



MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Tarik Rawlings, Associate Planner
Will Groves, Planning Manager

DATE: March 2, 2023

SUBJECT: Continued Public Hearing: Destination Resort Amendments

The Deschutes County Planning Commission will conduct a continued public hearing on March 9, 2023, to consider applicant-initiated legislative text amendments to Deschutes County's Destination Resort (DR) Combining Zone (file no. 247-22-000835-TA). The continued public hearing will be held at the Barnes and Sawyer Room, Deschutes Service Center, 1300 Wall Street, Bend. Background information including the applicant's original application materials, proposed amendments, and findings was provided in the agenda packet for the initial public hearing¹. The continued 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:

¹ <https://mccmeetings.blob.core.usgovcloudapi.net/deschutes-pubu/MEET-Packet-1d592951618442759e923696f9d87ae4.pdf>

(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 public hearing scheduled on February 23, 2023². One public comment was received outlining concerns with the proposed amendments and encouraging the Planning Commission to deny the application³. Additionally, printed notice was published in the Bend Bulletin newspaper on February 7, 2023⁴. Staff presented the proposed amendments to the Planning Commission at a work session on February 9, 2023⁵.

II. PLANNING COMMISSION WORK SESSION

Planning Commissioners conducted a work session on February 9, 2023. At that time, Commissioners raised questions about the number of noticed properties, with DR-zoning, that would qualify for a Destination Resort based on a minimum acreage of 160 acres⁶. Staff responded that, based on analysis of the county's DR-zoned properties, there were approximately 34 total property owners/entities within the DR Combining Zone with at least 160 acres of contiguous area and within a singular ownership entity. Of these 34 total properties, approximately 5 are associated with existing Destination Resorts (Eagle Crest, Thornburgh, Caldera Springs, Pronghorn (Juniper Reserve), and Tetherow), approximately 9 are associated with public lands (Deschutes County, Bend Parks and Recreation Department, US Forest Service, Oregon State, and Bureau of Land Management), approximately 2 are associated with irrigation districts (Three Sisters Irrigation District, and Central Oregon Irrigation District), and approximately 18 are associated with private ownership entities⁷. This information was previously provided in Public Hearing *Attachments 4 and 5* associated of the initial public hearing held on February 23, 2023.

² <https://www.deschutescounty.gov/cd/page/247-22-000835-ta-destination-resort-text-amendment>

³ Public comment received by Kenneth Katzaroff (Schwabe, Williamson & Wyatt) on February 8, 2023

⁴ Based on email confirmation with Bend Bulletin's Inside Sales Executive, Julius Black dated January 23, 2023

⁵ <https://www.deschutes.org/bc-pc/page/planning-commission-33>

⁶ DCC 18.113.060(B), DCC 19.106.060(B)

⁷ This spatial analysis was derived from Deschutes County's Property Information Website, dial.deschutes.org and subsequent GIS analysis

III. PUBLIC HEARING AND TESTIMONY

Planning Commissioners held a public hearing on February 23, 2023. Eight (8) members of the public provided in-person testimony, with an additional three (3) members of the public providing remote oral testimony. As of the date of this memorandum, there have been approximately 76 written comments in opposition to the subject proposal. Additionally, there have been approximately 144 written comments in support of the subject proposal. One piece of supplementary information was provided by the applicant during the initial public hearing, and is provided as **Attachment 1**.

In response to informational requests made by the Planning Commission at that time, staff has supplemented the information previously-outlined in Public Hearing Attachments 4 and 5 by providing some additional DR-zoned sites with at least 160 acres of contiguous area, which are **not necessarily owned by the same ownership entity**. This updated attachment also shows the five (5) vested Destination Resorts. Staff provides this updated supplemental information in **Attachment 2**. The purpose of Attachment 2 is to show the general locations of 160-acre or greater DR-Zoned properties throughout the County.

The Planning Commission also inquired about the total acreage of Deschutes County within the 24-airmile buffer stemming from the City of Bend's Urban Growth Boundary (UGB). Working with CDD's GIS analyst, staff has determined that there are approximately **1,206,810 acres within the 24-airmile buffer** and approximately 724,238 acres outside of the 24-airmile buffer. The acreage within the buffer also includes the UGBs associated with the cities of La Pine, Redmond, and Sisters, unincorporated areas within Deschutes County, and most of the Black Butte Ranch resort community.

At the conclusion of the public hearing, the Planning Commissioners voted to continue the public hearing until March 9, 2023 and to close the oral and written records at the conclusion of the continued public hearing on March 9, 2023. The Planning Commissioners then voted to hold deliberations on March 23, 2023.

IV. NEXT STEPS

At the conclusion of the continued public hearing, the Planning Commission may:

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

On February 23, 2023, the Planning Commission voted to close the oral and written records at the conclusion of the continued public hearing on March 9, 2023. The Planning Commission also voted to hold deliberations on this matter on March 23, 2023.

Attachments:

1. Attachment 1 - Applicant Public Hearing Submittal – February 23, 2023
2. Attachment 2 - Map of DR-Zoned Properties (160+ acres) (Updated)