the provisions of DCC Title 17 or applicable zoning ordinances are void.

FINDING: The CMP/FMP approval included specific CC&R language by condition of approval. No other landowner covenants, conditions, or restrictions have been proposed or considered as part of this application. Staff finds the CC&Rs are necessary to carry out certain requirements, as detailed

in this decision, related to subdivision and destination resort development. For this reason, Staff includes a condition of approval requiring the owner to record the CC&Rs concurrent with final plat recording.

Section 17.16.050, Master Development Plan.

An overall master development plan shall be submitted for all developments affecting land under the same ownership for which phased development is contemplated. The master plan shall include, but not be limited to, the following elements:

- A. Overall development plan, including phase or unit sequence;***
- B. Show compliance with the comprehensive plan and implementing land use ordinances and policies;***
- C. Schedule of improvements, initiation and completion;***
- D. Overall transportation and traffic pattern plan, including bicycle, pedestrian and public transit transportation facilities and access corridors;***
- E. Program timetable projection;***
- F. Development plans for any common elements or facilities;***
- G. If the proposed subdivision has an unknown impact upon adjacent lands or lands within the general vicinity, the Planning Director or Hearings Body may require a potential development pattern for streets, bikeways and access corridors for adjoining lands to be submitted together with the tentative plan as part of the master development plan for the subject subdivision.***

FINDING: The Tentative Plan discussed and reviewed herein implements Phase A-2 of the Final Master Plan (FMP) Approval granted by the Board of County Commissioners in file no. M-07/MA-08-6. A master plan addressing the criteria list above was provided by the applicant and approved by the County in 2007 and amended in 2008. Staff finds this criteria has been satisfied.

Section 17.16.060, Master Development Plan Approval.

The Planning Director or Hearings Body shall review a master development plan at the same time the tentative plan for the first phase is reviewed. The Planning Director or Hearings Body may approve, modify or disapprove the master plan and shall set forth findings for such decision. The Planning Director or Hearings Body may also attach conditions necessary to bring the plan into compliance with all applicable land use ordinances and policies. Any tentative plan submitted for the plan area shall conform to the master plan unless approved otherwise by the County. Master plan approval shall be granted for a specified time period by the Planning Director or Hearings Body, and shall be included in the conditions of approval.

FINDING: Please see the applicant's summary provided for "Land Use History" above. Staff finds this criterion has been met in prior land use applications and approvals. The proposed Tentative Plan implements Phase A-2 of a previously approved Master Development Plan. Compliance with the conditions of approval applied to the Master Plan approval are discussed herein.

Section 17.16.070, Development Following Approval.

Once a master plan is approved by the County, the plan shall be binding upon both the County and the developer; provided, however, after five years from the date of approval of the plan, the County may initiate a review of the plan for conformance with applicable County regulations. If necessary, the County may require changes in the plan to bring it into conformance. .

FINDING: The FMP was approved in 2007 and amended in 2008. The County has not initiated a review of the plan for conformance with applicable regulations. The applicant voluntarily pursued land use application 247-21-000553-MC to amend the CMP/FMP to conform to changes in State and County Destination Resort Rules regarding Overnight Lodging Units to State and County Destination Resort Rules. The appeal period for the administrative decision approving file 247-21-000553-MC ends October 12, 2021; the decision is not yet final.

Section 17.16.080, Tentative Plan as a Master Plan.

- A. As an alternative to the filing of a master plan for phased development, the applicant may file a tentative plan for the entire development. The plan must comply with the provisions of DCC Title 17 for tentative plans.***
- B. If the applicant proposed to phase development, he shall provide sufficient information regarding the overall development plan and phasing sequence when submitting the tentative plan.***
- C. If the tentative plan is approved with phasing, the final plat for each phase shall be filed in accordance with DCC 17.24.020 through 17.24.110.***

FINDING: The CMP/FMP approval is the master plan for the subject property. The applicant proposes to develop the tentative plan in 4 separate sub-phases as shown on page TP 3.5 of the application. The applicant notes the phasing sequence will be in numerical order but that Phase A-2-3 may be developed prior to Phase A-2-2, and some or all of the phases may be developed and platted together. The applicant has stated their intention to file the initial final plat within two years of the date the tentative plan approval is final unless an extension is granted. Subsequent phases will be filed within three years of the recording dates of the final plat for the first phase. As noted under subsection (C), each phase must be filed in accordance with DCC 17.24.020 through 17.24.110. Staff includes a condition of approval to ensure compliance.

Section 17.16.100. Required Findings for Approval.

A tentative plan for a proposed subdivision shall not be approved unless the Planning Director or Hearings Body finds that the subdivision as proposed or modified would meet the requirements of this title and Titles 18 through 21 of this code and is in compliance with the comprehensive plan. Such findings shall include, but not be limited to, the following:

FINDING: This decision addresses the requirements of Chapters 17 and 18, as well as compliance

with the FMP. The requirements of the Comprehensive Plan are codified within the Zoning Ordinance. Because no change to the Comprehensive Plan is sought by this application, conformance with Chapters 17 and 18 also indicates conformance with the Comprehensive Plan.

- A. *The subdivision contributes to the orderly development and land use patterns in the area, and provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, agricultural and forest lands and other natural resources.***

FINDING: Previous Deschutes County approvals of the CMP and FMP for the destination resort demonstrated general compliance with the criteria for orderly development and land use patterns in the area. In response to this criterion, the applicants stated:

Compliance with Title 17 is addressed in proposed findings in this burden of proof. The development facilitated by approval of the subdivision has been determined to meet the requirements of DCC Title 18 by approval of the CMP and FMP. Additionally, the subject property and adjoining property owned by the State of Oregon is mapped by the County's comprehensive plan for development for destination resort development, as well as approved for such development by the CMP/FMP.

The requirements of the comprehensive plan are general and have been codified in the County's development ordinances. No amendment of the plan is proposed. Compliance with the subdivision code and CMP/FMP achieves compliance with the comprehensive plan. In addition, the proposed subdivision complies with the FMP that incorporates all relevant provisions of the CMP. It was approved, in part, because it was consistent with the comprehensive plan. The CMP and FMP approval process assured that future development, including this subdivision, will be orderly and that it will fit the land use pattern of the area. The resort is located in close proximity to the Eagle Crest destination resort and will continue that pattern of development.

As noted above, and in Exhibit C, issues related to access, water, sewer and utilities were fully analyzed and resolved through the CMP and FMP approval process ensuring they would be provided in an orderly fashion to accommodate the uses allowed within the resort. These approvals also ensure pedestrian, vehicular and bicycle access throughout the resort. With similar evidence, the hearing officer, in the approval of the tentative plan for phase A-1 found that this criterion had been met.

In addition, approval of the CMP required the preservation of natural features and resources through compliance with 18.113.050(B)(1), (B)(4), (B)(5), and 18.113.070(E). During the CMP the applicant provided numerous reports and documents relevant to the above criteria, including: The Natural Characteristics and Geology Report from Newton Consultants, The Wildlife and Habitat report from Tetra Tech and the Open Space Management Plan.

During the CMP applicant provided extensive details how it would use a concerted effort and a "light touch" to preserve and maintain the features and feel of the property and take efforts

to preserve and encourage old growth juniper woodlands, and that rock outcrops would be preserved wherever possible. The CMP showed the topography of the site, that the buttes themselves provide the Thornburgh property 700 feet of elevation change, that golf and lakes are located on the lower lands and that the homesites above are largely reached by single loaded roads to protect the views. In the CMP, the BOCC found that while there are resources worth preserving the site didn't have any important natural features, that tree and rock outcrops didn't qualify under the definition. With the addition of Condition 34 to protect disturbed open space areas the BOCC found the criterion to be met and the issues resolved.

In the appeal for the Golf Course and Lakes Site Plan the BOCC found the CMP criterion to be broader than the related requirements of DCC 18.124.060(B) and; that an attack on issues related to the protection and preservation of natural resources and features was an impermissible collateral attack on the CMP. See Exhibit 1: BOCC Golf Decision, Exhibit A. The CMP requirements are far broader than the requirements of this section 17.16.100 so achieve compliance with the CMP.

The criterion has been met for this tentative plan.

Staff concurs. Additionally, while the subject property is zoned for agricultural use, the Destination Resort Combining Zone allows for the establishment of the proposed use. Lastly, the FMP approval will require the preservation of a significant portion of the overall resort as undeveloped open space. For these reasons, Staff finds this criterion will be met.

B. The subdivision would not create excessive demand on public facilities, services and utilities required to serve the development.

FINDING: The applicant provides the following statement:

The impacts from the entire resort were contemplated, analyzed and reviewed at the time of the CMP and FMP approvals with respect to demand on public facilities, services and utilities. The CMP included an Economic Report by Peterson Economics (See Exhibit 28, pages 12-15 Excerpts of the Peterson Report) as required by DCC 18.113.050(B)(19) that addressed this issue. The report shows that the resort will provide an overwhelming financial benefit to public facilities and services as a result of the substantial new taxes generated versus the minimal use of any public services and facilities created.

The resort will not use public sewage or water utilities and will not create any demand whatsoever on public utilities that provide those services. The FMP authorized the development of water and sewer facilities to serve the resort. The applicant received approval from the Department of Health and Human Services (DHS) in 2006 to develop a drinking water system to serve the resort which was approved by the FMP and is resolved. Consistent with the CMP and FMP approvals, a site plan that included one reservoir and two wells needed to serve this development was approved.

The CMP required that the applicant obtain a permit for a Water Pollution Control Facility to serve the resort's sewage needs. This was applied for and approved by DEQ in 2007. This plan was accepted and approved by the FMP. Permit #977607 is in good standing. The permit included authorization for a drainfield to be used until the resort would generate sufficient sewage volume to require the treatment plant. The general location planned for the community sewage treatment plant was shown on the FMP map, A-3. The drainfield which was approved as part of the Phase A-1 tentative plan and site plan mentioned above will be located in the same area.

The primary access point to the development will be from Cline Falls Road. Secondary emergency access will be provided by two roads shown on approved FMP map A.7.1. One accesses Cline Falls Highway and the other accesses Eagle Crest Drive to the north. Both roads are shown on the tentative plan. If not developed earlier under the authority of a prior land use approval such as the Phase A-1 or Golf Course site plan, the applicant will improve these roads. Roads will be improved as approved by the Phase A-1 tentative plan and the Golf Course site plan. See, TP Sheets 3.2 and 3.3 Attachment A.

The property is served by the Redmond Fire and Rescue and by the Deschutes County Sheriff's office. Electricity is currently being supplied and will continue to be provided by Central Electric Cooperative. Will serve letters from CEC and the resort's other utilities are included in Exhibit 26. The adequacy of these services and the demands placed on them by the resort was determined to be acceptable by the approval of the CMP/FMP.

In the previous proceedings for the phase A-1 tentative plan numerous parties raised concerns about the overall impacts of a development the size of the Thornburgh Resort on natural resources. Those issues were resolved by the CMP/FMP and further attacks are impermissible collateral attacks on those prior approvals. See Exhibit 1: BOCC SP Dec., Exhibit A. Further it is not relevant to the review of this tentative plan. These criteria are met.

A comment letter was provided by Redmond Fire and Rescue with regards to fire safety during construction, fire hydrant access, property accessibility, and visible addressing; no concerns were expressed regarding their ability to serve the proposed development so long as their requirements were addressed. No comments expressing concern were received from the Sheriff's Office. The applicant has indicated in application materials they received will-serve letters from Central Electric Cooperative. As noted by the applicant, the FMP authorized the development of water and sewer facilities to serve the resort. As such, the resort will not use public sewage or water utilities and will not result in new demand on existing public utilities that provide those services. For these reasons, Staff finds this criterion will be met.

C. The tentative plan for the proposed subdivision meets the requirements of Oregon Revised Statutes Section 92.090.

FINDING: The relevant provisions of ORS 92.090 and the proposal's compliance with those provisions are addressed in the findings below.

ORS 92.090(1) Subdivision plat names shall be subject to the approval of the county surveyor or, in the case where there is no county surveyor, the county assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.

FINDING: A condition of approval is included to ensure compliance with this criterion.

ORS 92.090(2) No tentative plan for a proposed subdivision and not tentative plan for a proposed partition shall be approved unless:

- (a) The streets and roads are laid out so as to conform to the plats of subdivisions and partitions already approved for adjoining property as to width, general direction and in all other aspects unless the city or county determines it is in the public interest to modify the street or road pattern.**
- (b) Streets and roads held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth thereon.**
- (c) The tentative plan complies with the applicable zoning ordinances and regulations and the ordinances and regulations adopted under ORS 92.044 that are then in effect for the city or county within which the land described in the plan is situated.**

FINDING: The roads in this subdivision have been laid out to conform to the roads approved in the adjoining property, Phase A-1, and the golf course site plan. The roads within this Tentative Plan are private roads and are clearly indicated on the tentative plan. All reservations or restrictions associated with these private roads are detailed in the associated CC&Rs. The plan complies with ordinances and regulations adopted under ORS 92.044 for Deschutes County; criterion (2) is met.

ORS 92.090(3) No plat of a proposed subdivision or partition shall be approved unless:

- (a) Streets and roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public or private utilities.**
- (b) Streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the city or county.**
- (c) The subdivision or partition plat complies with any applicable zoning ordinances and regulations and any ordinance or regulation adopted under ORS 92.044 that are then in effect for the city or county within which the land described in the subdivision or partition plat is situated.**

- (d) The subdivision or partition plat is in substantial conformity with the provisions of the tentative plan for the subdivision or partition, as approved.**
- (e) The subdivision or partition plat contains a donation to the public of all sewage disposal and water supply systems, the donation of which was made a condition of the approval of the tentative plan for the subdivision or partition plat.**
- (f) Explanations for all common improvements required as conditions of approval of the tentative plan of the subdivision or partition have been recorded and referenced on the subdivision or partition plat.**

FINDING: All roadways are private roads. Therefore, section (a) does not apply. The private streets and roads within the proposed subdivision have been approved by the subject land use approval, complying with section (b). Compliance with the zoning ordinance is addressed herein, demonstrating compliance with section (c). Section (d) is addressed with a condition of approval to be satisfied and approved upon final plat, as was done under the approval of the Phase A-1 tentative plan. No public sewage or water systems are proposed, therefore sections (e) and (f) do not apply.

ORS 92.090(4) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

- (a) A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat;**
- (b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county;**
or
- (c) In lieu of paragraphs (a) and (b) of this subsection, a statement that no domestic water supply facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, even though a domestic water supply source may exist. A copy of any such statement, signed by the subdivider and indorsed by the city or county, shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in any public report made for the subdivision under ORS 92.385 (Examination). If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the**

commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

FINDING: The applicant provides the following response to this criteria:

The tentative plan shows the layout of the water system that will serve each lot within the tentative plan. As noted in the FMP approval, the applicant has received all approvals needed to provide water to the Thornburgh Resort. The applicant will provide a certification from the owner of the PUC-regulated, privately-owned domestic water supply system that water will be available to the lot line of every lot depicted in the proposed subdivision plat when it files the final plat. Compliance with this requirement can be assured by the imposition of a condition of approval as was done in the Phase A-1 tentative plan.

Because the developer proposes to provide domestic water via a private water system, Staff finds section (c) is not available to the owner. With a condition of approval to ensure compliance with either section (a) or (b), and the requirements of the FMP, Staff finds this criterion to be satisfied.

ORS 92.090(5) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

- (a) A certification by a city-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat;***
- (b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary; or***
- (c) In lieu of paragraphs (a) and (b) of this subsection, a statement that no sewage disposal facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755 (Fees for certain reports on sewage disposal) (1)(b). A copy of any such statement, signed by the subdivider and indorsed by the city or county shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in the public report made for the subdivision under ORS 92.385 (Examination). If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement***

to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

FINDING: The applicant provides the following response:

“The applicant received approval for the Water Pollution Control Facility (WPCF) to construct and operate a sewage treatment facility serving the Thornburgh Resort. No change is being proposed to the WPCF or the CMP/FMP. The tentative plan shows the layout of the sewer system that will serve each lot within the tentative plan. The applicant will provide a certification required by (5)(a) when it files the final plat. Compliance with this requirement can be assured by the imposition of a condition of approval as was done in the approval of the phase A-1 tentative plan.”

Staff concurs; a condition of approval is included to this effect. Staff finds section (c) is not available because the applicant proposes a private wastewater treatment system.

(6) *Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company shall be approved by a city or county unless the city or county has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.*

FINDING: This criterion is not applicable.

D. *For subdivision or portions thereof proposed within a Surface Mining Impact Area (SMIA) zone under DCC Title 18, the subdivision creates lots on which noise or dust sensitive uses can be sited consistent with the requirements of DCC 18.56, as amended, as demonstrated by the site plan and accompanying information required under DCC 17.16.030.*

FINDING: This criterion does not apply.

E. *The subdivision name has been approved by the County Surveyor*

FINDING: This requirement has already been added as a condition of approval under subsection (C) above.

Section 17.16.105. Access to Subdivisions.

No proposed subdivision shall be approved unless it would be accessed by roads constructed to County standards and by roads under one of the following conditions:

- A. Public roads with maintenance responsibility accepted by a unit of local or state government or assigned to landowners or homeowners association by covenant or agreement; or**
- B. Private roads, as permitted by DCC Title 18, with maintenance responsibility assigned to landowners or homeowners associations by covenant or agreement pursuant to ORS 105; or**
- C. This standard is met if the subdivision would have direct access to an improved collector or arterial or in cases where the subdivision has no direct access to such a collector or arterial, by demonstrating that the road accessing the subdivision from a collector or arterial meets relevant County standards that maintenance responsibility for the roads has been assigned as required by this section.**

FINDING: This criterion is met as the subdivision has direct access to Cline Falls Road, an improved rural arterial road, in two locations. A third northern access road will connect to Eagle Crest Boulevard, which is a private road that then connects to Highway 126 to the north. Private roads are allowed and permitted in destination resorts and this configuration complies with the FMP. All private roads will be maintained by the homeowners association, as detailed in the CC&Rs. This criterion will be met.

Section 17.16.115. Traffic Impact Studies.

- A. The traffic studies will comply with DCC 18.116.310.**

18.116.310 Traffic Impact Studies

- A. For purposes of DCC 18.116.310, the transportation system includes public and private roads, intersections, sidewalks, bike facilities, trails, and transit systems.**
- B. The applicant shall meet with County staff in a pre-application conference to discuss study requirements, then generate the traffic study and submit it concurrently with the land use application.**
- C. Guidelines for Traffic Impact Studies**
 - 1. All traffic impact studies shall be stamped and signed by the registered professional engineer who is licensed in the State of Oregon and is otherwise qualified to prepare traffic studies. Chapter 18.116 (4/2021)**
 - 2. The County Engineer shall determine when the report has satisfied all the requirements of the development's impact analysis. Incomplete reports shall be returned for completion.**
 - 3. The following vehicle trip generation thresholds shall determine the level and scope of transportation analysis required for a new or expanded development.**

- a. **No Report is required if there are fewer than 50 trips per day generated during a weekday.**
- b. **Site Traffic Report (STR): If the development or change in use will cause the site to generate 50-200 daily trip ends, and less than 20 peak hour trips, a Site Traffic Report may be required at the discretion of the County Engineer.**
- c. **Traffic Impact Analysis (TIA): If the development or change in use will generate more than 200 trip ends and 20 or more peak hour trips, then a Traffic Impact Analysis (TIA) shall be required.**

FINDING: The applicant has provided the following statement:

A traffic impact analysis (TIA) covering the entire Resort was submitted and approved by Deschutes County as part of the CMP/FMP approval process. This is a tentative plan application for an approved development; not a “new or expanded” development. As a result, a second traffic impact analysis is not required.

Based on the approved traffic impact analysis and the conditions of approval contained in the CMP/FMP decisions, the Applicant is bound to mitigate for the transportation impacts of the full development of the Resort and has entered into an agreement with ODOT to provide the required mitigation. As discussed above, condition 29 requires the Applicant to comply with the MOU with ODOT. No additional traffic study and no additional exactions are warranted unless and until the resort’s traffic counts exceed the amount accounted for by the TIA filed with the CMP. This position is consistent with the way the county has applied this requirement to other resorts.

The Applicant hired Clemow and Associates to analyze the trip count generated by the phase A-1 tentative plan and to prepare a debiting letter to ensure the resort’s trips are no greater than anticipated by the TSP for the CMP. The original TIA established a trip cap of 517 PM peak hour trips. The debiting letter prepared by Clemow Associates shows for the Phase A-1 tentative plan will only generate 54 PM peak hour trips, whereas the Golf Course and Lake site plan once under use will generate an additional 9 peak hour trips for a total of 63 peak hour trips, 454 less than allowed by the TIA. Clemow Associates also analyzed the trip counts generated by this phase A-2 tentative plan, and found it only generates 36 PM peak hour trips, leaving an additional 409 pm peak hour trips allowed under the TIA. See Exhibit 19: Clemow A-2 Trip Debit Letter.

In both the Phase A-1 tentative plan and the Golf Course and Lakes site plan several parties argued the original TIA was too old, that conditions have changed making the debit letter insufficient, or that the criterion requires a new TIA. In proceedings on the appeal of the Golf Course site plan the BOCC found the issues pertaining to traffic and the adequacy of the TIA were resolved in the CMP and that any further attack was an impermissible collateral attack on the CMP that was barred. See Exhibit 1: BOCC TP Dec. Exhibit A. Any similar attack is barred here as well.

As to the merits, both ODOT and the County Road department disagreed with opponents, believing that the debit letter was sufficient and is the method that has been used in other resorts in Deschutes County. In his September 25th letter, Chris Clemow, PE analyzed the current traffic counts versus those from 2005 and the anticipated counts in the TIA for 2015, the TIA's study period. He found that the recession resulted in decreased traffic growth, and that as recently as 2018 the intersection background traffic volumes remain below the TIA estimates for 2015. In Mr. Clemow's opinion, volumes will remain less for the five years following 2019. See Exhibit 20: Clemow 9/25/18 letter.

The Phase A-1 hearing officer found that nothing in DCC 17.16.115 or 18.116.310 imposes an age limit on TIAs and that the passage of time alone isn't enough to warrant a new TIA, stating:

"I think the better conclusion is that the debit letter approach is consistent with the code provisions and FMP approval and that a new TIA is not required. A subdivision application that is within the scope of the FMP approval and TIA does not trigger a new analysis. I find that for this application there are no significant unanticipated changes in circumstances that would warrant concluding that reliance on the 2005 TIA approved in the CMP/FMP is inconsistent with DCC 17.16.115." Exhibit 4: 2018 TP Decision, Page 54.

Like Phase A-1 this tentative plan proposes no significant change that would dictate that reliance on the TIA is inconsistent with DCC 17.16.115. This criterion is met.

Deschutes County Senior Transportation Planner examined the applicant's Site Traffic Report, and its methodologies, conclusions, and recommendations. He found the proposal to be consistent with the approved CMP and FMP, and concluded that no additional traffic analysis is required. Given this information, Staff finds the application complies with the applicable provisions of 18.116.310. This criterion is met.

Chapter 17.24, Final Plat.

Section 17.24.030, Submission for Phased Development.

- A. *If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within two years of the approval date for the tentative plan.***
- B. *The final plats for any subsequent phase shall be filed within three years of the recording date of the final plat for the first phase.***
- C. *The applicant may request an extension for any final plat under DCC 17.24 in the manner provided for in DCC 17.24.020(B).***
- D. *If the applicant fails to file a final plat, the tentative plan for those phases shall become null and void.***

FINDING: The applicant has stated that it understands it must file the final plat within two years of the date the tentative plan approval is final unless an extension is granted. Subsequent phases will be filed within three years of the recording dates of the final plat for the first phase.

Section 17.24.120. Improvement Agreement.

- A. *The subdivider may, in lieu of completion of the required repairs to existing streets and facilities, and improvements as specified in the tentative plan, request the County to approve an agreement between himself and the County specifying the schedule by which the required improvements and repairs shall be completed; provided, however, any schedule of improvements and repairs agreed to shall not exceed on[e] year from the date the final plat is recorded, except as otherwise allowed by DCC 17.24.120(F) below. The agreement shall also provide the following:***
- ...

FINDING: The applicant is not requesting an Improvement Agreement at this time. Any such request will need to comply with the applicable criteria for improvement agreements.

Chapter 17.36, Design Standards.

Section 17.36.020. Streets.

- A. *The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system for all modes of transportation, including pedestrians, bicycles and automobiles, with intersection angles, grades, tangents and curves appropriate for the traffic to be carried, considering the terrain. The subdivision or partition shall provide for the continuation of the principal streets existing in the adjoining subdivision or partition or of their property projection when adjoining property which is not subdivided, and such streets shall be of a width not less than the minimum requirements for streets set forth in DCC 17.36.***
- B. *Streets in subdivisions shall be dedicated to the public, unless located in a destination resort, planned community or planned or cluster development, where roads can be privately owned. Planned developments shall include public streets where necessary to accommodate present and future through traffic.***

FINDING: The applicant has provided the following response:

The roads described in this tentative plan are private roads within a destination resort. The tentative plan meets or exceeds the standards of DCC 17.36 and those outlined in Table A for private roads. The tentative plan also meets the standards for emergency access as outlined in condition 4 of the FMP, set out above. The tentative plan shows trails that provide for the movement of pedestrians and bicycle traffic as well. All the streets within the destination resort are private. There are no adjoining subdivisions.

Staff concurs and adds the subdivision will be located in a destination resort, exempting the private roads from public dedication.

Section 17.36.030. Division of Land.

Any proposal for a condominium conversion which results in a division of real property shall comply with the provisions of DCC Title 17 and ORS 92.

FINDING: No proposal for a condominium conversion is included in this application.

Section 17.36.040. Existing Streets.

Whenever existing streets, adjacent to or within a tract, are of inadequate width to accommodate the increase in traffic expected from the subdivision or partition or by the County roadway network plan, additional rights of way shall be provided at the time of the land division by the applicant. During consideration of the tentative plan for the subdivision or partition, the Planning Director or Hearings Body, together with the Road Department Director, shall determine whether improvements to existing streets adjacent to or within the tract, are required. If so determined, such improvements shall be required as a condition of approval for the tentative plan. Improvements to adjacent streets shall be required where traffic on such streets will be directly affected by the proposed subdivision or partition.

FINDING: All the streets within this tentative plan are private. The only connections are to roads that may be constructed within the resort, that are also private and have been sized to meet the criterion and to be of adequate size. The Road Department did not identify any existing streets which require additional dedication of right-of-way. This criterion has been addressed.

Section 17.36.050. Continuation of Streets.

Subdivision or partition streets which constitute the continuation of streets in contiguous territory shall be aligned so that their centerlines coincide.

FINDING: This tentative plan has a single street that is the continuation of an existing street which was planned to connect. This criterion will be met.

Section 17.36.060. Minimum Right of Way and Roadway Width.

The street right of way and roadway surfacing widths shall be in conformance with standards and specifications set forth in DCC 17.48. Where DCC refers to street standards found in a zoning ordinance, the standards in the zoning ordinance shall prevail.

FINDING: The applicant provides the following finding:

The tentative plan shows the proposed locations and widths of the private roads which in all cases, meet or exceed the standards required for private roads in 17.48 and in Table A. All the roads in this tentative plan are private roads which do not require a right of way so that portion of this criterion is not applicable.

The street right-of-way and surfacing widths comply with the standards of DCC 18.48, as reviewed below. All road designs will be reviewed and approved by the County Road Department prior to approval of the final plat. Staff includes a condition of approval to ensure compliance. This criterion will be met.

Section 17.36.070. Future Resubdivision.

Where a tract of land is divided into lots or parcels of an acre or more, the Hearings Body may require an arrangement of lots or parcels and streets such as to permit future re-subdivision in conformity to the street requirements and other requirements contained in DCC Title 17.

FINDING: Most of the proposed lots contain less than one acre but there are a few that exceed one acre. The applicant acknowledges this and notes lots exceeding one acre are single lots for a single residence and are not allowed to be further divided; Staff agrees and finds it unnecessary to modify the arrangement of lots and/or streets to permit a future re-subdivision.

Section 17.36.080. Future extension of streets.

When necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition.

FINDING: The applicant states:

This issue was addressed and resolved by the CMP/FMP. No roads within the area to be platted were extended to the boundary of the subdivision to facilitate future division of adjoining land. Additionally, the roads in the subdivision are private roads so would not provide public access for future subdivisions or partitions.

Staff disagrees that the CMP/FMP absolves the applicant of compliance with Title 17 standards. However, staff finds that no extension of streets is necessary to give access to or permit a satisfactory future division of adjoining land.

Section 17.36.100. Frontage Roads.

If a land division abuts or contains an existing or proposed collector or arterial street, the Planning Director or Hearings Body may require frontage roads, reverse frontage lots or parcels with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic. All frontage

roads shall comply with the applicable standards of Table A of DCC Title 17, unless specifications included in a particular zone provide other standards applicable to frontage roads.

FINDING: Residential lots proposed by this plan are accessed by private roads and not a collector or arterial street. As well, no collector or arterial streets are proposed. Staff finds this rule does not apply.

Section 17.36.110. Streets Adjacent to Railroads, Freeways and Parkways.

When the area to be divided adjoins or contains a railroad, freeway or parkway, provision may be required for a street approximately parallel to and on each side of such right of way at a distance suitable for use of the land between the street and railroad, freeway or parkway. In the case of a railroad, there shall be a land strip of not less than 25 feet in width adjacent and along the railroad right of way and residential property. If the intervening property between such parallel streets and a freeway or a parkway is less than 80 feet in width, such intervening property shall be dedicated to park or thoroughfare use. The intersections of such parallel streets, where they intersect with streets that cross a railroad, shall be determined with due consideration at cross streets of a minimum distance required for approach grades to a future grade separation and right-of-way widths of the cross street.

FINDING: The subject property is not adjacent to a railroad, freeway, or parkway. Access to Highway 126 will be for emergency use only. This criterion is not applicable to the proposed subdivision.

Section 17.36.120. Street Names.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street in a nearby city or in the County. Street names and numbers shall conform to the established pattern in the County and shall require approval from the County Property Address Coordinator.

FINDING: This criterion will be met by condition of approval.

Section 17.36.130. Sidewalks.

- A. Within an urban growth boundary, sidewalks shall be installed on both sides of a public road or street and in any special pedestrian way within the subdivision or partition, and along any collectors and arterials improved in accordance with the subdivision or partition.**
- B. Within an urban area, sidewalks shall be required along frontage roads only on the side of the frontage road abutting the development.**
- C. Sidewalk requirements for areas outside of urban area are set forth in section 17.48.175. In the absence of a special requirement set forth by the Road Department**

Director under DCC 17.48.030, sidewalks and curbs are never required in rural areas outside unincorporated communities as that term is defined in Title 18.

FINDING: These criteria are not applicable to the proposed development because the subject property is located outside of an acknowledged Urban Growth Boundary. Sidewalks are not required for this subdivision pursuant to subsection (C) above.

Section 17.36.140. Bicycle, Pedestrian and Transit Requirements.

Pedestrian and Bicycle Circulation within Subdivision.

A. *The tentative plan for a proposed subdivision shall provide for bicycle and pedestrian routes, facilities and improvements within the subdivision and to nearby existing or planned neighborhood activity centers, such as schools, shopping areas and parks in a manner that will:*

- 1. *Minimize such interference from automobile traffic that would discourage pedestrian or cycle travel for short trips;***
- 2. *Provide a direct route of travel between destinations within the subdivision and existing or planned neighborhood activity centers, and***
- 3. *Otherwise meet the needs of cyclists and pedestrians, considering the destination and length of trip.***

B. *Subdivision Layout.*

- 1. *Cul-de-sacs or dead-end streets shall be allowed only where, due to topographical or environmental constraints, the size and shape of the parcel, or a lack of through-street connections in the area, a street connection is determined by the Planning Director or Hearings Body to be infeasible or inappropriate. In such instances, where applicable and feasible, there shall be a bicycle and pedestrian connection connecting the ends of cul-de-sacs to streets or neighborhood activity centers on the opposite side of the block.***

FINDING: The applicant has provided the following statement of compliance:

While the CMP/FMP approved the use of cul-de-sacs in the destination resort due to topography. This tentative plan has a single dead-end street in a location approved by the CMP/FMP. The tentative plan provides bicycle and pedestrian connections from the end of the street into other areas and activity centers.

Staff agrees and notes application materials illustrate a bicycle and pedestrian trail system connecting the proposed lots to the rest of the resort, including the proposed commercial hubs identified in Phase A-1 on application pages TP 3.2 and 3.3. Staff also notes conditions of the FMP require the development to comply with the requirements of Redmond Fire and Rescue. In their July 9, 2021 comment letter, Deputy Fire Marshal Wade Gibson specifically identifies compliance requirements for dead end streets to ensure adequate access for fire apparatus. Staff notes there are four temporary dead end streets labeled as “stubs for future roads”. With a condition of approval to ensure coordination and compliance with Redmond Fire & Rescue access needs for the dead end and temporary stubs for future roads, Staff finds this criterion has been addressed.

2. ***Bicycle and pedestrian connections between streets shall be provided at mid block where the addition of a connection would reduce the walking or cycling distance to an existing or planned neighborhood activity center by 400 feet and by at least 50 percent over other available routes.***

FINDING: The applicant states:

The general location of bicycle and pedestrian connections between streets is set by the FMP. Adding connections would not reduce the cycling and walking distance to an existing or planned neighborhood activity center by over 400 feet or 50 percent or more. For this reason, no connections are required. Even though this is the case, the tentative plan shows connections in the residential roads for trail access to connect to the parallel roads above and/or below.

Staff agrees; this criterion has been addressed.

3. ***Local roads shall align and connect with themselves across collectors and arterials. Connections to existing or planned streets and undeveloped properties shall be provided at no greater than 400-foot intervals.***
4. ***Connections shall not be more than 400 feet long and shall be as straight as possible.***

FINDING: This criterion doesn't apply because there are no local roads located across Cline Falls Road from the entrance to the resort. Connections to existing and proposed streets and undeveloped properties were addressed by the CMP and FMP. Approved wildlife plans discourage access between the properties to protect the natural environment in the resort's open space area.

C. *Facilities and Improvements.*

1. ***Bikeways may be provided by either a separate paved path or an on-street bike lane, consistent with the requirements of DCC Title 17.***
2. ***Pedestrian access may be provided by sidewalks or a separate paved path, consistent with the requirements of DCC Title 17.***
3. ***Connections shall have a 20 foot right of way, with at least a 10 foot usable surface.***

FINDING: All of the proposed roads within the subdivision are private local roads with very low anticipated traffic volumes due to the project location and scope of development. The applicant states:

...Separate bikeways are not needed, nor required for local private roads as long as they are at least 28' wide. Even though the private roads in the tentative plan meet or exceed that standard such that additional bikeways are not needed the tentative plan shows additional trails for cycling and pedestrian travel.

Sidewalks and separated paved paths are allowed but are not required. This code section does not apply because the applicant is not proposing sidewalk or separated paved paths along roadways.

Roads are proposed to be 28 feet wide; Staff agrees and notes application pages TP 3.2 and 3.3 illustrate the separate path proposed for pedestrian and bicycle access. Staff finds this criterion has been met.

Section 17.36.150. Blocks.

- A. General. The length, width and shape of blocks shall accommodate the need for adequate building site size, street width and direct travel routes for pedestrians and cyclists through the subdivision and to nearby neighborhood activity centers, and shall be compatible with the limitations of the topography.**
- B. Size. Within an urban growth boundary, no block shall be longer than 1,200 feet between street centerlines. In blocks over 800 feet in length, there shall be a cross connection consistent with the provisions of DCC 17.36.140.**

FINDING: The subject property is not located within an urban growth boundary so subsection (B) of this criterion doesn't apply. The tentative plan shows roads traversing the hillside with block lengths and shapes that will fit the severe topography while allowing for adequate residential building sites within each lot. The tentative plan also provides connections between the roads to allow for travel routes for pedestrians and cyclists through the subdivision to comply with this criterion. See Tentative Plan ("TP") sheets 3.2 and 3.3.

Section 17.36.160. Easements.

- A. Utility Easements. Easements shall be provided along property lines when necessary for the placement of overhead or underground utilities, and to provide the subdivision or partition with electric power, communication facilities, street lighting, sewer lines, water lines, gas lines or drainage. Such easements shall be labeled "Public Utility Easement" on the tentative and final plat; they shall be at least 12 feet in width and centered on lot lines where possible, except utility pole guyline easements along the rear of lots or parcels adjacent to un subdivided land may be reduced to 10 feet in width.**
- B. Drainage. If a tract is traversed by a watercourse such as a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right of way conforming substantially with the lines of the watercourse, or in such further width as will be adequate for the purpose. Streets or parkways parallel to major watercourses or drainageways may be required.**

FINDING: Criterion (B) does not apply because the subdivision is not traversed by a watercourse. Regarding Criterion (A), Staff agrees with and confirms the applicant's statement:

All utilities will be trenched and buried within the roadway and in the easements, as shown on the Tentative Plan. Compliance with this criterion can be assured with the addition of a condition of approval of the final plat.

Section 17.36.170. Lots, Size and Shape.

The size, width and orientation of lots or parcels shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the lot or parcel size provisions of DCC Title 18 through 21, with the following exceptions:

FINDING: The CMP/FMP decisions require that all lots meet the dimensional and setback standards of the CMP/FMP. As shown on the tentative plan, proposed lots appear to meet the dimensional standards of the FMP and therefore comply with this criterion.

- A. *In areas not to be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and the County Sanitarian, and shall be sufficient to permit adequate sewage disposal. Any problems posed by soil structure and water table and related to sewage disposal by septic tank shall be addressed and resolved in the applicant's initial plan.***

FINDING: Each lot will be served by a private sewer system, so this criterion is not applicable.

- B. *Where property is zoned and planned for business or industrial use, other widths and areas may be permitted by the Hearings Body. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off street service and parking facilities required by the type of use and development contemplated.***

FINDING: Subsection (B) above does not apply to this proposal.

Section 17.36.180. Frontage.

- A. *Each lot or parcel shall abut upon a public road, or when located in a planned development or cluster development, a private road, for at least 50 feet, except for lots or parcels fronting on the bulb of a cul de sac, then the minimum frontage shall be 30 feet, and except for partitions off of U.S. Forest Service or Bureau of Land Management roads. In the La Pine Neighborhood Planning Area Residential Center District, lot widths may be less than 50 feet in width, as specified in DCC 18.61, Table 2: La Pine Neighborhood Planning Area Zoning Standards. Road frontage standards in destination resorts shall be subject to review in the conceptual master plan.***

FINDING: The CMP/FMP decisions require that all lots meet the dimensional standards of the CMP/FMP. Those standards will be met as addressed throughout this report.

- B. All side lot lines shall be at right angles to street lines or radial to curved streets wherever practical.**

FINDING: Although the subject property has severe topographical challenges, the applicant has attempted to the maximum extent possible to design the tentative plan such that the side lot lines are at right angles or radial to curved streets, and has done so wherever practical. This criterion is met.

Section 17.36.190. Through Lots.

Lots or parcels with double frontage should be avoided except where they are essential to provide separation of residential development from major street or adjacent nonresidential activities to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet in width and across which there shall be no right of access may be required along the lines of lots or parcels abutting such a traffic artery or other incompatible use.

FINDING: No proposed lots contain double frontage; this criterion does not apply.

Section 17.36.200. Corner Lots.

Within an urban growth boundary, corner lots or parcels shall be a minimum of five feet more in width than other lots or parcels, and also shall have sufficient extra width to meet the additional side yard requirements of the zoning district in which they are located.

FINDING: The proposed development is not within an urban growth boundary. This provision does not apply.

Section 17.36.210. Solar Access Performance.

- A. As much solar access as feasible shall be provided each lot or parcel in every new subdivision or partition, considering topography, development pattern and existing vegetation. The lot lines of lots or parcels, as far as feasible, shall be oriented to provide solar access at ground level at the southern building line two hours before and after the solar zenith from September 22nd to March 21st. If it is not feasible to provide solar access to the southern building line, then solar access, if feasible, shall be provided at 10 feet above ground level at the southern building line two hours before and after the solar zenith from September 22nd to March 21st, and three hours before and after the solar zenith from March 22nd to September 21st.**
- B. This solar access shall be protected by solar height restrictions on burdened properties for the benefit of lots or parcels receiving the solar access.**
- C. If the solar access for any lot or parcel, either at the southern building line or at 10 feet above the southern building line, required by this performance standard is not feasible, supporting information must be filed with the application.**

FINDING: These criteria do not apply. Pursuant to the approved setbacks for residential buildings in the CMP/FMP, no solar setbacks other than those reflected in the lot setbacks set by the CMP are required for residential buildings.

Section 17.36.220. Underground Facilities.

Within an urban growth boundary, all permanent utility services...

FINDING: The proposed subdivision is not within an urban growth boundary. This criterion does not apply.

Section 17.36.230. Grading of Building Sites.

Grading of building sites shall conform to the following standards, unless physical conditions demonstrate the property of other standards:

- A. Cut slope ratios shall not exceed one foot vertically to one and one half feet horizontally.***
- B. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.***
- C. The composition of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.***
- D. When filling or grading is contemplated by the subdivider, he shall submit plans showing existing and finished grades for the approval of the Community Development Director. In reviewing these plans, the Community Development Director shall consider the need for drainage and effect of filling on adjacent property. Grading shall be finished in such a manner as not to create steep banks or unsightly areas to adjacent property.***

FINDING: To ensure compliance, Staff includes a condition of approval.

Section 17.36.250. Lighting.

Within an urban growth boundary, the subdivider shall provide underground wiring to the County standards, and a base for any proposed ornamental street lights at locations approved by the affected utility company.

FINDING: The proposed development is not within an urban growth boundary. This criterion does not apply.

Section 17.36.260. Fire Hazards.

Whenever possible, a minimum of two points of access to the subdivision or partition shall be provided to provide assured access for emergency vehicles and ease resident evacuation.

FINDING: The applicant states:

The approved CMP/FMP provides three points of access to the resort. At the appropriate times, as required by the FMP and Redmond Fire Department, the applicant will construct the emergency access roads. This criterion will be met.

The Redmond Fire & Rescue Department replied to the Notice of Application with specific guidelines regarding fire safety and access. With a condition of approval to address the requirements of Redmond Fire & Rescue needed for emergency vehicle access and resident evacuation, Staff finds the application to comply with this requirement.

Section 17.36.270. Street Tree Planting.

Street tree planting plans, if proposed, for a subdivision or partition, shall be submitted to the Planning Director and receive his approval before the planting is begun.

FINDING: No street trees have been proposed by the applicant.

Section 17.36.280. Water and Sewer Lines.

Where required by the applicable zoning ordinance, water and sewer lines shall be constructed to County and City standards and specifications. Required water mains and service lines shall be installed prior to the curbing and paving of new streets in all new subdivisions or partitions.

FINDING: The applicant provides the following:

As documented and approved in the CMP/FMP, and discussed herein, the resort will be served by private sewer and water services that provide service to each lot. This tentative plan shows mains in the streets in front of each lot that will provide those services to each lot. The applicant will submit construction drawings showing the installation of water and sewer lines and the services to each lot meeting County standards. Compliance with this criterion can be assured with the addition of a condition of approval of the final plat that services will be installed to County standards prior to the paving of new residential streets serving those lots with water and sewer.

Staff finds this criterion will be met and includes a condition of approval to ensure compliance.

Section 17.36.290. Individual Wells.

In any subdivision or partition where individual wells are proposed, the applicant shall provide documentation of the depth and quantity of potable water available from a minimum of two wells within one mile of the proposed land division. Notwithstanding DCC

17.36.300, individual wells for subdivisions are allowed when parcels are larger than 10 acres.

FINDING: The TP does not include any individual wells. This criterion does not apply.

Section 17.36.300, Public Water System.

In any subdivision or partition where a public water system is required or proposed, plans for the water system shall be submitted and approved by the appropriate state or federal agency. A community water system shall be required where lot or parcel sizes are less than one acre or where potable water sources are at depths greater than 500 feet, excepting land partitions. Except as provided for in sections 17.24.120 and 17.24.130, a required water system shall be constructed and operational, with lines extended to the lot line of each and every lot depicted in the proposed subdivision or partition plat, prior to final approval.

FINDING: The applicant provided the following:

As discussed herein the applicant has applied for and received approval for a drinking water system from the Department of Health and Human Services, which was presented and approved as part of the FMP approval. In compliance with this criterion the applicant will construct the water system and extend water lines to each lot line so that the system is operational prior to final plat approval.

Staff finds this criterion has been met and adds a condition of approval to ensure compliance.

Chapter 17.44, Park Development.

Section 17.44.010. Dedication of Land.

- A. *For subdivisions or partitions inside an urban growth boundary, the developer shall set aside and dedicate to the public for park and recreation purposes not less than eight percent of the gross area of such development, if the land is suitable and adaptable for such purposes and is generally located in an area planned for parks.***
- B. *For subdivisions or partitions outside of an urban growth boundary, the developer shall set aside a minimum area of the development equal to \$350 per dwelling unit within the development, if the land is suitable and adaptable for such purposes and is generally located in an area planned for parks.***
- C. *For either DCC 17.44.010 (A) or (B), the developer shall either dedicate the land set aside to the public or develop and provide maintenance for the land set aside as a private park open to the public.***
- D. *The Planning Director or Hearings Body shall determine whether or not such land is suitable for park purposes.***
- E. *If the developer dedicates the land set aside in accordance with DCC 17.44.010 (A) or (B), any approval by the Planning Director or Hearings Body shall be subject to***

the condition that the County or appropriate park district accept the deed dedicating such land.

- F. DCC 17.44.010 shall not apply to the subdivision or partition of lands located within the boundaries of a parks district with a permanent tax rate.***

FINDING: The subject property is located within the boundaries of the Redmond Area Park and Recreation District, which has a permanent tax rate. Pursuant to section (F), these criteria do not apply.

The applicant states:

Dedication or payment of the park fee is due at the time of final plat review. The land being platted is not generally located in an area planned for public parks. Instead, it is located in an area planned for the development of destinations that, instead, provide 50% private open space areas that function as parks. Additionally, the CMP/FMP does not call for the resort to provide a public park area.

Section 17.44.020. Fee in Lieu of Dedication.

- A. In the event there is no suitable park or recreation area or site in the proposed subdivision or partition, or adjacent thereto, then the developer shall, in lieu of setting aside land, pay into a park acquisition and development fund a sum of money equal to the fair market value of the land that would have been donated under DCC 17.44.010 above. For the purpose of determining the fair market value, the latest value of the land, unplatted and without improvements, as shown on the County Assessor's tax roll shall be used. The sum so contributed shall be deposited with the County Treasurer and be used for acquisition of suitable area for park and recreation purposes or for the development of recreation facilities. Such expenditures shall be made for neighborhood or community facilities at the discretion of the Board and/or applicable park district.***
- B. DCC 17.44.020 shall not apply to subdivision or partition of lands located within the boundaries of a parks district with a permanent tax rate.***

FINDING: The subject property is located within the boundaries of the Redmond Area Park and Recreation District, which has a permanent tax rate. Pursuant to section (B), these criteria do not apply.

Section 17.44.030. Annexation Agreement.

No partition or subdivision of land lying within the Bend Urban Growth Boundary, including the urban reserve areas, but outside the boundaries of the Bend Metro Park and Recreation District, shall be approved unless the landowner has signed an annexation agreement with the Bend Metro Park and Recreation District.

FINDING: The subject property is not located within one of the identified areas. This criterion does not apply.

Chapter 17.48, Design and Construction Specifications.

Section 17.48.100. Minimum Right of Way Width.

The minimum right of way width is 60 feet unless specified otherwise in Table A (or in any right of way specifications set forth for a particular zone in a zoning ordinance). (See Table A set out at the end of DCC Title 17.)

FINDING: Table A does not require the dedication of right-of-way for private streets. As such, this criterion does not apply.

Section 17.48.110. Turn Lanes.

When a turn lane is required, it shall be a minimum of 14 feet in width, except where road specifications in a zoning ordinance provide for travel lanes of lesser width. Additional right of way may be required.

FINDING: The main entrance road includes a turn lane that was approved as part of the Phase A-1 Tentative plan. No change is being proposed to that approval. This criterion is met.

Section 17.48.120. Partial Width Roads.

Partial width roads or half streets shall not be allowed.

FINDING: No partial width road or half streets are proposed.

Section 17.48.130. Road Names.

All roads shall be named in conformance with the provisions of the Deschutes County uniform road naming system set forth in DCC Title 16.

FINDING: A condition of approval is included to ensure compliance with this criterion.

Section 17.48.140. Bikeways.

A. General Design Criteria.

- 1. Bikeways shall be designed in accordance with the current standards and guidelines of the Oregon (ODOT) Bicycle and Pedestrian Plan, the American Association of State Highway Transportation Officials (AASHTO) Guide for Development of New Bicycle Facilities, and the Deschutes County Bicycle Master Plan. See DCC 17.48, Table B.***

2. ***All collectors and arterials shown on the County Transportation Plan map shall be constructed to include bikeways as defined by the Deschutes County Bicycle Master Plan.***
 3. ***If interim road standards are used, interim bikeways and/or walkways shall be provided. These interim facilities shall be adequate to serve bicyclists and pedestrians until the time of road upgrade.***
- B. *Multi-use Paths.***
1. ***Multi-use paths shall be used where aesthetic, recreation and safety concerns are primary and a direct route with few intersections can be established. If private roads are constructed to a width of less than 28 feet, multi-use paths shall be provided.***
 2. ***Multi-use paths are two-way facilities with a standard width of 10 feet, but with a 12-foot width if they are subjected to high use by multiple users. These paths shall meet County multi-use path standards and shall connect with bike facilities on public roads.***
- C. *Bike Lanes. Six-foot bike lanes shall be used on new construction of curbed arterials and collectors.***
- D. *Shoulder Bikeways.***
1. ***Shoulder bikeways shall be used on new construction of uncurbed arterials and collectors.***
 2. ***Shoulder bikeways shall be at least four feet wide. Where the travel lane on an existing arterial or collector is not greater than eleven feet, the bikeway shall be a minimum of four feet wide.***
- E. *Mountain Bike Trails.***
1. ***Mountain bike (dirt or other unpaved surface) trails may be used as recreational or interim transportation facilities.***
 2. ***Trails used for transportation shall have a two-foot minimum tread width and a six-foot minimum clearing width centered over the trail, and a minimum overhead clearance of seven feet. Trails used solely for recreational use may be narrower with less clearing of vegetation.***

FINDING: The applicant provided the following statement:

The new roads proposed by the tentative plan are private roads that are at least 28' wide. Bikeways are required for collector and arterial streets only. None of the private roads are arterials or collectors. Criterion A-D, therefore, are not applicable. Mountain bike trails will meet the standard in criterion E.

Staff finds this criterion has been addressed.

Section 17.48.150. Structures.

All structures that carry a road or cross over a road shall be designed to have a 50-year life span. All designs must be approved by the Road Department Director and other affected public or private agencies.

FINDING: No structures to carry a road or cross over a road are proposed or required.

Section 17.48.160. Road Development Requirements – Standards.

- A. *Subdivision Standards. All roads in new subdivisions shall either be constructed to a standard acceptable for inclusion in the county maintained system or the subdivision shall be part of a special road district or a homeowners association in a planned unit development.***

FINDING: All roadways proposed by the tentative plan are private. The design of the proposed roadways comply with the standards for private roads identified in Table A. The applicant confirms in the application materials that all of the private roadways will be maintained by the Thornburgh Resort Owners Association or a sub-association formed for a particular element of the resort or this tentative plan. Recordation of the CC&Rs, which requires maintenance of subdivision roadways by the homeowners association, will ensure compliance. As noted previously, this decision includes a condition of approval.

- B. *Improvements of Public Rights of Way.***
- 1. *The developer of a subdivision or partition will be required to improve all public ways that are adjacent or within the land development.***
 - 2. *All improvements within public rights of way shall conform to the improvement standards designated in DCC Title 17 for the applicable road classification, except where a zoning ordinance sets forth different standards for a particular zone.***

FINDING: There are no public rights of way in the tentative plan. This criterion is not applicable.

- C. *Primary Access Roads.***
- 1. *The primary access road for any new subdivision shall be improved to the applicable standard set forth in Table A.***
 - 2. *The applicable standard shall be determined with reference to the road's classification under the relevant transportation plan.***
 - 3. *For the purposes of DCC 17.48.160 a primary access road is a road leading to the subdivision from an existing paved county, city or state maintained road that provides the primary access to the subdivision from such a road.***

FINDING: The applicant provides the following:

The issue of access roads was a criterion for approval of the CMP which was met and resolved at that time. The primary access road, which enters the property from Cline Falls Highway was approved in the CMP and was further included and approved in the Phase A-1 Tentative Plan. This application is not proposing any change to that. This road meets or exceeds the standards set forth in Table A. This criterion is met.

Staff disagrees that the CMP/FMP absolves the applicant of compliance with Title 17 standards. However, staff agrees this criterion is met.

- D. Secondary Access Roads. When deemed necessary by the County Road Department or Community Development Department, a secondary access road shall be constructed to the subdivision. Construction shall be to the same standard used for roads within the subdivision.**

FINDING: The applicant states:

The issue of secondary access roads was a criterion for approval of the CMP which was met and resolved at that time with the inclusion of two secondary access roads required by the CMP/FMP across BLM lands to the resort. Secondary access will be developed as required by the CMP/FMP and the Redmond Fire Department. These roads will be built, at the minimum, to the standards required by the CMP/FMP, specifically, at least 20 feet in width with an all-weather surface that is capable of supporting a 60,000 lb. fire vehicle. See condition 4 above. The secondary access roads required by the CMP/FMP for Phase A were included and approved in the Phase A-1 Tentative Plan. If this plat is filed before Phase A-1, the applicant will build the secondary access roads required by Condition 4 of the CMP/FMP prior to filing of the final plat or issuance of the first building permit, whichever occurs first. No change is being proposed. This criterion applies by virtue of being imposed by the CMP/FMP and, therefore, need not be imposed as a condition of approval of the tentative plan.

Staff disagrees that the CMP/FMP absolves the applicant of compliance with Title 17 standards. However, staff agrees this criterion is met.

- E. Stubbed Roads. Any proposed road that terminates at a development boundary shall be constructed with a paved cul-de-sac bulb.**

FINDING: One dead end is proposed between lots 243 and 237 at the southwest edge of the subdivision. Four stubs are also proposed for future road development. Staff finds the dead end and all four stubs must be constructed with a paved cul-de-sac or hammerhead design satisfactory to Redmond Fire & Rescue, in compliance with their July 9, 2021 comment letter.

- F. Cul-de-sacs.**
 - 1. Cul-de-sacs shall have a length of less than 600 feet, unless a longer length is approved by the applicable fire protection district, and more than 100 feet from the center of the bulb to the intersection with the main road.**
 - 2. The maximum grade on the bulb shall be four percent.**

FINDING: The plan implements cul-de-sacs approved by the CMP, it does not propose new ones. As such, Staff finds (F) was satisfied by the CMP. In their July 9, 2021 letter, Redmond Fire & Rescue does not object to the cul-de-sacs, but does provide specific requirements for effective access. With a condition of approval, Staff finds the proposed plan to comply with this requirement.

- G. *Frontage Roads. Right of way widths shall be 40 feet when immediately adjacent to a main highway/arterial; 60 feet when the frontage road is separated from the highway or arterial by private land or as set forth for a particular zone in the zoning ordinance.***

FINDING: No frontage roads are proposed as part of this application.

Section 17.48.180, Private Roads.

The following minimum road standards shall apply for private roads:

- A. The minimum paved roadway width shall be 20 feet in planned unit developments and cluster developments with two foot wide gravel shoulders;***
- B. Minimum radius of curvature, 50 feet;***
- C. Maximum grade, 12 percent;***
- D. At least one road name sign will be provided at each intersection for each road;***
- E. A method for continuing road maintenance acceptable to the County;***
- F. Private road systems shall include provisions for bicycle and pedestrian traffic.***
 - 1. In cluster and planned developments limited to ten dwelling units, the bicycle and pedestrian traffic can be accommodated within the 20-foot wide road.***
 - 2. In other developments, shoulder bikeways shall be a minimum of four feet wide, paved and striped, with no on street parking allowed within the bikeway, and when private roads are developed to a width of less than 28 feet, bike paths constructed to County standards shall be required.***

FINDING: Private roads are proposed as part of this application. The applicant provides the following:

This tentative plan shows that:

- A. The minimum paved roadway width will be at least 20' with most roadways being at least 28'.
- B. The minimum radius of curvature is at least 50'.
- C. The maximum grade shown on this tentative plan is 12 percent or less. Note 6 of Table A of DCC Chapter 17.48 allows for an additional 2 percent in unusually steep areas, which would allow grades of up to 14 percent on much of this tentative plan. This and other County road specifications and standards supercede specifications and standards for roads and streets in the uniform fire code. ORS 368.039.
- D. The applicant will install at least one road name sign at each intersection.
- E. As noted above the roadways will be maintained by the Thornburgh Resort Owner's association or a sub-association formed for this purpose.
- F. As noted above, this tentative plan provides bike and pedestrian access in accordance with the CMP/FMP.

While the tentative plan shows the resort's private road system complies with the above standards, a condition of approval could further ensure compliance upon review of the final plat.

As proposed, the private roads comply with these requirements. A condition of approval is included to ensure compliance. Staff notes the Road Department will review the development plans prior to final plat approval to ensure compliance.

Section 17.48.190. Drainage.

A. Minimum Requirements.

- 1. Drainage facilities shall be designed and constructed to receive and/or transport at least a design storm as defined in the current Central Oregon Stormwater Manual created by Central Oregon Intergovernmental Council and all surface drainage water coming to and/or passing through the development or roadway.**

FINDING: The tentative plan, sheets 4.1, 4.2 and 5.1 shows the erosion control and preliminary drainage system for the subdivision. The drainage system will be composed of road side swales with rock check dams to control velocities, reduce erosion, and provide retention storage. Drainage ponds are proposed in areas to provide additional storage required by the Central Oregon Stormwater Manual ("COSM") standards. The applicant states the retention ponds shown are conceptual in size and location at this point, and will be designed with the construction drawings. Culverts are also shown on the tentative plan, which will allow existing drainage paths to continue to flow down the hill, away from the new home sites. The applicant also notes sizing and design of these features will take place with the construction drawings.

The applicant proposes the following condition:

As a condition of approval, the applicant should be required to provide a certification by a licensed professional engineer that the drainage facilities have been designed and constructed in accordance with the current Central Oregon Stormwater Manual (COSM) to receive and/or transport at least the design storm for all surface drainage water including stormwater coming to and/or passing through the development.

- 2. The system shall be designed for maximum allowable development.**

FINDING: The drainage system is being designed for the maximum development in the specific areas being served by it. Compliance with this criterion can be assured through the imposition of a condition of approval.

B. Curbed Sections.

...

FINDING: A system of flush curbs, road side swales, rock check dams, culverts, and retention ponds will be designed to control runoff. As illustrated on application sheet TP1.2, typical cross sections of proposed flush curbs do not appear to channel or divert storm water. Staff finds the proposal is non-curbed. Storm drains and catch basins are not proposed in the streets at this time.

- C. *Noncurbed Sections.***
 - 1. *Road culverts shall be concrete or metal with a minimum design life of 50 years.***
 - 2. *All cross culverts shall be 18 inches in diameter or larger.***
 - 3. *Culverts shall be placed in natural drainage areas and shall provide positive drainage.***
- D. *Drainage Swales. The Design Engineer is responsible to design a drainage swale adequate to control a design storm as defined in the Central Oregon Stormwater Manual created by Central Oregon Intergovernmental Council.***
- E. *Drainage Plans. A complete set of drainage plans including hydraulic and hydrologic calculations shall be incorporated in all road improvement plans.***

FINDING: A condition of approval is included to ensure compliance with section (C) at the time of the review of the final plat. As discussed previously, Staff includes a condition of approval to ensure compliance with section (D). Drainage plans will be reviewed by the Road Department as part of their review of road improvement plans.

- F. *Drill Holes. Drill holes are prohibited.***

FINDING: No drill holes are proposed.

- G. *Injection wells (drywells) are prohibited in the public right-of-way.***

FINDING: There no public rights of way; this criterion does not apply.

As conditioned, Staff finds the proposal to comply with the drainage requirements of DCC 17.48.190.

Section 17.48.210. Access.

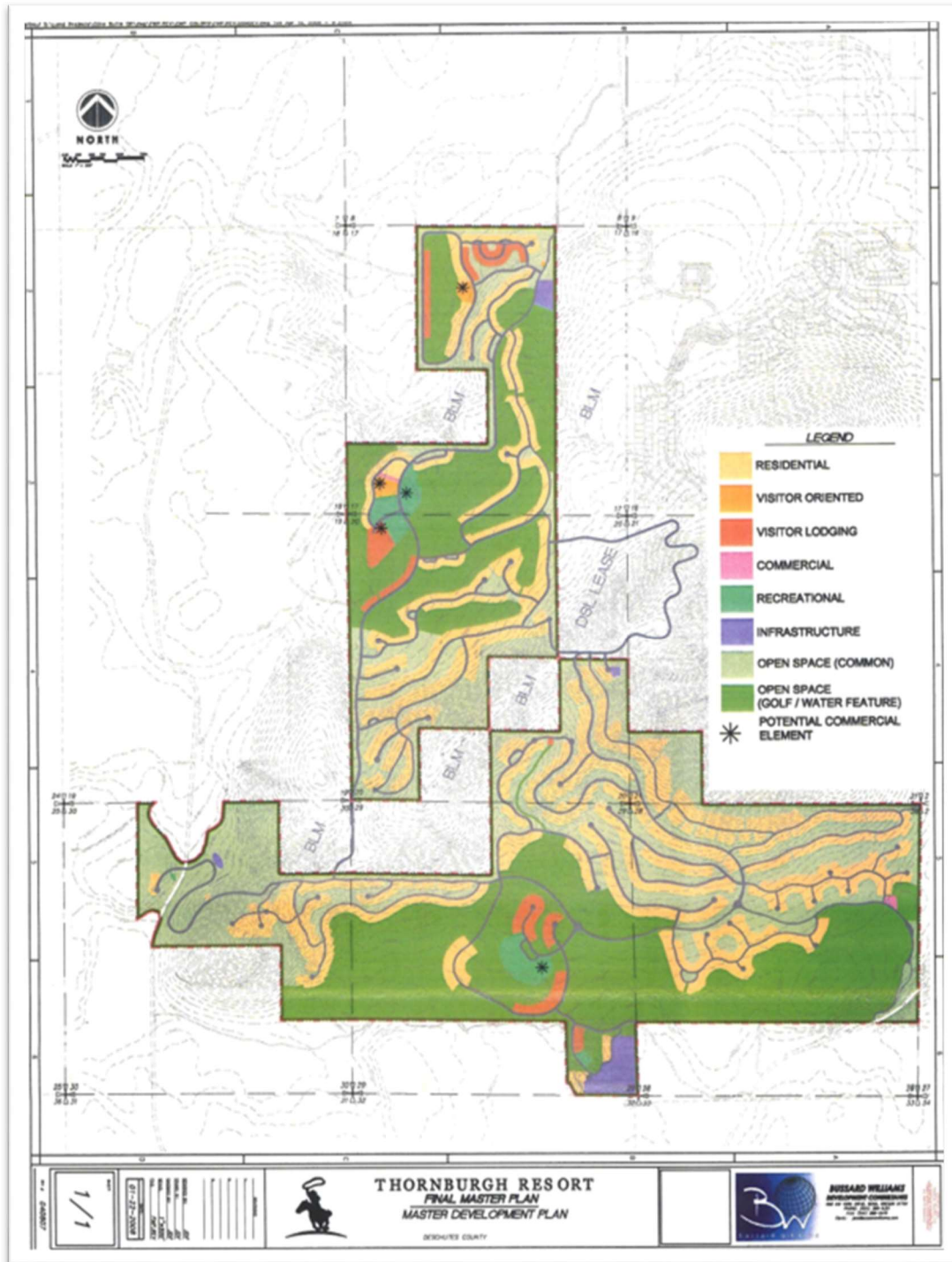
- A. *Permit Required. Access onto public right of way or change in type of access shall require a permit. Permits are applied for at offices of the Community Development Department.***
- B. *Access Restrictions and Limitations. The creation of access onto arterials and collectors is prohibited unless there is no other possible means of accessing the parcel. In any event, residential access onto arterials and collectors shall not be permitted within 100 feet of an intersection or the maximum distance obtainable on the parcel, whichever is less.***

FINDING: No access to a public right-of-way, or to arterial or collector roads, from a proposed subdivision lot is proposed. Therefore, these criteria do not apply.

Final Master Plan (FMP) Approval, file no. M-07/MA-08-6

FINDING: The applicant has obtained final approval of an FMP from Deschutes County which approved the lots included in this tentative plan. The applicant is required to demonstrate compliance with the relevant conditions of approval imposed by the FMP. Each condition is set out in full and is addressed below.

Figure 3: Approved Final Master Plan



1. Approval is based upon the submitted plan. Any substantial change to the approved plan will require a new application.

FINDING: Staff finds this condition is different than the DCC 18.113.080 criterion, which instead pertains to modifications of the CMP. This criterion is addressed to substantial changes to the proposal on which the FMP approval was based. Unlike DCC 18.113.080, substantial change is not defined for the purposes of this condition of approval. The applicant argues that no substantial change is proposed as follows:

Changes that are not substantial are allowed without modification of the CMP/FMP. Exhibit 3: FMP A3.1-Master Development Plan and Exhibit 21: FMP G-1 Residential Development Plan of the FMP shows residential development, in virtually the same location this Tentative Plan application proposes development. It is not proposing a substantial change to the approved plan.

In prior land use actions and more than 30 appeals, Ms. Gould has repeatedly claimed some issue or change is substantial and requires the Applicant to file a new CMP/FMP or to modify the existing CMP/FMP. Ms. Gould has consistently lost that argument, including in the recent Phase A-1 Tentative Plan review. During the proceedings for the Phase A-1 tentative plan, Ms. Gould argued there were substantial changes to numerous elements, including: i) the location, timing and phasing of improvements, ii) the open space, and, iii) the Incremental Development & Mitigation Plan. In his tentative plan decision Hearing Officer Olsen addressed these issues in detail and rejected Ms. Gould's argument. Ms. Gould appealed this decision on this issue but LUBA affirmed the hearings officer on that point. This is no longer an open issue in that case.

Location and Phasing

Hearings Officer Olsen (Exhibit 4, pg 21-22) noted:

"The Board's CMP decision CU-05-20, readopted in relevant parts on April 9, 2008, and consistent with the prior Hearings Officer decision, recognizes that 'there will be some fluidity between and among development phases, depending on market demand, weather and economic conditions.' (Page 2). *** The Board read DCC 18.113 as not requiring specificity, but only the general location of proposed development uses. (emphasis in original). *** This appears to be consistent with the Hearings Officer decision which states that the resort will be developed in seven phases (A-G) but that 'significant flexibility is required in the scheduling and phasing of improvements' to accommodate changed conditions 'beyond the control of the applicant.' p. 21 It notes that 'some commercial and recreational facilities at the resort may be deferred until the resort population warrants their construction.'"

The Hearings Officer's findings recognize that the documents are largely conceptual and provide flexibility if the elements of each Phase are met in the general locations shown. This

appears to be consistent with Board of Commissioner's reading of the Code in other cases. See generally, Eagle Crest III, (Exhibit 29: BOCC Eagle Crest). It is also consistent with LUBA's determination that neither the statutes nor the CMP requires specificity about the ultimate mix and location of recreational facilities if the statutory financial investment requirements are met. *Gould v Deschutes County*, 59 Or LUBA 435, 462-463.

Open Space

The tentative plan proposes open space in the same general locations shown on Exhibit 30: FMP A.1.1 - Open Space Map. This can be confirmed by a comparison of the exhibit and the tentative plan. location of open space in this Phase A-2 Tentative Plan is consistent with the FMP. The County's code requires that at least 50% of the resort be maintained as permanent open space. Open space includes both developed and undeveloped open space. With the filing of this tentative plan there are 500 acres of open space of the total developed area of approximately 752 acres. This is equal to approximately 66.5%. This is more than the 50% required by code and the 66% open space shown on Exhibit 30: FMP A.1.1.

Wildlife Mitigation Plan

Thornburgh's Mitigation Plan (TMP) is comprised of two plans, the Wildlife Mitigation Plan which includes the monitoring plan (WMP) and, the April 2008 Fish and Wildlife Mitigation Plan (FWMP). The development in the location depicted on the submitted site plan will not cause any change in the terrestrial mitigation plan. The WMP spells out the monitoring and reporting requirements that applicant is required to perform, and the enforcement measures afforded the County, the BLM, and the ODFW. The WMP was found to be sufficient by approval of the FMP after numerous challenges by Gould. The site plan does not propose or require any change to the WMP. Under the WMP, mitigation is not required until such time that impacts are created, the timing of which is discussed under condition #38 below. As the applicant is not proposing any change to the WMP, no action is necessary. Further the issue is settled and barred from further attack as determined by LUBA and the BOCC in earlier proceedings. Condition 38 of the FMP also makes it clear that compliance with the wildlife plan is assured by annual County Staff and wildlife agency reviews of the mitigation plans and measures undertaken by the Resort; not during the review of a site plan or tentative plan.

Fish and Wildlife Mitigation Plan (FWMP)

In its decision regarding Gould's appeal of the Phase A-1 tentative plan, LUBA determined that as long as a development application does not alter the FWMP, conditions of approval assuring compliance with the FWMP are not required. In rejecting Gould's claim that conditions of approval were needed to assure CLCC would do what is required by the FWMP, LUBA held:

"Intervenor responds, and we agree, that removal of the dams [on Deep Canyon Creek] and provision of mitigation water is required by the FMP approval and the

tentative plan does not alter the mitigation plan. *** The hearings officer was not required to impose additional condition to the approval of the tentative plan [to assure compliance with the FWMP].”

Gould v. Deschutes County, 79 Or LUBA 561, 583 (2019). The same holds true for the current site plan – the approval of the site plan will not alter the mitigation promised by the FWMP and the requirements of the FWMP remain self-executing. When mitigation is required for this site plan, the applicant will be using water from Big Falls Ranch to mitigate for water quantity and quality impacts of the golf course and lake development proposed under this application as well as for the development approved under the Phase A-1 tentative plan. The applicant entered into a contract with Big Fall Ranch to purchase an initial 175 acres of irrigation water rights for use as mitigation water. See: Exhibit 5: Big Falls-Pinnacle Memo. This is 315 acre-feet of cold-water mitigation water rights – more water than needed for all Phase A development. Since the Big Falls Ranch water is an allowable source in the FWMP, and the source provides “cold water” mitigation there is no change. As with the tentative plan, the site plan is not proposing any change to the FWMP because it will be complying with the FWMP by using Big Falls Ranch irrigation water rights for mitigation. Nothing further is required.

For the reasons detailed above, this application is not a substantial change from the approved FMP and does not require a new application. This condition is met.

Staff concurs that no substantial change to the approved FMP is proposed.

- 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 18 of the County Code, the Subdivision Ordinance.***

FINDING: The applicant is seeking tentative plat approval as required by this Condition 2.

- 3. Applicant shall provide a signed grant of right-of-way from the U.S. Department of the Interior Bureau of Land Management for an access easement connection to U.S. Highway 126, prior to submission of a Final Master Plan application.***

FINDING: This requirement has been satisfied. Furthermore, BLM was provided notice of the application and submitted formal comment expressing no concerns or needs.

- 4. Subject to US Department of the Interior-Bureau of Land Management (BLM) approval, any secondary emergency ingress/egress across the BLM-owned land or roadways shall be improved to a minimum width of 20 feet with all-weather resort access surface capable of supporting a 60,000-lb. fire vehicle. Emergency secondary resort access roads shall be improved before any Final Plat approval or issuance of a building permit, whichever comes first.***

FINDING: The applicant argues this condition applies during the county’s review of the final plat or

issuance of a building permit, whichever comes first and asserts this condition is not a relevant approval criterion for the current application. Staff includes a condition of approval requiring emergency secondary resort access roads be improved in compliance with FMP Condition #4 prior to issuance of any final plat or building permit under this approval.

- 5. The developer will design and construct the road system in accordance with DCC 17. Road improvement plans shall be approved by the Road Department prior to construction.***

FINDING: As described in this decision, the developer has proposed a road system in accordance with DCC 17. As a condition of approval, the applicant shall receive Road Department approval of road designs prior to construction.

- 6. All easements of record or rights-of-ways shall be shown on any final plat. Plans shall be approved by the Road Department prior to construction.***

FINDING: This requirement applies during the County's review of the final plat. It is not a requirement of tentative plan approval. Staff includes a condition of approval to ensure compliance.

- 7. All new proposed road names must be reviewed and approved by the Property Address Coordinator prior to final plat approval.***

FINDING: This requirement applies during the County's review of the final plat. It is not a requirement of this site plan approval. As noted previously, Staff includes a condition of approval to ensure compliance.

- 8. Plan review and approval of water supply plans for phase 1 will be required by Oregon Department of Human Services-Drinking Water Program (DHS-DWP) prior to Final Master Plan approval.***

- 9. Applicant shall designate the location of all utility lines and easements that burden the property on the FMP.***

FINDING: These requirements have been satisfied.

- 10. Applicant shall provide, at the time of tentative plat/site plan review for each individual phase of the resort development, updated documentation for the state water rights permit and an accounting of the full amount of mitigation, as required under the water right, for that individual phase.***

FINDING: The Applicant responded to this condition as follows:

In the tentative plan decision Hearing Officer Olsen determined that "Condition 10 appears primarily to be an informational requirement requiring documentation of the state water permit and an accounting of mitigation under the water right." LUBA affirmed that decision. See Exhibit 6: LUBA TP A-1. In a subsequent proceeding, for approval of the Golf Course and

Lakes Site Plan, opponents argued that the Applicant needed to show it had an enforceable contract with Big Falls Ranch and that its water rights permit had not expired. Applicant argued the first was not required because the issue had been settled during review of the CMP and that the water rights permit had not expired.

The Board agreed with Applicant stating:

“The BOCC agrees this was resolved in the CMP with an intent consistent with Hearing Officer Olsen’s interpretation, that it is an “informational requirement”. The language of Condition 10 requires “updated documentation of the state water right permit.” It doesn’t require that the documentation show any particular status, for example, that the permit is free of protest, or the extension is pending, etc... It just requires updated documentation which the Applicant provided. It shows the Applicant has a water rights permit, that the permit has not been cancelled, and that it is in good standing. Condition 10 does not require the Applicant to provide an agreement, or any form of proof of an agreement or contract for mitigation water. It just requires Applicant to provide an accounting of the mitigation water for the uses in this site plan. Opponent attempts to expand the scope beyond that is a collateral attack on the CMP.”

See Exhibit 1: BOCC Golf SP Decision, Exhibit A: Pg. 5.

LUBA upheld the Board's interpretation of Condition 10 in its decision approving the golf course site plan application. LUBA determined the following:

“Condition 10 requires ‘an accounting of the full amount of mitigation, as required under the water right.’ (Emphasis added.) Condition 10 is imposed to ensure compliance with DCC 18.113.070(K), which is concerned with the availability of water for resort use and mitigation for the resort’s consumptive use of water, which is related to but distinct from the fish and wildlife mitigation plan that is required in order to satisfy DCC 18.113.070(D). *** Satisfaction of the no net loss standard [of DCC 18.113.070(D)] is ensured through compliance with Condition 38, not Condition 10. *** Condition 10 is concerned only with satisfaction of DCC 18.113.070(K) regarding the availability of water for resort use and mitigation for the volume of consumptive use, as required by OWRD under the water right.”

Gould v. Deschutes County, __ OR LUBA __ (LUBA No. 2020-095, June 11, 2021) Exhibit 22, p. 12 slip opinion.

LUBA continued to find that Central Land had met the requirements of Condition 10 by documenting the full amount of water needed for the use proposed by the site plan and by providing documentation for the state water right permit. It affirmed the County's determination that “Permit G-17036 remains an effective and valid water right ‘unless and until cancelled by OWRD’ and observed that OWRD’s water rights information query showed the status of the permit as ‘non-cancelled.’” Gould at p. 15 slip opinion, Exhibit 22.

In this case, in compliance with the BOCC’s direction and LUBA’s decision, the applicant is

providing updated documentation similar to what it provided in the golf course site plan case noted above. The documentation shows that Pinnacle Utilities, LLC owns water rights permit # G-17036 (See Exhibit 7: OWRD Pinnacle Transfer). This is a permit for a quasi-municipal use of water granted by Oregon Water Resources Department for this project. See Exhibit 8: Water Rights Permit. Pinnacle also has an approved Incremental Mitigation Plan. See Exhibit 9: OWRD Water Rights IDP.

Opponents routinely argue that the Applicant's water rights permit is void, or expired, or that Applicant cannot pump water under its permit. The applicant's water rights permit is not, however, void. The Applicant filed a timely request to extend the permit and the permit remains in effect unless and until the permit is not extended. Under Oregon law, permit G-17036 remains in place during the review of the extension unless and until cancelled by OWRD. See OAR 690-320-0020 (providing for OWRD to send a certified letter of intent to cancel a permit, with 60 days to respond). OWRD has taken no action against the permit and said it has no intentions to do so. The Applicant has submitted an OWRD query that shows that the Water Rights Permit is not cancelled. See Exhibit 12: OWRD Water Rights Query. This and an accounting of the amount of mitigation water required for this phase of development is all that must be shown to comply with Condition 10.

On May 7, 2021, OWRD issued an Order on Reconsideration Approving the Resort's Water Management and Conservation Plan ("WMCP"). It found, among other things, that Pinnacle's future water needs "are reasonable and consistent with available land use plans and Pinnacle Utilities, LLC has demonstrated a need to divert water under Permit G-17036 during the next 20 years." The approval ordered the following: (a) the WMCP will remain in effect until May 7, 2031; and (b) that by November 7, 2030, Pinnacle shall submit an updated plan; and (c) by May 7, 2026, it shall submit a progress report. See Exhibit 13: Neuman letter w/Order on Reconsideration Approving the WMCP.

To further refute Opponents' "void permit" argument, the Applicant is providing communications from the OWRD Watermaster that state that the water rights permit is in good standing, that Pinnacle has done more than is required of them at this point, and that Applicant has provided mitigation before pumping any water. See Exhibit 11: Jeremy Giffin Emails dated 12/24/19 and 8/24/18. Pinnacle submitted an application to extend its water rights permit. It was approved by OWRD by the issuance of a Proposed Final Order (PFO). See Exhibit 10: OWRD PFO. Gould filed a protest of OWRD's approval and requested a contested hearing. On October 29 2018 OWRD denied Gould's request and issued the Final Order granting the extension. When Gould appealed the Final Order to both the Oregon Court of Appeals and the Circuit Court of Marion County, OWRD withdrew the Final Order, instead sending the case to a contested case hearing, which is pending.

As required by Condition 10, the Applicant is providing an accounting of the amount of mitigation needed for the development of the single-family home sites allowed under this tentative plan. This amount is approximately 29 acre-feet of mitigation. The total mitigation for this tentative plan and all prior approved and pending development applications is 216.1 acre-feet of mitigation as set out on Exhibit 14: Mitigation Debit Table. This is the only

information required regarding mitigation by Condition 10.

Additionally, the applicant has a contract with Big Falls Ranch to purchase 175 acres of irrigation water rights for use as mitigation water. See: Exhibit 5: Big Falls-Pinnacle Memo. This is 315 acre-feet of cold-water mitigation water rights – more water than needed for all Phase A development. These water rights assure compliance with the water quality (temperature) elements of the FWMP.

Staff concurs that this condition has been met with regard to the present application.

11. ***At the time of submission for Final Master Plan (FMP) approval, Applicant shall include a written plan for entering into cooperative agreements with owners of existing wells within a two-mile radius of Applicant's wells. The plan shall include a description of how Applicant will provide notice to affected well owners and of the terms and conditions of an option for well owners to enter into a written agreement with Applicant under which Applicant will provide indemnification to well owners in the event of actual well interference as a result of Applicant's water use. The plan shall remain in effect for a period of five years following full water development by Applicant. Specific terms and conditions of the plan shall be developed in cooperation with County Staff and the Oregon Water Resources Department.***

FINDING: These requirements have been satisfied.

12. ***Commercial, cultural, entertainment or accessory uses provided as part of the destination resort shall be contained within the development and shall not be oriented to public roadways. Commercial, cultural and entertainment uses allowed within the destination resort shall be incidental to the resort itself. As such these ancillary uses shall be permitted only at a scale suited to serve visitors to the resort. Compliance with this requirement shall also be included as a condition of FMP approval.***

FINDING: The condition is not relevant to the County's review of this Tentative Plan as no such uses are proposed.

13. ***Applicant shall specify all recreational facilities within the proposed resort as part of final master plan submittal.***

FINDING: This requirement has been satisfied.

14. ***Applicant and its successors shall do the following to ensure that all open space used to assure the 50% open space requirement of Section 18.113.060 (D)(1) is maintained in perpetuity:***

FINDING: This tentative plan includes a total of 235 +/- acres of which 59 +/- acres will be platted as open space and 100 +/- acres as a golf course open space tract. This means that approximately 67.7% of the land to be platted by Phase A-2 will be open space. The tentative plan for phase A-1 included 514 +/- acres and provided approximately 341 +/- acres of open space. Combined, this

results in a total acreage of approximately 752+/- acres of land, of which 500 are open space, equal to approximately 66.5% open space, complying with the 50% open space required by DCC 18.113.060(D)(1). This requirement is met.

- A. Applicant shall submit for approval, as part of the Final Master Plan, a delineation of the Open Space that is substantially similar to the area shown in the Open Space plan submitted as Ex. 9, B-14 to the "Memorandum of Applicant, in response to public comments dated September 28, 2005, Open Space shall be used and maintained as "open space areas" as that term is used in DCC 18.113.030(E).**

FINDING: This requirement has been satisfied.

- B. The CC&Rs, as modified and submitted to the County on December 20, 2005, shall be further revised such that, Section 3.4 retains the first two sentences, but then the balance of 3.4 is replaced with the following:**

At all times, the Open Space shall be used and maintained as "open space areas." The foregoing sentence is a covenant and equitable servitude, which runs with the land in perpetuity and is for the benefit of all of the Property, each Owner, the Declarant, the Association, and the Golf Club. All of the foregoing entities shall have the right to enforce covenant and equitable servitude. This Section 3.4 may not be amended except if approved by an affirmative vote of all Owners, the Declarant, the Golf Club and the Association.

FINDING: This requirement has been satisfied. As discussed in this decision, the owner will be required to record the CC&Rs.

- C. All deeds conveying all or any part of the subject property shall include the following restriction:**

This property is part of the Thornburgh Resort and is subject to the provisions of the Final Master Plan for Thornburgh Resort and the Declaration of Covenants, Conditions and Restriction of Thornburgh Resort. The final Master Plan and the Declaration contain a delineation of open space area that shall be maintained as open space areas in perpetuity.

FINDING: This requirement applies when the applicant conveys land in the resort. It is not an applicable approval criterion during review of the tentative plan.

- D. All open space areas shall be clearly delineated and labeled on the Final Plat.**

FINDING: This requirement applies during the County's review of each final plat. Staff includes Exhibit A.1.1 from the FMP for reference. Staff finds this condition is met.

- E. Any substantial change to the open space approved under this section will require a new land use permit.**

FINDING: As noted above for condition no. 1, Staff finds that this proposal does not include any substantial changes.

- 15. Applicant shall obtain an approved Water Pollution Control Facility (WPCF) permit (as described in DCC 18.113.070(L)) prior to application for Final Master Plan.**

FINDING: This requirement has been satisfied.

- 16. All temporary structures shall be limited to a maximum of 18 months on the resort site.**

FINDING: This is not relevant to the approval of a tentative plan. It applies if and when a temporary structure is approved on the resort property.

- 17. All development within the proposed resort shall meet all fire protection requirements of the Redmond Fire Department. Fire protection requirements shall include all minimum emergency roadway improvements.**

FINDING: The Applicant responded to this condition as follows:

All development will meet fire protection requirements imposed by code or as a condition of approval based on the requirements of the Redmond Fire Department. The entire property has been annexed into the Redmond Rural Fire District, which was a requirement of Condition 15, which as noted above is satisfied. According to the RFD, the minimum emergency roadway improvements are required at such time as combustible materials are being delivered to the site for the construction of structures. See Exhibit 23: Clara Butler, RRFD email.

Staff includes a condition of approval requiring the applicant to secure confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted July 9, 2021 comment letter have been met, prior to issuance of building permits. Staff finds emergency access is also addressed under Condition #4 as it applies to final plat approval and issuance of building permits.

- 18. No development shall be allowed on slopes of 25% or more on the site.**

FINDING: The Applicant is not proposing development on slopes of 25% or more.

- 19. Applicant shall implement a Wildfire/Natural Hazard Protection Plan for the resort as identified in Ex. 15, B-29 of the CMP burden of proof statement. Prior to approval of each subdivision and site plan, Applicant shall coordinate its evacuation plans through that development phase with the Deschutes County Sheriff's Office and the Redmond Fire Department. At the same time, Applicant shall also coordinate its plans for the movement**

of evacuees over major transportation routes with the Oregon State Police and the Oregon Department of Transportation.

FINDING: The Applicant responded to this condition as follows:

A Wildfire/Natural Hazard Protection Plan was adopted as a part of the FMP. It provides recommended actions but does not impose mandatory approval criteria for reviews of tentative plans. As part of the filing of this tentative plan the applicant met with and discussed the tentative plan with the Redmond Fire Department and informed the Deschutes County Sheriff of its filing. The Redmond Fire Department provided an email stating the section of the most westerly road that has a grade of between 10-12% is acceptable to them. See Exhibit 24: Deputy Fire Marshall Gibson, RRFD, 12% Email. Applicant previously coordinated with the Oregon State Police and ODOT to develop its evacuation plans. The requirement to implement the Wildfire & Natural Hazard Protection Plan is a requirement of the FMP but is not a requirement of the tentative plan review, particularly when this application requests no roads on which to evacuate. This condition is met.

Staff finds that this condition has been met.

- 20. *The cumulative density of the development at the end of any phase shall not exceed a maximum density of 0.72 dwelling units per acre (including residential dwelling units and excluding visitor-oriented overnight lodging).***

FINDING: Hearing Officer Olsen found that Phase A-1 included 514 acres with 192 single family dwelling units. This tentative plan includes 235 acres, with 108 dwelling units, for a total of 752+/- acres and 300 units, or approximately .40 units/acre. This is far below the allowable density of .72 residential dwelling units per acre. This condition is met.

- 21. *Each phase of the development shall be constructed such that the number of overnight lodging units meets the 150 overnight lodging unit and 2:1 ratio of individually owned units to overnight lodging unit standards set out in DCC 18.113.060 (A)(1) and 18.113.060 (D)(2). Individually owned units shall be considered visitor-oriented lodging if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through one or more central reservation and check-in services. As required by ORS 197.445 (4)(b)(B), at least 50 units of overnight lodging must be constructed in the first phase of development, prior to the closure of sale of individual lots or units.***

In addition to complying with the specific requirements of DCC 18.113.70(U), 1-5, Applicant, its successors and assigns, shall at all times maintain (1) a registry of the individually owned units subject to deed restriction under DCC 18.113.070 (U)(2), requiring they be available for overnight lodging purposes; (2) an office in a location reasonably convenient to resort visitors as a reservation and check-in facility at the resort; and (3) a separate telephone reservation line and website in the name of "Thornburgh Resort", to be used by members of the public to make reservations. As an alternative to or in addition to (3), Applicant may enter into an agreement with a firm (booking agent) that specializes in the

rental of time-sharing of resort property, providing the Applicant will share the information in the registry required by (1) and cooperate with the booking agent to solicit reservations for available overnight lodging at the resort. If applicant contracts with a booking agent, Applicant and the booking agent shall cooperate to ensure compliance with the requirements of DCC 18.113.070 (U)(5), by filing a report on January 1 of each year with the Deschutes County Planning Division.

FINDING: The Applicant responded to this condition as follows:

The applicant is currently seeking site plan approval for 80 units of overnight lodging in a separate land use application. It will build at least the first 50 OLU's prior to the closure of sales of individual lots or units (single-family lots). It will provide financial assurances that any of the 150 units not built will be constructed, as allowed by Condition 33 of the CMP/FMP as written or, if modified, as modified. The applicant has filed a separate application to modify this condition to apply current code requirements for bonding to its CMP/FMP. This modification responds to arguments by Ms. Gould's former attorney that the duration of bonding must be that set by the current law rather than by the CMP/FMP.

In the phase A-1 application Ms. Gould argued that all the additional submittals were required for the initial phase A. Applicant argued that was not correct, and the hearing officer agreed. The applicant understands, however, that no sales will be permitted until after it has built the required 50 units of overnight lodging. All OLU's will meet the criteria of this condition and Condition 33 of the CMP/FMP. This condition will be met. The applicant has filed an amendment to the CMP/FMP to recognize the fact that DCC 18.113.060(D)(2)(a) now provides that 2.5:1 ratio applies to resorts approved under a different standard. As a result, the ratio that applies to the Thornburgh resort is 2.5:1.

Staff finds that the proposed modification of the CMP/FMP has not been approved as of the writing of this decision and that the condition remains in force as written. The applicant proposes 108 dwelling units in Phase A-2, with 80 OLU's concurrently under review. If OLU application is approved, it would allow up to 200 dwelling units ($80 * 2.5 = 200$). Staff finds the 2.5:1 ratio will be met if the OLU subdivision is recorded prior to, or concurrent with, the Phase A-2 residential subdivision. Additionally, at the time of each building permit for a single-family residence in this subdivision, the resort must continue to meet the 2.5:1 ratio. For the purposes of this review, Staff finds the OLU's can be used to demonstrate compliance with the 2.5:1 ratio if they are constructed and available for rental. For this reason, Staff includes a condition of approval to ensure compliance. Staff finds the 2:1 ratio remains in effect until such time as the modification to a 2.5:1 ratio receives final approval.

As noted in Condition 21, the first 50 OLU's must be constructed prior to the closure of sales of individual lots or units. Staff includes a condition of approval to ensure compliance.

22. *The final covenants, conditions and restrictions adopted by the developer and amendments thereto shall conform in all material respects to this decision and the requirements of the DCC.*

FINDING: The Applicant responded to this condition as follows:

This requirement applies to CC&Rs. The applicant has agreed to this requirement of the FMP. It is not a condition of approval of the tentative plan.

Staff concurs.

- 23. *No permission to use or improve Barr Road as access to the Resort is given or implied by this decision.***

FINDING: The tentative plan does not propose access to Barr Road.

- 24. *Applicant shall complete annexation of the property in any area of development into Deschutes County Rural Fire Protection District No. 1 before commencing combustible construction in the area.***

FINDING: This requirement has been satisfied.

- 25. *Applicant shall submit a detailed erosion control plan with the first Tentative Plat or Site Plan, whichever comes first.***

FINDING: The applicant met this condition by submitting a detailed erosion control plan with the first tentative plan application as required. While not required, it also submitted the erosion control plan with the golf course and lakes site plan. Nothing further is needed.

- 26. *Lot size, width (frontage), coverage, off-street parking and setbacks, including solar setbacks, are permitted as described in Applicant's Exhibit 8, B-24a in the Burden of Proof document [for the CMP] subject to review during the subdivision approval process to confirm that there will be safe vehicle access to each lot. Compliance with the dimensional standards shall be confirmed during subdivision approval for each development phase. All multi-family units, commercial structures, and other resort facilities are exempted from meeting the solar setback standards.***

FINDING: The applicant provides the following statement of compliance:

Safe vehicle access will be provided to each lot in this tentative plan. Each of the single-family lots meet the standards as noted in Exhibit B-24a of the CMP (see below).

DCC 18.113.060(G)(1) states: "The minimum lot area, width, lot coverage, frontage, and yard requirements and building heights otherwise applying to structures in underlying zones and the provisions of DCC 18.116 relating to solar access shall not apply within a destination resort. These standards shall be determined by the Planning Director or Hearings Body at the time of the CMP." See Exhibit 15: Lot Standards, (CMP exhibit 8, B-24a), as approved by the Board of Commissioners on remand of the CMP, sets the lot standards and solar setbacks. No solar setbacks were imposed.

Exhibit B-24a – Residential Lot Standards

EXHIBIT B-24a – RESIDENTIAL LOT STANDARDS								
ITEM	Type A	Type B	Type C	Type D	Type E	Type F	Type G	Type H
Lot Area (Minimum)	15,000	12,500	10,000	8,000	6,000	4,500	3,200	3,200
Lot Width Average (Minimum)	100	90	80	70	60	40	30	25
Lot Frontage – Regular	60	55	50	45	40	40	30	25
Lot Frontage – Cul-de-sac	50	40	40	35	35	30	25	25
Lot Coverage – Footprint (Maximum)	65%	65%	65%	70%	70%	75%	80%	80%
Lot Setbacks								
Front	30	30	30	30	25	25	20	20
Back	25	25	25	20	20	15	15	15
Side	15	15	10	10	10	5	5	0
Building Height* (Maximum)	26	26	26	26	26	26	26	26
*depends on location								

Staff finds the standards of CMP Exhibit 8, B-24a, Exhibit 15, Lot Standards, are addressed in findings related to setback requirements of the DR overlay zone. As proposed, the required lot area, width, and frontage requirements will be met. Lot setbacks and building height will be addressed during permit review at the time of development.

27. Road width shall be consistent with the requirements set forth in the County's subdivision ordinance, DCC Chapter 17.36.

FINDING: The proposed road widths appear to comply with the requirements of DCC Chapter 17.36, specifically those standards that pertain to private roads as shown in Table A of the Deschutes County Minimum Road Design Standards. County Road Department approval is required prior to recording of the final plat as well as the construction or improvement of roads as a condition of approval.

28. Applicant shall abide at all times with the MOU with BLM, dated September 28, 2005, regarding mitigation of impacts on surrounding federal lands, to include wildlife mitigation and long-range trail planning and construction of a public trail system. The mitigation plan adopted by Applicant in consultation with Tetra Tech, ODFW and the BLM shall be adopted and implemented throughout the life of the resort.

FINDING: The Memorandum of Understanding (MOU) with the BLM supports the implementation of the BLM's Upper Deschutes Resource Management Plan. The Thornburgh Resort has agreed to several things involving long-range trail planning and construction, which includes establishing a resource mitigation fund of up to \$350,000, as needed by BLM for one-time and long-term mitigation, to help fund the items described in the MOU. In addition, the applicant has previously stated the following regarding long-range trail planning that is addressed in the Wildlife Mitigation Plan for offsite actions (Measure C, Reduction of Off Road Vehicle Use³):

³ Off Road Vehicle Use (ORV or OHV)

This measure has been completed by BLM by completion of the Cline Buttes Recreation Area Plan by segregating the use of various areas into different user groups. As a result, the incidence of trespass ORV travel on the Resort property has diminished significantly. Currently there is very little OHV use on BLM lands adjacent to the resort. The applicant will continue to work with the BLM on trail development in the area to further reduce unwanted use and improve the interactions between the public and private lands. This measure requires nothing further than this ongoing collaboration.

In addition, the MOU required the establishment of a Wildlife Mitigation Plan, which has been completed. The WMP is further discussed below under FMP Conditions 38 and 39. Based on the WMP, there are action items that are no longer pertinent in the MOU in part because they have either been completed and/or the measures within the WMP replace it. However, overall, there are ongoing compliance requirements as noted below.

29. Applicant shall abide at all times with the MOU with ODOT, regarding required improvements and contributions to improvements on ODOT administered roadways.

FINDING: The applicant previously submitted an executed Cooperative Improvement Agreement (CIA) with ODOT (Exhibit 16: ODOT CIA) that implements the intent of the MOU. Hearing Officer Olsen imposed a condition of approval of the tentative plan that applicant is required to comply with the CIA now and through the end of the resort. Nothing further is required for this tentative plan.

30. Applicant shall submit a detailed traffic circulation plan, delineating resort access roads, resort internal circulation roads and resort secondary emergency ingress/egress roads, prior to Final Master Plan approval.

FINDING: This requirement has been satisfied.

31. All exterior lighting must comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the DCC.

FINDING: The Applicant responded to this condition as follows:

While this requirement is not applicable to the review of the tentative plan the Applicant will comply with it at all times.

Staff finds that this condition applies to the proposed development and includes a condition of approval to ensure compliance.

32. No permission to install a helicopter landing zone (helipad) at the Resort is given or implied by this decision.

FINDING: The applicant is not seeking approval of a helicopter landing zone. This requirement is

not applicable to the review of the site plan.

- 33. The Resort shall, in the first phase, provide for the following:**
- A. At least 150 separate rentable units for visitor-oriented lodging.**
 - B. Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide eating for at least 100 persons.**
 - C. The aggregate cost of developing the overnight lodging facilities and the eating establishments and meeting rooms required in DCC 18.113.060(A)(1) and (2) shall be at least \$2,000,000 (in 1984 dollars);**
 - D. At least \$2,000,000 (in 1984 dollars) shall be spent on developed recreational facilities.**
 - E. The facilities and accommodations required by DCC 18.113.060 must be physically provided or financially assured pursuant to DCC 18.113.110 prior to closure of sales, rental or lease of any residential dwellings or lots.**

FINDING: The Applicant responded to these conditions as follows:

Compliance with #33(A) was discussed under condition #21 above so will not be repeated. The applicant has recently filed a site plan seeking approval of the golf clubhouse with eating facilities for 100 and a community hall that will provide a meeting room for at least 100 persons. The cost of developing and constructing the OLU's along with the eating and meeting facilities required by condition 33C will exceed the required amount of financial investment required by this condition of approval.

The BOCC previously approved a site plan for a golf course that will provide the initial recreation facilities. Parking for the golf course is proposed with the golf clubhouse site plan. The applicant intends to construct the golf course, lakes, and golf parking prior to the closure of sale, rental or lease of any residential dwellings or lots. The cost of these amenities will far exceed \$2,000,000 (in 1984 dollars) which will meet this criterion. In the event the applicant changes its plans and does not build the amenities up front as noted herein it will financially assure their construction as allowed under the DCC.

Staff agrees and finds the proposal to be consistent with Condition 33.

- 34. Where construction disturbs native vegetation in open space areas that are to be retained in substantially natural condition, Applicant shall restore the native vegetation. This requirement shall not apply to land that is improved for recreational uses, such as golf courses, hiking or nature trails or equestrian or bicycle paths.**

FINDING: The Applicant responded to this criterion as follows:

This condition requires the applicant to restore open space areas if they are disturbed by development of a subdivision. The Wildlife Mitigation Plan (WMP) provides details what activities are to take place and when they are to be completed following disturbance. The WMP also provides the compliance and enforcement protocol by requiring annual reporting

of the measures the Applicant has taken to comply with the WMP. This condition will be met.

Staff finds, as proposed, this condition will be met. Staff includes a condition of approval to ensure compliance.

- 35. *The contract with the owners of units that will be used for overnight lodging by the general public shall contain language to the following effect: “[Unit Owner] shall make the unit available to [Thornburgh Resort/booking agent] for overnight rental use by the general public at least 45 weeks per calendar year through a central reservation and check-in service.***

FINDING: This requirement does not apply to the review of the tentative plan. The current legal requirement is that overnight rentals be available for use by the general public at least 45 weeks per year. The applicant has filed an application to change this condition to 38 weeks per year.

- 36. *Applicant shall coordinate with the Sheriff’s Office and its designated representative to address all public safety needs associated with the resort and the development process.***

FINDING: The applicant has informed the Sheriff that it is filing this tentative plan. In response to a staff request for additional information on this notice the applicant replied:

Prior to the filing of this application the Applicant placed calls to other Authorities to inform them of the filing of this application, that it was consistent with the prior plans for evacuation, to ask if they needed further information, or wanted a copy of this plan to review. No authority needed further materials. The Sheriff informed Applicant nothing was needed as he would get information directly from the County.

Staff finds this condition is met.

- 37. *Applicant shall demonstrate compliance with DCC 18.113.070(D) by submitting a wildlife mitigation plan to the County as part of its application for Final master plan approval. The County shall consider the wildlife mitigation plan at a public hearing with the same participatory rights as those allowed in the CMP approval hearing.***

FINDING: This requirement has been satisfied.

- 38. *The applicant shall abide by the April 2008 Wildlife Mitigation Plan, the August 2008 Supplement, and agreements with the BLM and ODFW for management of off-site mitigation efforts. Consistent with the plan, the applicant shall submit an annual report to the county detailing mitigation activities that have occurred over the previous year. The mitigation measures include removal of existing wells on the subject property and coordination with ODFW to model stream temperatures in Whychus Creek.***

FINDING: The applicant responded to this condition as follows:

This condition states an ongoing obligation of the resort. It is enforceable by virtue of being a condition of the FMP, and as has already been found is reasonably certain to succeed. There are numerous elements that require further and ongoing approvals that ensure compliance and allow for enforcement to proceed. LUBA ruled the WMP/FWMP, when followed fully mitigates for the impacts to fish and wildlife. The Applicant is not proposing any change to the Resort's mitigation plans. As noted by LUBA the Applicant is not required to fill in any details at this time. See Exhibit 6: LUBA TP A-1 Decision, Page 37. As noted above, the Applicant is required to file an annual report describing the mitigation measures that it has taken to comply with the Resorts mitigation plans. Nothing is required at this time. This condition is met.

Staff concurs.

- 39. *The applicant shall provide funding to complete a conservation project by the Three Sisters Irrigation District to restore 106 acre-feet of instream water to mitigate potential increase in stream temperatures in Whychus Creek. The restoration shall occur as described in the applicant's submittals. The mitigation water shall be placed in stream no later than the date that groundwater pumping to serve the development commences (not testing). The applicant shall provide a copy of an agreement with the irrigation district detailing funding agreement prior to the completion of Phase A.***

FINDING: This condition is tied to pumping groundwater; not to site plan review. As a result, it does not apply to the review of the site plan. Applicant has indicated that it will provide a copy of the agreement with TSID prior to the commencement (not testing) of groundwater pumping, as required by this condition.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.113, Destination Resorts (DR) Zone

Section 18.113.040. 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 approval through the required site plan review (DCC 18.124) or subdivision process (DCC Title 17). In addition to findings satisfying the site plan or subdivision criteria, findings shall be made that the specific development proposal complies with the standards and criteria of DCC 18.113 and the FMP.***

FINDING: In compliance with this criterion, the applicant submitted a tentative plan application for a 108-lot subdivision. The applicable criteria in Title 17, DCC 18.113 and the FMP are addressed in this decision.

Section 18.113.080, Procedure for Modification of a Conceptual Master Plan.

Any substantial change, as determined by the Planning Director, proposed to an approved CMP shall be reviewed in the same manner as the original CMP. An insubstantial change may be approved by the Planning Director. Substantial change to an approved CMP, as used in DCC 18.113.080, means an alteration in the type, scale, location, phasing or other characteristic of the proposed development such that findings of fact on which the original approval was based would be materially affected.

FINDING: No “substantial change” is proposed, as determined by the Planning Director. No alteration to the “type, scale, location, phasing, or other characteristics of the proposed development”, thereby materially affecting the original findings of fact, is proposed.

Section 18.113.110. Provision of Streets, Utilities, Developed Recreational Facilities and Visitor Oriented Accommodations.

- A. The Planning Director or Hearings Body shall find that all streets, utilities, developed recreational facilities and visitor oriented accommodations required by the FMP are physically provided or are guaranteed through surety bonding or substantial financial assurances approved by the County prior to closure of sale of individual lots or units.***
- B. Financial assurance or bonding to assure completion of streets and utilities, developed recreational facilities and visitor oriented accommodations in the FMP shall be required pursuant to the security requirements for site plan review and subdivision review established by the Deschutes County Code.***

FINDING: The applicant intends to physically provide all streets and utilities associated with the subject subdivision. Completion of streets and utilities will be confirmed prior final plat approval via review by the Road Department. Criterion A will be met. Criterion B does not apply.

SYSTEM DEVELOPMENT CHARGE

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$4,757 per p.m. peak hour trip. County staff has determined a local trip generation rate for single-family homes of 0.81 trips per home. Therefore the applicable SDC is \$3,853 ($\$4,757 \times 0.81$) per single-family home. 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.

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

AT ALL TIMES

- 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 subdivision plat shall substantially conform to the provisions of the tentative plan for the subdivision, as approved.
- C.** Grading of building sites shall conform to the following standards, unless physical conditions demonstrate the property of other standards:
 - 1. Cut slope ratios shall not exceed one foot vertically to one and one half feet horizontally.
 - 2. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.
 - 3. The composition of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.
 - 4. When filling or grading is contemplated by the subdivider, s/he shall submit plans showing existing and finished grades for the approval of the Community Development Director. In reviewing these plans, the Community Development Director shall consider the need for drainage and effect of filling on adjacent property. Grading shall be finished in such a manner as not to create steep banks or unsightly areas to adjacent property.
- D.** All exterior lighting must comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the DCC.
- E.** Where construction disturbs native vegetation in open space areas that are to be retained in substantially natural condition, Applicant shall restore the native vegetation in conformance with the Wildlife Mitigation Plan.

- F.** As identified in the CC&Rs required by the FMP, private roadways must be maintained by the Thornburgh Resort Owners Association or a sub-association formed for a particular element of the resort or this tentative plan.
- G.** The first 50 OLU's must be constructed prior to the closure of sales of individual lots or units.

PRIOR TO FINAL PLAT APPROVAL

- H.** The owner shall submit:
 - 1. A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat; or
 - 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county.
- I.** The owner shall submit:
 - 1. A certification by a city-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat; or
 - 2. A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary.
- J.** Water and sewer lines shall be constructed to County and City standards and specifications. Required water mains and service lines shall be installed prior to the curbing and paving of new streets in all new subdivisions.
- K.** The required water system shall be constructed and operational, with lines extended to the lot line of each and every lot depicted in the proposed subdivision.
- L.** The owner shall submit correspondence from the County Surveyor approving the subdivision name. County Surveyor signature on the plat shall also demonstrate compliance.

- M.** Owner shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, owner shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- N.** Street names and numbers shall conform to the established pattern in the County and shall require approval from the County Property Address Coordinator.
- O.** All roads shall be named in conformance with the provisions of the Deschutes County uniform road naming system set forth in DCC Title 16.
- P.** The following minimum road standards shall apply for private roads:
1. The minimum paved roadway width shall be 20 feet in planned unit developments and cluster developments with two foot wide gravel shoulders;
 2. Minimum radius of curvature, 50 feet;
 3. Maximum grade, 12 percent;
 - a. Table A of DCC 17.48 allows for steeper gradients.
 4. At least one road name sign will be provided at each intersection for each road;
 5. A method for continuing road maintenance acceptable to the County;
 6. Private road systems shall include provisions for bicycle and pedestrian traffic.
 - a. Shoulder bikeways shall be a minimum of four feet wide, paved and striped, with no on street parking allowed within the bikeway, and when private roads are developed to a width of less than 28 feet, bike paths constructed to County standards shall be required.
- Q.** The developer will design and construct the road system in accordance with DCC 17. Road improvement plans shall be approved by the Road Department prior to construction.
- R.** Prior to final plat approval by Road Department: Applicant shall complete road improvements according to the approved plans and all applicable sections of DCC 17.48. Improvements shall be constructed under the inspection of a registered professional engineer consistent with ORS 92.097 and DCC 17.40.040. Upon completion of road improvements, applicant shall provide a letter from the engineer certifying that the improvements were constructed in accordance with the approved plans and all applicable sections of DCC 17.48.
- All easements of record or existing rights of way shall be noted on the final plat pursuant to DCC 17.24.060(E),(F), and (H).
 - The surveyor preparing the plat shall, on behalf of Applicant, submit information showing the location of the existing roads in relationship to the rights of way to Deschutes County Road Department. This information can be submitted on a worksheet and does not necessarily have to be on the final plat. All existing road facilities and new road improvements are to be located within legally established or dedicated rights of way. In no case shall a road improvement be located outside of a dedicated road right of way. If research reveals that inadequate right of way exists or

that the existing roadway is outside of the legally established or dedicated right of way, additional right of way will be dedicated as directed by Deschutes County Road Department to meet the applicable requirements of DCC Title 17 or other County road standards. This condition is pursuant to DCC 17.24.060(E),(F), and (G) and 17.24.070(E)(8).

- Applicant shall submit as-constructed improvement plans to Road Department pursuant to DCC 17.24.070(E)(1).
- Applicant shall submit plat to Road Department for approval pursuant to DCC 17.24.060(R)(2), 100, 110, and 140.

- S.** Fire apparatus access needs identified by Redmond Fire & Rescue's July 9, 2021 letter shall be addressed on the plat prior to approval. Dead ends and stub streets shall be finished as paved cul-de-sacs.
- T.** The owner shall provide a certification by a licensed professional engineer that the drainage facilities have been designed and constructed in accordance with the current Central Oregon Stormwater Manual (COSM) to receive and/or transport at least the design storm for all surface drainage water including stormwater coming to and/or passing through the development.
1. The drainage facilities shall be designed for maximum allowable development.
- U.** Noncurbed Sections.
1. Road culverts shall be concrete or metal with a minimum design life of 50 years.
 2. All cross culverts shall be 18 inches in diameter or larger.
 3. Culverts shall be placed in natural drainage areas and shall provide positive drainage.

PRIOR TO, OR CONCURRENT WITH, FINAL PLAT RECORDING

- V.** Codes, Covenants and Restrictions (CC&Rs) required by the CMP/FMP must be recorded concurrently with the recording of the final plat.
- W.** The final plat for each phase shall be filed in accordance with DCC 17.24.020 through 17.24.110.
- X.** The subdivision plat (file no. 247-21-000637-TP) shall be recorded.

PRIOR TO ISSUANCE OF BUILDING PERMITS

- Y.** The owner shall secure confirmation from the Redmond Fire Department that all fire protection requirements of the Redmond Fire Department identified in the submitted July 9, 2021 comment letter have been met.

PRIOR TO CONSTRUCTION OF ROAD IMPROVEMENTS

- z. Applicant shall submit road improvement plans to Road Department for approval prior to commencement of construction pursuant to DCC 17.40.020 and 17.48.060. Road improvement plans shall be prepared in accordance with all applicable sections of DCC 17.48 and the approved master plan

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: Angie Brewer, Senior Planner



Reviewed by: Peter Gutowsky, Planning Manager

Attachments:

- Phase A-2 Tentative Plan TP1.1
- Phase A-2 Phasing Plan TP 3.5
- Phase A-2 Roads and Lots TP3.2 and 3.3

THORNBURGH RESORT PHASE A-2 TENTATIVE PLAN

DESCHUTES COUNTY, OREGON
LOCATED IN SECTIONS 29 AND 30
TOWNSHIP 15 SOUTH, RANGE 12 EAST
WILLAMETTE MERIDIAN

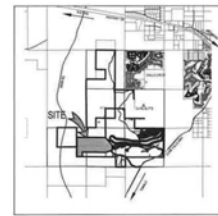
SHEET NUMBER	SHEET TITLE
TP1.1	COVER SHEET
TP1.2	TYPICAL SECTIONS
TP2.1	EXISTING CONDITIONS
TP2.2	ROCK OUTCROPPINGS
TP3.2	ROADS AND LOTS
TP3.3	ROADS AND LOTS
TP3.4	OPEN SPACE
TP3.5	PHASING PLAN
TP4.1	SEDIMENTATION & EROSION CONTROL PLAN
TP4.2	SEDIMENTATION & EROSION CONTROL PLAN
TP5.1	DRAINAGE PLAN
TP5.2	UTILITY PLAN

DEVELOPMENT DATA:

APPLICANT:	CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANTON REDMOND, OR 97756 541-350-8479	TOTAL NUMBER OF SINGLE FAMILY LOTS:	108
OWNER:	CENTRAL LAND AND CATTLE COMPANY, LLC 2447 NW CANTON REDMOND, OR 97756 541-350-8479	PREVIOUS OPEN SPACE (PHASE A-1):	341± ACRES
SURVEYOR/ENGINEER:	HWA, INC. 6205 O RILEY ROAD STE 100 BEND, OR 97703 PH: 541-339-3381	PHASE A-2 GOLF OPEN SPACE:	98± ACRES
PROPERTY ADDRESS:	6753 CLINE FALLS HIGHWAY REDMOND, OR 97756	PHASE A-2 GOLF OPEN SPACE:	150± ACRES
ZONE:	EFU / DR	TOTAL OPEN SPACE:	500± ACRES
ADJOINING ZONES:	EFU / DR OPEN SPACE AND CONSERVATION	EXISTING LAND USE:	FARM / RESIDENTIAL
TAX LOT NUMBERS:	1512000007800 1512000007900	ADJOINING LAND USE:	FARM / US GOVERNMENT
PREVIOUS GROSS AREA (PHASE A-1):	517± ACRES	ACCESS:	CLINE FALLS HIGHWAY AND HIGHWAY 126
PHASE A-2 GROSS AREA:	235± ACRES	FIRE PROTECTION:	DESCHUTES COUNTY RURAL FIRE PROTECTION DISTRICT #1
TOTAL GROSS AREA:	752± ACRES	POWER:	CENTRAL ELECTRIC COOPERATIVE
		SEWAGE DISPOSAL:	ON-SITE TREATMENT FACILITY
		SOLID WASTE DISPOSAL:	HIGH COUNTRY DISPOSAL
		TELEPHONE:	CENTURY LINK
		WATER SUPPLY:	ON-SITE WELLS
		IRRIGATION:	ON-SITE WELLS

PERMANENT BENCH MARK USED

ID	DESCRIPTION	NORTHING	EASTING	ELEV.
#19	SET 10" HWA	455072.49	325089.05	3194.82
#20	SET 10" HWA	451306.11	325925.10	3189.51



VICINITY MAP SCALE: N.T.S.

SITE MAP SCALE: 1"=100'

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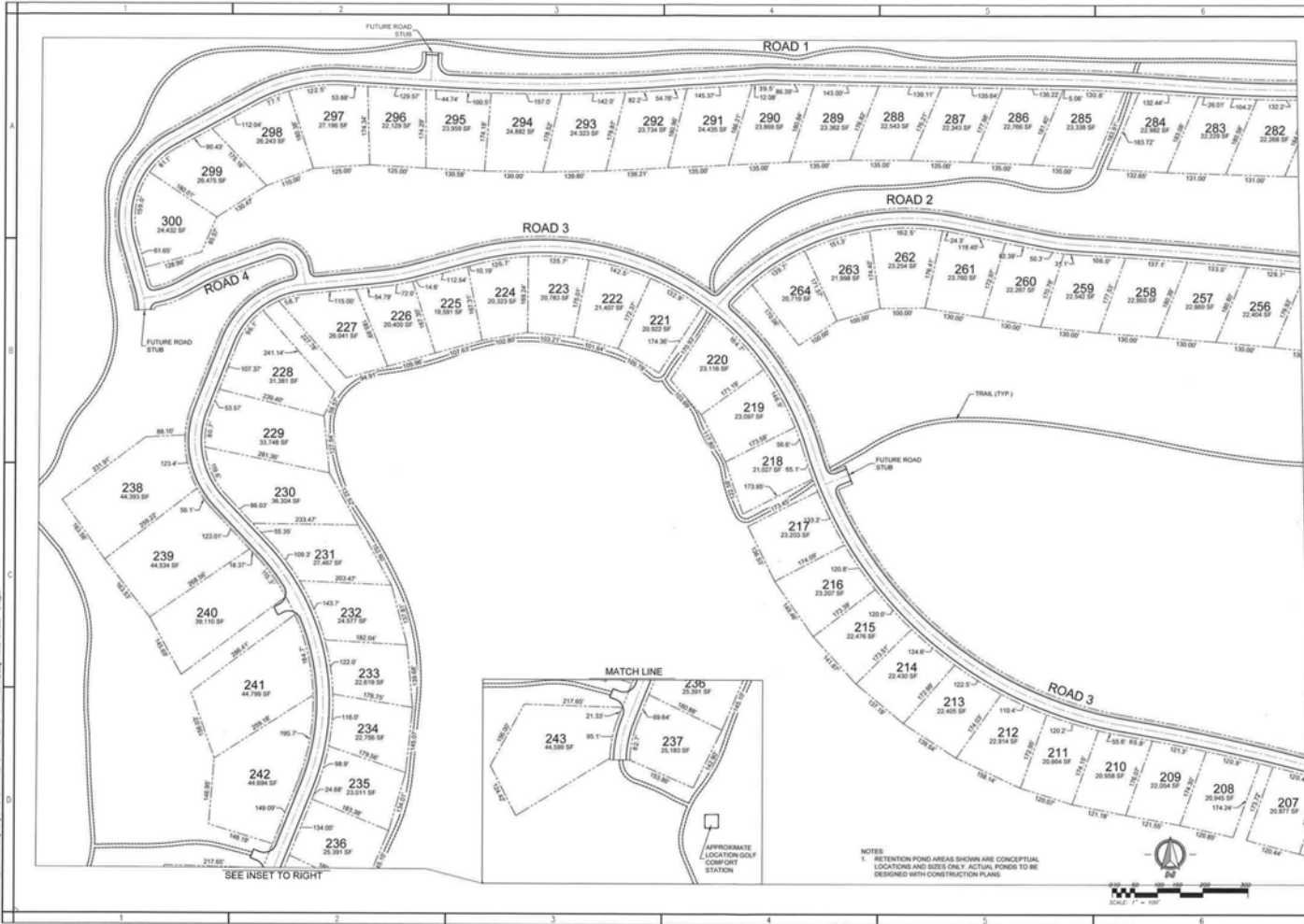
THORNBURGH RESORT
PHASE A-2
COVER PAGE

HWA
HWA, INC.
6205 O RILEY ROAD STE 100
BEND, OR 97703
PH: 541-339-3381

6/24/21

TP1.1

180110



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**THORNBURGH RESORT
 PHASE A-2
 ROADS AND LOTS**
 DESCHUTES COUNTY, OREGON

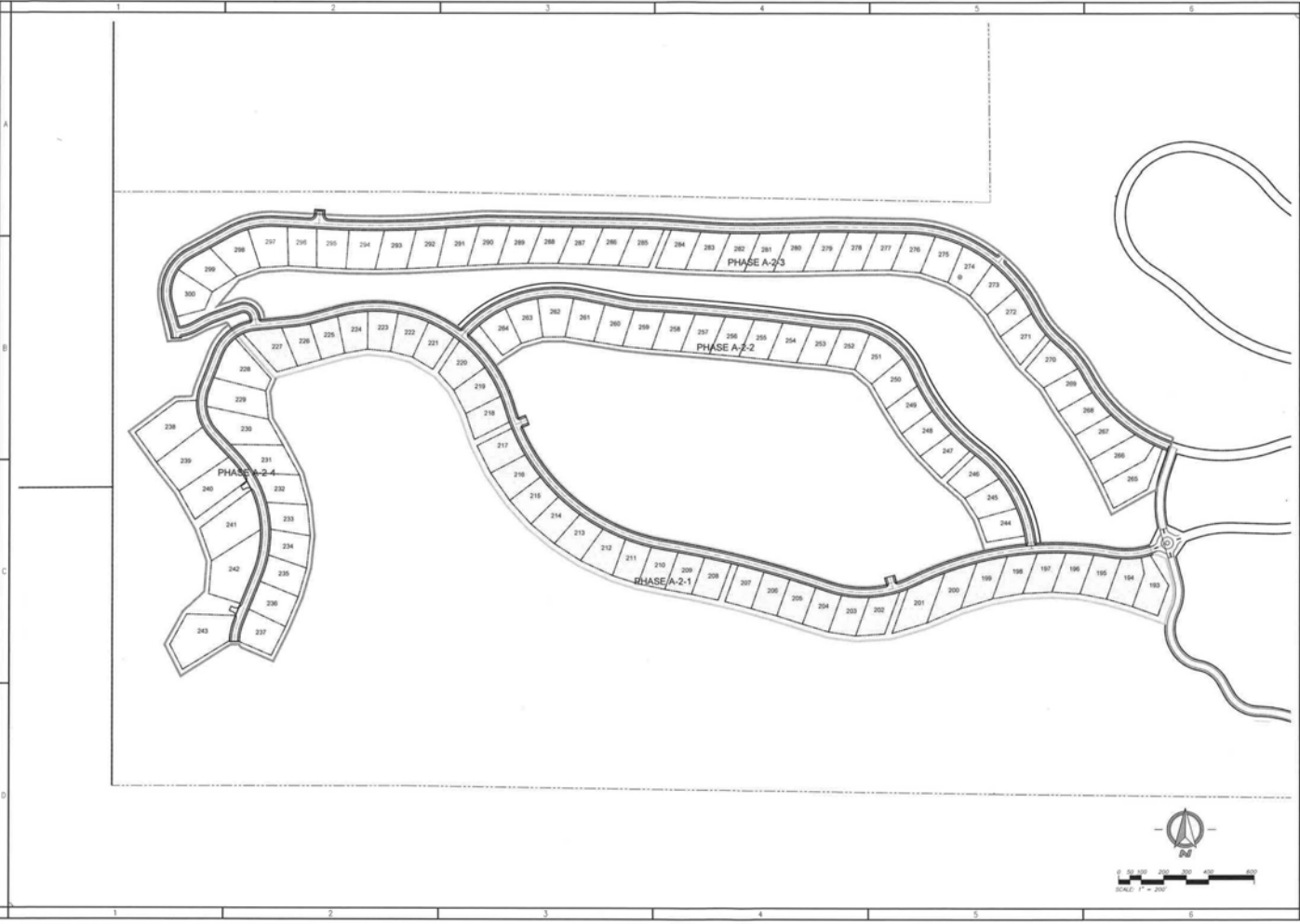
HWA
 HWA CONSULTANTS, INC.
 1000 NE Oregon Street, Suite 200
 Bend, Oregon 97703
 Phone: 531-326-7700
 Fax: 531-326-7701
 www.hwaconsultants.com

DATE: 6/24/21

TP3.2

180110

10/10/2013 10:15:13 AM C:\Users\j... \Documents\180110-TP PHASE A-2.dwg Plot on 10/15/2013 11:23:28 AM



180110-TP PHASE A-2.dwg 6/24/21	
HWA <small>HWA CONSULTANTS, INC.</small> <small>1000 NE Oregon Street, Suite 200, Portland, OR 97232</small> <small>Phone: 503.255.1100</small>	
THORNBURGH RESORT PHASE A-2 PHASING PLAN <small>ESCHSCHUTE COUNTY OREGON</small>	
SHEET TP3.5	TOTAL SHEETS 180110