



MEMORANDUM

TO: Deschutes County Board of County Commissioners

FROM: Tarik Rawlings, Associate Planner

DATE: June 22, 2023

SUBJECT: Public Hearing: Destination Resort Amendments

The Deschutes County Board of County Commissioners (Board) will conduct a public hearing on July 12, 2023, to consider applicant-initiated legislative text amendments to Deschutes County's Destination Resort (DR) Combining Zone (file no. 247-22-000835-TA). The hearing will be held at the Barnes and Sawyer Room, Deschutes Service Center, 1300 Wall Street, Bend. This is the second of two required public hearings.

Attached to this memorandum are the proposed text amendments, findings, and original application materials which have not changed since the Board's work session on July 10, 2023. Within the proposed amendments, added language is shown in **bold underline**. The public hearing will be conducted in-person, electronically, and by phone.

The record is available for inspection on the project website:

<https://www.deschutescounty.gov/cd/page/247-22-000835-ta-destination-resort-text-amendment>

I. BACKGROUND

In October 2022, the applicant Central Oregon LandWatch (COLW), applied for a legislative amendment to Deschutes County's Destination Resort (DR) Combining Zone. The proposed amendments would add language from Oregon Revised Statute (ORS) 197.455(1)(a), which would limit residential uses to those necessary for the staff and management of the resort at any new Destination Resort allowed within 24 air miles of an urban growth boundary population of at least 100,000. This proposed amendment would only apply to newly proposed Destination Resorts and would not apply to existing or approved Destination Resorts. The applicable language from ORS 197.455(1)(a) is provided below:

- (1) A destination resort may be sited only on lands mapped as eligible for destination resort siting by the affected county. The county may not allow destination resorts approved pursuant to ORS 197.435 (Definitions for ORS 197.435 to 197.467) to 197.467 (Conservation easement to protect resource site) to be sited in any of the following areas:*

- (a) *Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential uses are limited to those necessary for the staff and management of the resort.*

Staff notes that this restriction does not automatically come into effect because of updated population information being published. In LUBA 2022-011, the Land Use Board of Appeals found:

We adhere to and reiterate our conclusion in *Gould Golf* the limitations on resort siting in ORS 197.455(1) apply at the time that a county adopts maps identifying lands eligible for siting destination resorts. After a county has adopted such maps, the limitations in ORS 197.455(1) do not apply to specific applications for destination resorts.

Accordingly, an amendment to local code would be required to bring the population-based limitation into effect.

Staff submitted a 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development on January 11, 2023. Agency notice was sent to relevant agency partners on January 18, 2023, and several agency comments were received. Notice of the proposal was sent to all property owners within Deschutes County who are within the DR Zone on January 23, 2023. The Notice explained the scope of the proposal, provided a project-specific website related to the application, and gave meeting information for the initial Planning Commission public hearing held on February 23, 2023¹.

II. PROPOSAL

Staff has provided the applicant's proposed amendments to DCC Sections 18.113 and 19.106 in **Attachment 1**. The applicant, in this case COLW, has provided findings (included as **Attachment 2**) which summarizes the amendments and provides analysis of the Statewide Planning Goals, applicable policies of the Deschutes County Comprehensive Plan, and relevant state law. **Attachment 3** includes the original application materials submitted by the applicant.

III. PLANNING COMMISSION REVIEW

An initial public hearing was held before the Deschutes County Planning Commission on February 23, 2023², with a continued public hearing held on March 9, 2023³. The Planning Commission held deliberations on March 23, 2023⁴, ultimately recommending approval of the proposal with three (3) Commissioners voting in favor and one (1) Commissioner voting against the proposal (two (2) Commissioners recused themselves from deliberations). Collectively, over 350 public comments have been submitted into record regarding the subject proposal, including supportive, oppositional, and neutral comments.

IV. PUBLIC TESTIMONY

¹ <https://www.deschutescounty.gov/cd/page/247-22-000835-ta-destination-resort-text-amendment>

² <https://www.deschutes.org/bc-pc/page/planning-commission-27>

³ <https://www.deschutes.org/bc-pc/page/planning-commission-24>

⁴ <https://www.deschutes.org/bc-pc/page/planning-commission-28>

As of the date of this memorandum, there have been over 350 written comments submitted into record. A summary of the public comments is provided below:

TESTIMONY IN SUPPORT

The testimony received in support of the subject application generally focuses on the following areas:

- The proposed text amendment should be approved because it aligns County Code with state law
- The proposal is required to be approved as a function of state law
- The proposal is required to be incorporated in County Code because the population of City of Bend's Urban Growth Boundary has now exceeded 100,000 individuals.
- New large-scale Destination Resorts create negative impacts on natural resources and open spaces.
- New large-scale Destination Resorts are not viable economic opportunities for the County and predominantly cater to an exclusive group of individuals.
- The proposed amendments align the County Code with the County's adopted Comprehensive Plan policies (Policy 3.9.3(a)(1)) related to Destination Resort siting.

TESTIMONY IN OPPOSITION

The testimony received in opposition to the subject application generally focuses on the following areas:

- The subject application is the wrong type of application – a plan amendment should be required for the proposed amendment.
- There may have been insufficient written notice provided through the County's Measure 56 notice.
- Limiting the types of residential uses allowed on a new Destination Resort exacerbates the ongoing affordable housing crisis by only allowing housing for staff and management of a resort.
- Limiting the types of residential uses allowed on a new Destination Resort may be detrimental to the value of DR-zoned properties and may not be economically-supportive of the Deschutes County region.
- The proposal may constitute a general infringement on individual property rights.
- There should be allowances for additional large-scale Destination Resorts to create economic competition between the existing resorts.

V. BOARD OF COUNTY COMMISSIONERS WORK SESSION

The Board conducted a work session on July 10, 2023. Any questions or comments raised by the Commissioners during that work session will be incorporated into the public hearing proceedings and/or the subsequent open record period, should the Board choose to impose such a period.

VI. NEXT STEPS

At the conclusion of the public hearing, the Board may:

- Continue the hearing to a date certain;
- Close the hearing and leave the written record open to a date certain;
- Close the hearing and set a date for deliberations; or

- Close the hearing and commence deliberations.

Attachments:

1. Proposed Text Amendments – DCC Chapters 18.113 and 19.106
2. Proposed Findings
3. Applicant's Application Materials