



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

3/10/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Lake County Plan Amendment
DLCD File Number 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, March 22, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Ken Gerschler, Lake County
Jon Jinings, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person Electronic Mailed

DEPT OF

MAR 03 2010

LAND CONSERVATION AND DEVELOPMENT

DATE
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P

For Office Use Only

Jurisdiction: **Lake County**

Local file number: **1213 CP/ZTA**

Date of Adoption: **February 23, 2010**

Date Mailed: **March 1, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 6/1/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The proposal amends the Comprehensive Plan and Zoning Ordinance to create a new Destination Resort Overlay Zone and to apply the new DRO zone to certain properties. The post-acknowledgement text amendments are to implement the provisions of ORS 197.435-197.467 to allow siting of destination resorts. Map amendments were originally anticipated to occur at a later date, but the application was amended to include the mapping component.

Does the Adoption differ from proposal?

Yes. During the review process, public and agency input indicated that limited mapping would be necessary because Lake County contains areas to be excluded from the Goal 8 Resort Siting Process. Only the applicant's properties have been mapped.

Plan Map Changed from: **N/A**

to: **Include Destination Resort Overlay**

Zone Map Changed from: **N/A**

to: **Include Destination Resort Overlay**

Location: **Various Parcels in Lake County**

Acres Involved:

Specify Density: Previous: **No Change**

New: **N/A**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 001-09 (17608) [16019]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

United States Forest Service, Bureau of Land Management, Oregon Department of Fish and Wildlife, Oregon Department of Transportation.

Local Contact: **Ken Gerschler**

Phone: (541) 947-6032 Extension:

Address: **513 Center Street**

Fax Number: **541-947-2144**

City: **Lakeview**

Zip: **97630**

E-mail Address: **kgerschler@co.lake.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. **Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:**
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

VIII. RECREATION NEEDS

A. State Planning Goal No. 8

To satisfy the recreational needs of the citizens of Lake County and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

B. Recreation Planning

The requirements for meeting such needs, now and in the future, shall be planned for by governmental agencies having responsibility for recreation areas, facilities and opportunities: (1) in coordination with private enterprise; (2) in appropriate proportions; and (3) in such quality, quantity and locations as is consistent with the availability of the resources to meet such requirements. State and federal agency recreation plans shall be coordinated with local and regional recreational needs and plans.

a. Recreation Planning Policies

1. That park and recreation improvements will be provided in all areas where demand exists, sites can be obtained, financing is feasible, and improvements can be made compatible with surrounding development.
2. The State Comprehensive Outdoor Recreation Plan (SCORP), the State Park Systems Plan, and other relevant parks and recreation plans shall be utilized as guidelines for the plan implementation of the Recreational Needs element thereof.
3. That private enterprise will be given priority for developing recreational resources providing resource protection can be assured and proposed uses are compatible with surrounding development.
4. That the Plan will provide for diversification of outdoor recreation programs to more fully utilize existing facilities during all seasons.
5. That uses in the Warner Canyon Ski Area vicinity will be managed so as to be compatible with ski area objectives.
6. The need for park and recreation areas and facilities shall be considered in the review and approval of all particularly large developments and the provisions of such may be required as a condition of approval.
7. That park rehabilitation, replacement, minor betterment repairs and improvements, and other similar construction activities which do not impact land uses will not require county approval.

b. Recreation Planning Recommendations

1. That a Parks & Recreation Plan be prepared to include addressing hiking and related pedestrian and bicycle trail and other improvement needs; to satisfy demands of all types of recreation not presently provided; and to recognize the development and rehabilitation proposals in the State Park Systems Plan. Such a plan should also take into account the need for handicapped, elderly, low income, and minority recreation needs.
2. That local, State and Federal government agencies work together with local individuals and civic groups in developing those park and recreation projects including ORV use areas, bicycle and other trails, etc., identified in a County Parks & Recreation Plan.

C. Destination Resort Siting

The Lake County Comprehensive Plan may provide for the siting of destination resorts on rural lands subject to the provisions of state law, including ORS 197.435 to 197.467, Goal 8 and other Statewide Planning Goals, and without exception to Goals 3,4,11 or 14.

Destination Resorts have become a popular feature in Oregon, providing overnight lodging, restaurants, meeting facilities and developed residential facilities, along with some full-time residences. The state has recognized the importance of destination resorts in encouraging tourism and contributing to the state's economic development, and has enacted provisions to allow resorts while still protecting high-value farmland and the most productive forest land. In order to tap this economic potential and provide additional recreational opportunities to visitors, the County has determined that destination resorts should be allowed in the county when consistent with all relevant policies in the acknowledged Lake County Comprehensive Plan, state statutes, Statewide Planning Goals and administrative rules.

ORS 197.465 requires that a Comprehensive Plan that allows for siting of a destination resort include implementing measures which map areas where a resort is permitted, limited uses and activities to those permitted pursuant to ORS 197.455, and assure that developed recreational facilities and key facilities are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units.

The county must adopt a map consisting of lands that are eligible for siting a destination resort, based on reasonably available information. The adopted map is the sole basis for determining whether tracts of land are eligible for destination resort siting. Because a property is mapped as being eligible for a destination resort does not mean that a destination resort is permitted outright in that location. In order to be approved, a proposal for a resort must comply with standards and criteria contained in the Lake County Zoning Ordinance and Lake County Comprehensive Plan.

A map showing the areas that are eligible for siting of destination resorts has been adopted as part of the Lake County Comprehensive Plan. Destination resort-eligible lands shall be limited to the areas shown on the "Lake County Destination Resort Map of Eligible Lands," which is adopted as part of the Comprehensive Plan. Destination resorts may only be sited in areas shown on the map and only after development approval.

a. Destination Resort Siting Policies

1. Destination resorts allowed under the provisions of this goal must be sited on lands mapped as eligible by the county. A map adopted by a county may not allow destination resorts approved under the provisions of this goal to be sited in any of the following areas:

i. Areas prohibited by State Law:

- (I) On a site with 50 or more contiguous acres of unique or prime farm land identified and mapped by the United States Natural Resources Conservation Service or its predecessor agency; or within three miles of a High Value Crop Area;**
- (II) Within three miles of a High Value Crop Area as defined at ORS 197.435(2);**
- (III) On predominantly Cubic Foot Site Class 1 or 2 forest lands, as determined by the State Forestry Department, that are not subject to an approved Goal exception;**
- (IV) In an especially sensitive big game habitat as generally mapped by the Oregon Department of Fish and Wildlife in July 1984 and as further refined through development of comprehensive plans implementing this requirement.**
- (V) On high-value farmland as defined in OAR 660-033-0020.**

ii. Areas prohibited by Lake County in addition to those areas prohibited by state law:

- (I) On important wildlife habitat and/or winter range inventoried by Lake County under Statewide Planning Goal 5.**

- (II) **Within a critical groundwater area or a limited groundwater area designated by the Oregon Water Resources Department or the Oregon Water Resources Commission.**
 - (III) **On other lands determined by Lake County to be poorly suited for Destination Resort Development due to a remote location, limited infrastructure and other support services, or the potential to have undue effects on an established community.**
- 2. **The map showing areas eligible for consideration of Destination Resort siting shall not be subject to revision or refinement after adoption except in conformance with ORS 197.455, and 197.610 to 197.625, but not more frequently than once every 30 months.**
- 3. **Any costs related to infrastructure improvements made necessary by the presence of a Destination Resort shall be paid for by the Destination Resort applicant.**
- b. **Destination Resort Planning Recommendations**
 - 1. **Lake County shall develop local zoning ordinance provisions that implement the county's policy choice to consider Destination Resort proposals in certain areas of Lake County.**
 - 2. **Lake County shall develop local zoning ordinance criteria that assure protections for farming, ranching and forest uses and assists decision makers to determine if a proposal is likely to be a benefit to the county and its citizens and coordinate with Department of Land Conservation and Development, Oregon Department of Transportation, Oregon Department of Fish and Wildlife, Oregon Department of Forestry and Federal Resource Agency.**
 - 3. **Lake County shall establish local zoning ordinance provisions that are equivalent to the provisions of Section OAR 660-012-0060 of the Transportation Planning Rule to require consideration of traffic impacts and identify solutions to traffic impacts created by the presence of a proposed Destination Resort Development.**
 - 4. **Lake County shall develop a process for collecting and**

processing concurrently any and all map amendment requests made within the 30 month planning period.

ORDINANCE No. 55
EXHIBIT B

ARTICLE 33: DESTINATION RESORT OVERLAY ZONE: DRO

Section 33.01 Destination Resort Overlay Zone. The purpose of the Destination Resort Overlay zone is to provide a process for the siting of destination resorts on rural lands that have been mapped by the County as eligible for this purpose. The Destination Resort Overlay is intended to provide for properly designed destination resort facilities which enhance and diversify the recreational opportunities and economy of Lake County. The Destination Resort Overlay will ensure resort development that complements the physical attractiveness of an area without significant adverse effect on commercial farming and forestry operations or the significant natural and cultural features which contribute to the setting.

Section 33.02: Applicability. The provisions of this Article shall apply solely to development which meets the standards set forth in Sections 33.04 and 33.05 [Standards/Standards for Small Destination Resorts]. Other provisions of this Code shall remain in full force and effect, except as otherwise specified herein.

A. Development which meets the standards in Section 33.04 [Standards] shall be referred to hereafter as destination resorts, and development that meets the standards in Section 33.05 [Standards for Small Destination Resorts] shall be referred to hereafter as small destination resorts. Where special standards or criteria are not specifically called out for small destination resorts, the standards for destination resorts shall apply.

B. For a destination resort application, the standards and procedures of this Article shall govern in cases where they conflict with the standards or procedures of the underlying zone.

C. Destination resorts shall be allowed only on tracts mapped by the County as eligible for destination resort siting and designated as such in the Comprehensive Plan.

Article 33.03: Definitions. The following definitions are applicable to this Article 33 [Destination Resort Overlay Zone]:

A. "Developed recreational facilities" means improvements constructed for the purpose of recreation and may include but are not limited to golf courses, tennis courts, playing fields, interpretive centers, wildlife observation shelters, nature trails, swimming pools, marinas, ski trails, snowmobile trails, bicycle paths, and indoor and outdoor sport facilities.

B. "Open space" means any land that is retained in a substantially natural condition, or is improved for outdoor recreational uses such as golf courses, playing fields, hiking or nature trails or equestrian or bicycle paths, or is specifically required to be protected by a conservation easement. Open spaces

may include ponds, lands protected as important natural features, lands preserved for farm or forest use, required landscaped and lands used as buffers. Open space does not include residential lots or yards, streets or parking areas.

C. "Overnight lodgings" means permanent, separately rentable accommodations which are not available for residential use. Overnight lodgings include hotel rooms, lodges, cabins and time-share units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation system. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.

D. "Self-contained development" means a development for which community sewer and water facilities are provided onsite and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A "self-contained development" shall have developed recreational facilities provided onsite.

E. "Tract" means a lot or parcel or more than one contiguous lot or parcel in a single ownership. A tract on which a destination resort is sited may include property that is not included in the destination resort if the property to be excluded is on the boundary of the tract and constitutes less than 30 percent of the total tract.

F. "Visitor-oriented accommodations" means overnight lodging, restaurants and meeting facilities which are designed to provide mainly for the needs of visitors rather than area residents.

Section 33.04: Standards. A destination resort is a self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. A destination resort shall meet the following standards:

A. Development shall be located on a tract that contains a site of at least 160 acres.

B. Development shall include meetings rooms, restaurants with seating for at least 100 persons, and a minimum of 150 separate rentable units for overnight lodging, oriented toward the needs of visitors rather than area residents. However, the rentable units may be phased in as follows:

1. A total of 150 units of overnight lodging shall be provided as follows:

a. At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units.

b. At least 50 units of the remaining 100 required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurances within 5 years of the initial lot sales.

c. The remaining required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurance within 10 years of the initial lot sales.

2. The number of units approved for residential sale shall not be more than 2 ½ units for each unit of permanent overnight lodging provided under subparagraph (a) of this subsection.

3. If the developer of a resort guarantees the overnight lodging units to be required under subparagraphs (b) and (c) of this subsection through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurances.

D. All required developed recreational facilities, key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or guaranteed through surety bonding or equivalent assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding.

E. At least \$7 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreation facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.

F. Commercial uses are limited to those types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.

G. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.

H. If the site includes a resources site designated for protection in the Lake County Comprehensive Plan pursuant to open spaces, scenic and historic areas and natural resource goals, that tract shall be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase which the resource site is a part.

I. Riparian vegetation within 100 feet of lakes, rivers, streams and designated ("IC") wetlands shall be retained.

J. All destination resorts shall contain buffers and setbacks of sufficient size to separate the resort from surrounding lands and to minimize the impact on those lands.

Section 33.05: Standards for Small Destination Resorts. In lieu of the standards set forth in Section 33.04 [Standards], the standards set forth in this section may be applied to a destination resort on land that is not defined as agricultural or forest land under any statewide planning goal, on land where there has been an exception to any statewide planning goal with respect to agricultural lands, forest lands, public facilities and services and urbanization, or on secondary lands as the Land Conservation and Development Commission deems appropriate.

Development which meet the following standards shall be considered small destination resorts:

A. The resort shall be located on a tract that contains a site of at least 20 acres.

B. The resort must provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope or fishing stream.

C. At least 25 units, but not more than 75 units of overnight lodging shall be provided. A restaurant and meeting room with at least one seat for each unit of overnight housing shall be provided.

D. At least \$2 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreation facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.

E. Residential uses shall be limited to those necessary for the staff and management of the resort.

F. The resort shall be constructed and located so that it is not designed to attract highway traffic. Resorts shall not use any manner of outdoor advertising signing except:

1. Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and
2. Onsite identification and directional signs.

G. Commercial uses are limited to those types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.

H. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.

I. If the site includes a resources site designated for protection in the Lake County Comprehensive Plan pursuant to open spaces, scenic and historic areas and natural resource goals, that tract shall be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase which the resource site is a part.

J. All destination resorts shall contain buffers and setbacks of sufficient size to separate the resort from surrounding lands and to minimize impact on those lands.

Section 33.06: Permitted Uses.

A. The uses permitted in this zone are those allowed by Goal 8 and ORS 197.435 to ORS 197.467.

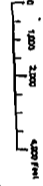
Section 33.07: Application Procedures and Contents. Destination Resort Development applications shall be governed by Article 24, Conditional Uses and reviewed as a Type II Condition Use Permit.

LAKE COUNTY, OREGON FEBRUARY 2010, ORDINANCE No. 55 EXHIBIT C MAPS
 PROPERTIES MAPPED FOR THE DESTINATION RESORT OVERLAY

27S12E000060000	2464	JWTR LLC
27S12E000070000	2465	JWTR LLC
27S12E000080000	2466	JWTR LLC
27S12E000090000	2467	JWTR LLC
27S13E000100000	2478	JWTR LLC
27S13E000110000	2479	JWTR LLC
28S12E000030000	7680	JWTR LLC
28S12E000080000	7694	JWTR LLC
28S12E000090000	7697	JWTR LLC
29S12E000050000	8024	JWTR LLC
29S12E000070000	8028	JWTR LLC
29S12E000080000	8030	JWTR LLC
29S12E000090000	8031	JWTR LLC
29S13E000130000	8047	JWTR LLC
29S13E000140000	8048	JWTR LLC
29S14E000120000	8074	JWTR LLC
29S15E000070000	8088	JWTR LLC
29S16E000130000	8111	JWTR LLC
29S16E000140000	8113	JWTR LLC
30S14E000010000	8226	JWTR LLC
30S14E000030000	8228	JWTR LLC
30S14E000040000	8229	JWTR LLC
30S14E000130000	8240	JWTR LLC
30S14E000160000	8244	JWTR LLC
30S15E000020000	8248	JWTR LLC
30S15E000070000	8258	JWTR LLC
30S15E000080000	8259	JWTR LLC
30S15E000090000	8260	JWTR LLC
30S15E000120000	8266	JWTR LLC
30S16E000020100	16997	JWTR LLC
30S16E000030000	8271	JWTR LLC
30S16E000040000	8273	JWTR LLC
31S12E000020000	9002	JELD-WEN TIMBER HOLDINGS INC
31S12E000030000	9004	JELD-WEN TIMBER HOLDINGS INC
31S13E000020000	9006	JELD-WEN TIMBER HOLDINGS INC
31S13E000100000	9033	JELD-WEN TIMBER HOLDINGS INC
31S14E000150000	9067	JWTR LLC
31S14E000160000	9069	JWTR LLC
31S14E000230000	9081	JWTR LLC
31S14E000240000	9083	JWTR LLC
31S15E000030000	9088	JWTR LLC
31S15E000050000	9091	JWTR LLC
31S15E000070000	9097	JWTR LLC
31S15E000080000	9099	JWTR LLC

31S15E000090000	9100	JWTR LLC
31S15E000150000	9111	JWTR LLC
31S15E000190000	9118	JWTR LLC
32S12E000010000	9179	JELD-WEN TIMBER HOLDINGS INC
32S13E000050100	16802	JELD-WEN TIMBER HOLDINGS INC
32S13E000070000	9195	JELD-WEN TIMBER HOLDINGS INC
32S13E000100000	9200	JWTR LLC
32S14E000040000	9215	JWTR LLC
32S14E000050000	9216	JWTR LLC
32S14E000060000	9218	JWTR LLC
32S14E000070000	9220	JWTR LLC
32S15E000010000	9222	JWTR LLC
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34S18E000130100	18566	JWTR LLC
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35S17E000050000	9302	JWTR LLC
35S18E000080000	9337	JWTR LLC
36S16E000030000	9612	JWTR LLC
36S16E000030200	18116	JWTR LLC
36S16E000030300	18117	JWTR LLC
36S16E000040000	9614	JWTR LLC
36S16E000050000	9616	JWTR LLC
36S16E000060000	9618	JWTR LLC
36S17E000020000	9623	JWTR LLC
36S17E000050000	9633	JWTR LLC
36S17E000090000	9643	JWTR LLC
36S18E000050000	9659	JWTR LLC
37S16E000020000	10169	JWTR LLC
37S16E000070100	16998	JWTR LLC
37S16E070170000	10223	JWTR LLC
37S17E000030000	10270	JWTR LLC
37S17E000050000	10274	JWTR LLC
38S16E000070000	11193	JWTR LLC
38S17E000030000	11219	JWTR LLC
41S17E000090000	15891	JWTR LLC
41S17E000100000	15893	JWTR LLC

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



T.27S, R.12E, W.4M, LAKE COUNTY

1" = 2000'

SEE MAP 27S 12E

27S12E

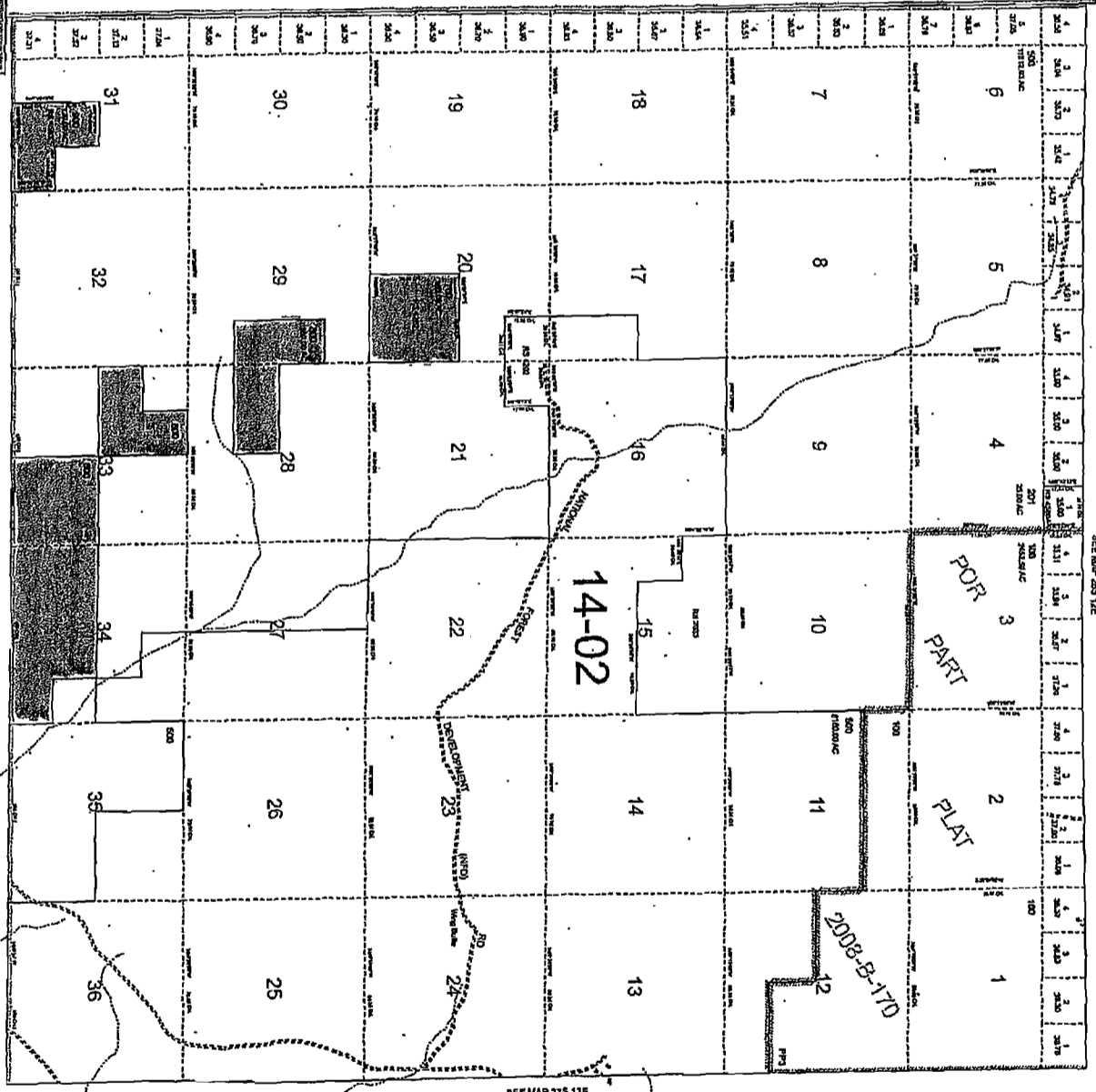
CANCELLED

300

400

500

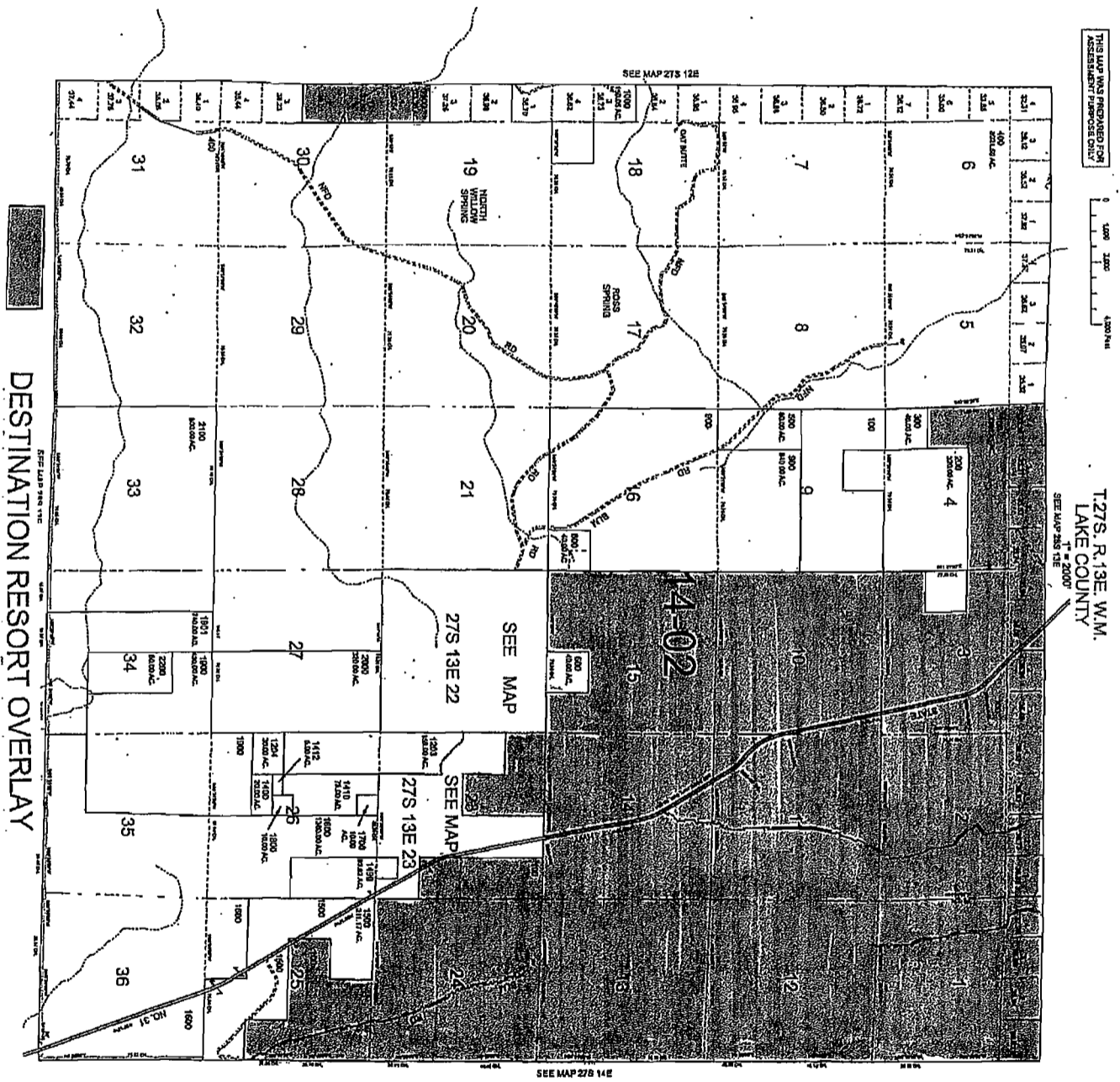
KLAMATH COUNTY



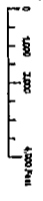
SEE MAP 27S 12E

DESTINATION RESORT OVERLAY

Revised: MA 1/15/2009 27S12E



THIS MAP HAS BEEN RECORDED FOR
 CONSIDERATION BY THE STATE OF MINNESOTA



T27S, R.13E, W.M.
 LAKE COUNTY
 T = 2000'

SEE MAP 27S 13E

27S13E
 CHANGE LIST:
 501 THRU
 502 THRU
 700 THRU
 1000 THRU
 1300 THRU
 1400 THRU
 1411

SEE MAP 27S 14E

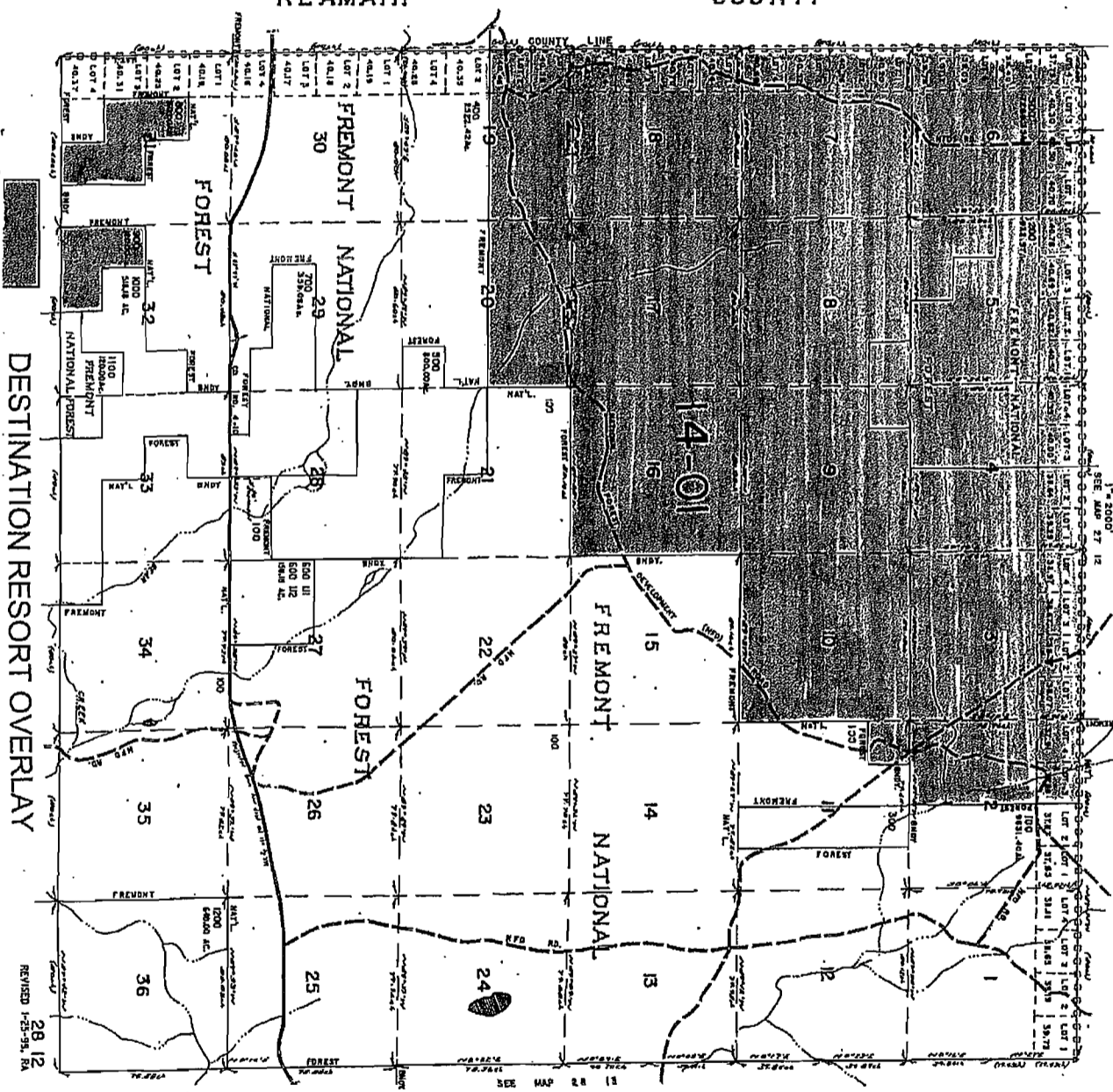
DESTINATION RESORT OVERLAY

27S13E
 Revised: MA
 4/24/2008

KLAMATH COUNTY

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

T28S, R12E, W.M.
LAKE COUNTY



DESTINATION RESORT OVERLAY

28 12
REVISED 1-25-94, RM

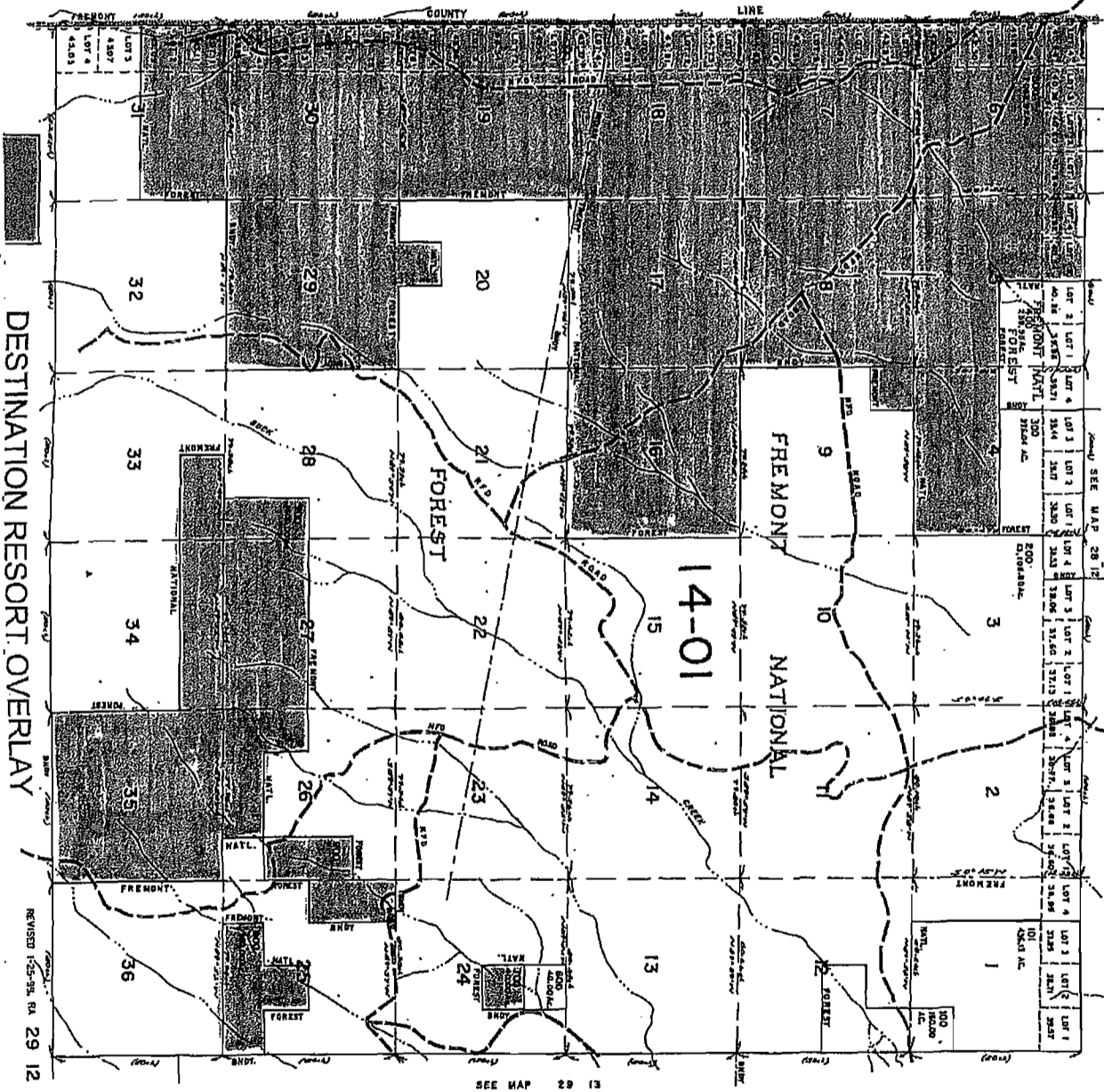
28 12

KLAMATH COUNTY

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

T29S, R12E WM
LAKE COUNTY
1"=2000'

29 12



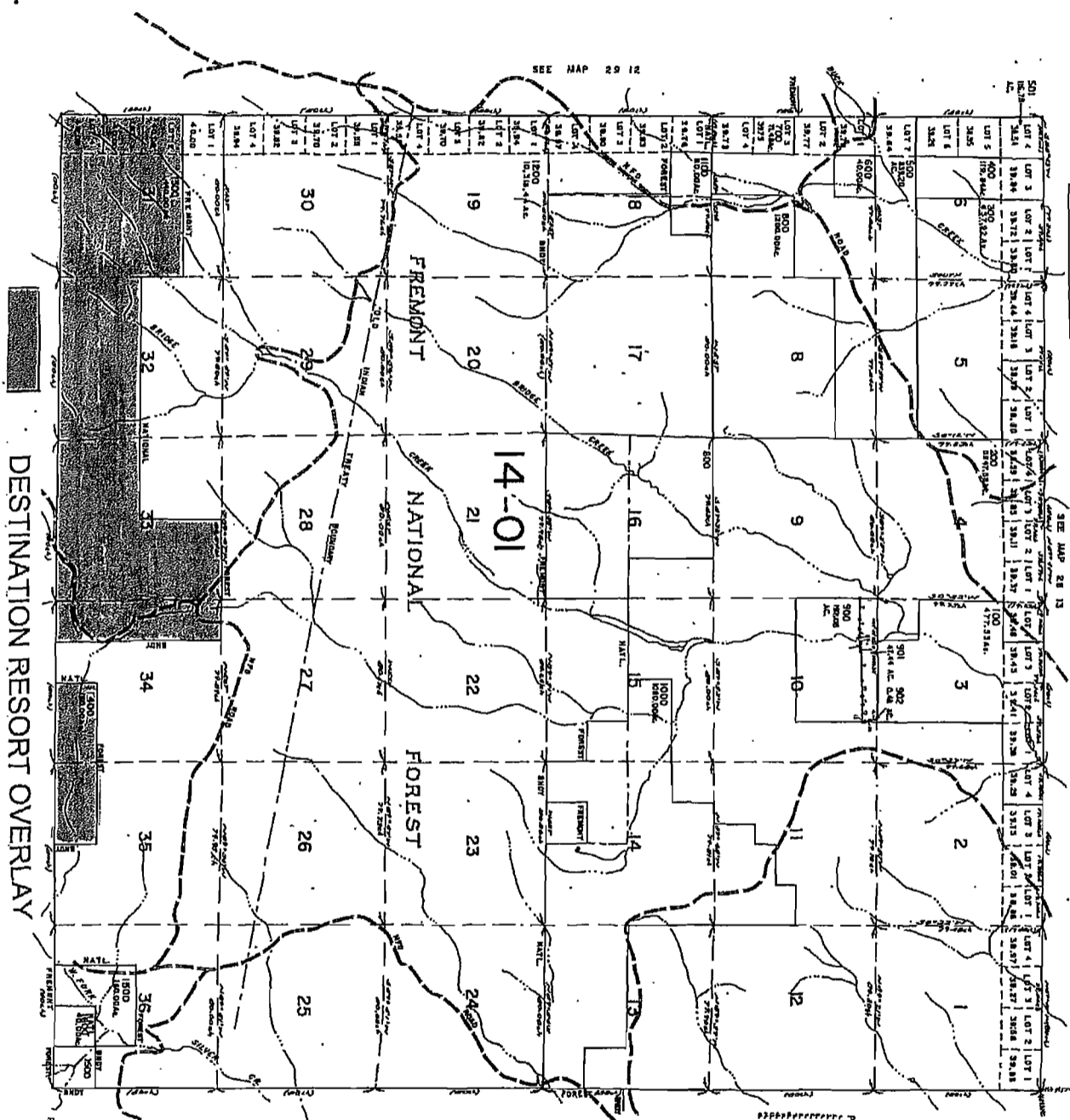
DESTINATION RESORT OVERLAY

REVISED 1-29-93, RA 29 12

SEE MAP 29 13

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T.29S, R.13E, W.M.
LAKE COUNTY
1" = 2000'



DESTINATION RESORT OVERLAY

29 13
REVISED 1-25-99, RA.

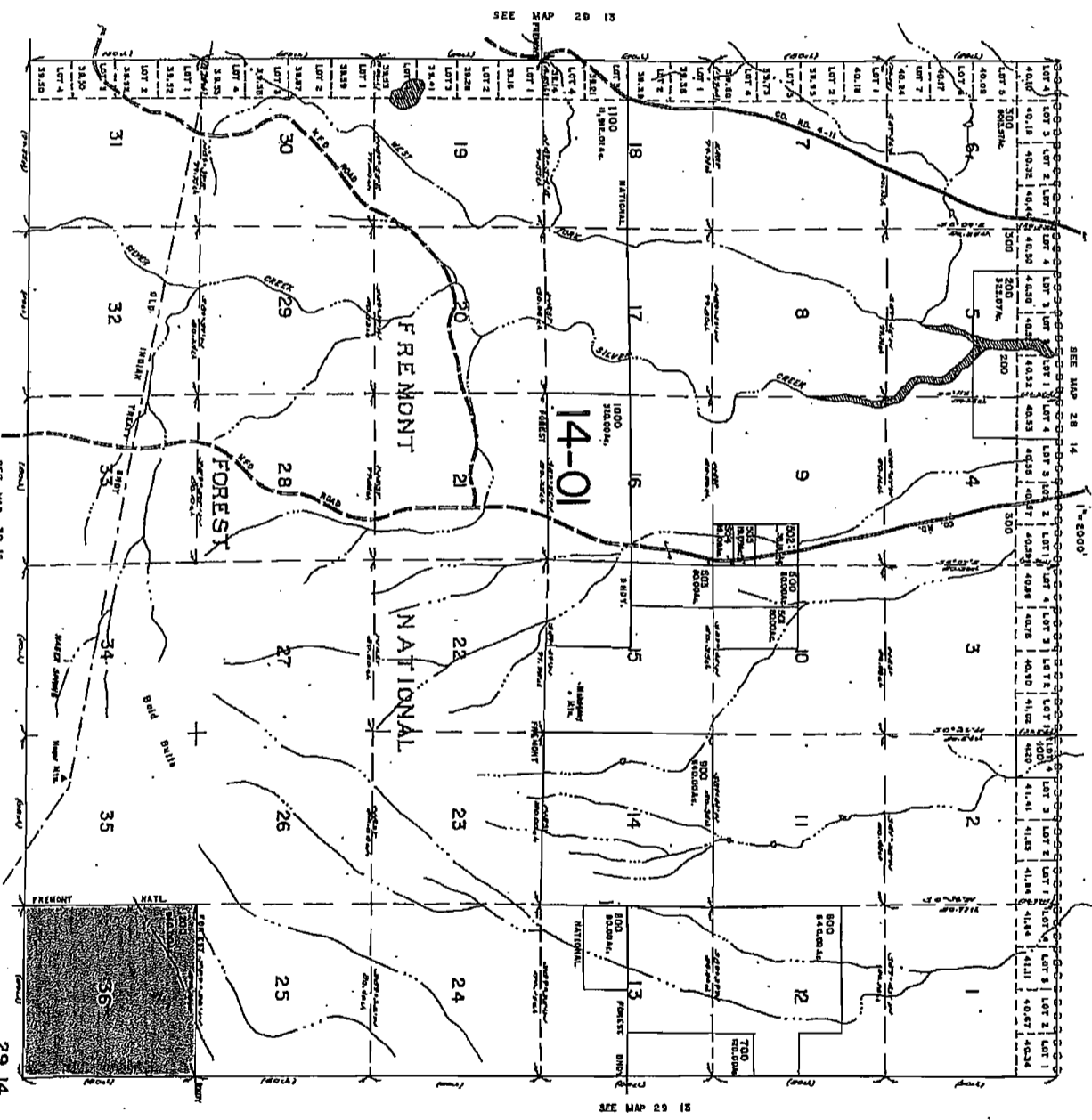
29 13

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T29S R14E W.M.
LAKE COUNTY

CANCELLED NO.
TL 400

29 14



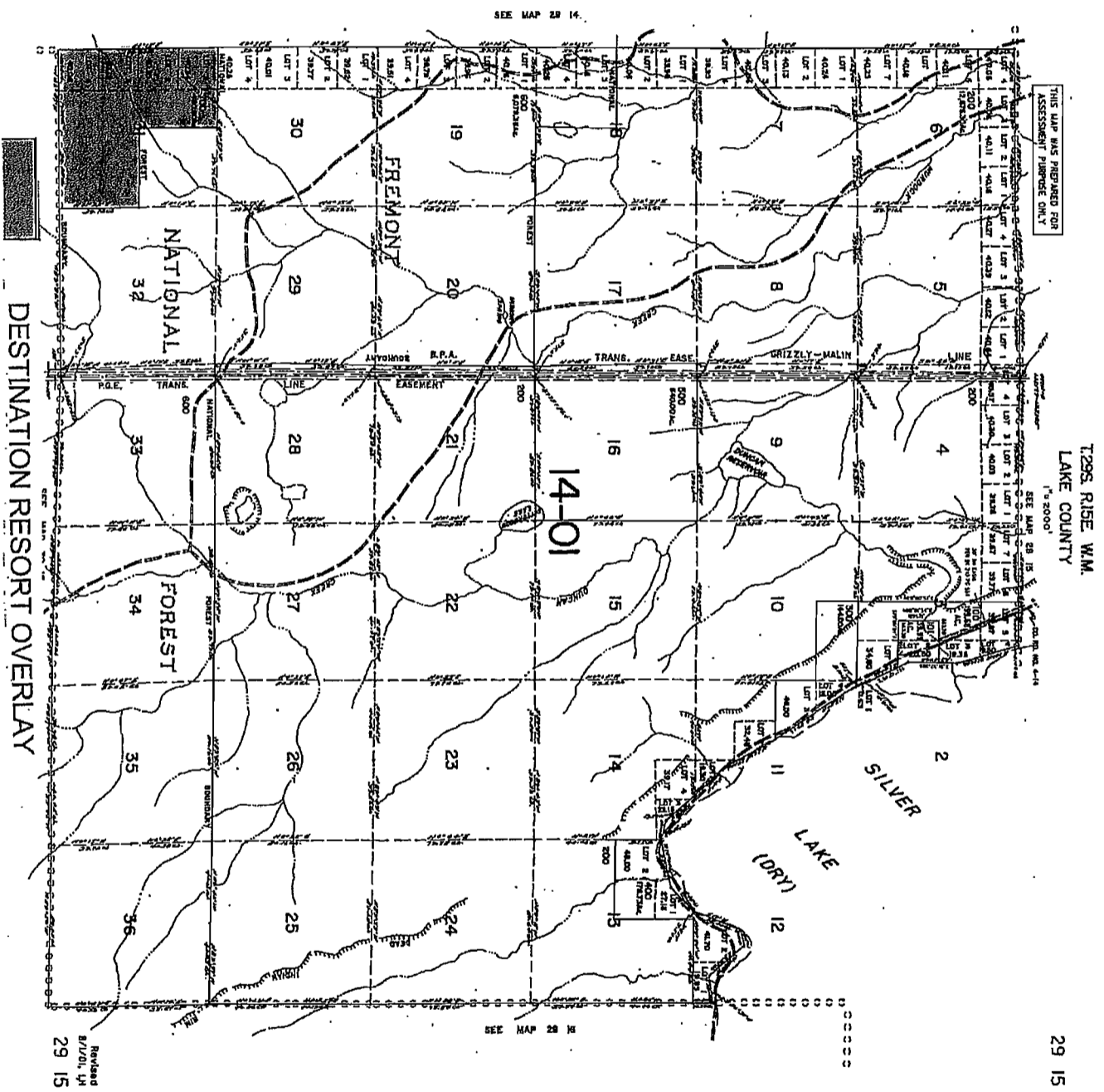
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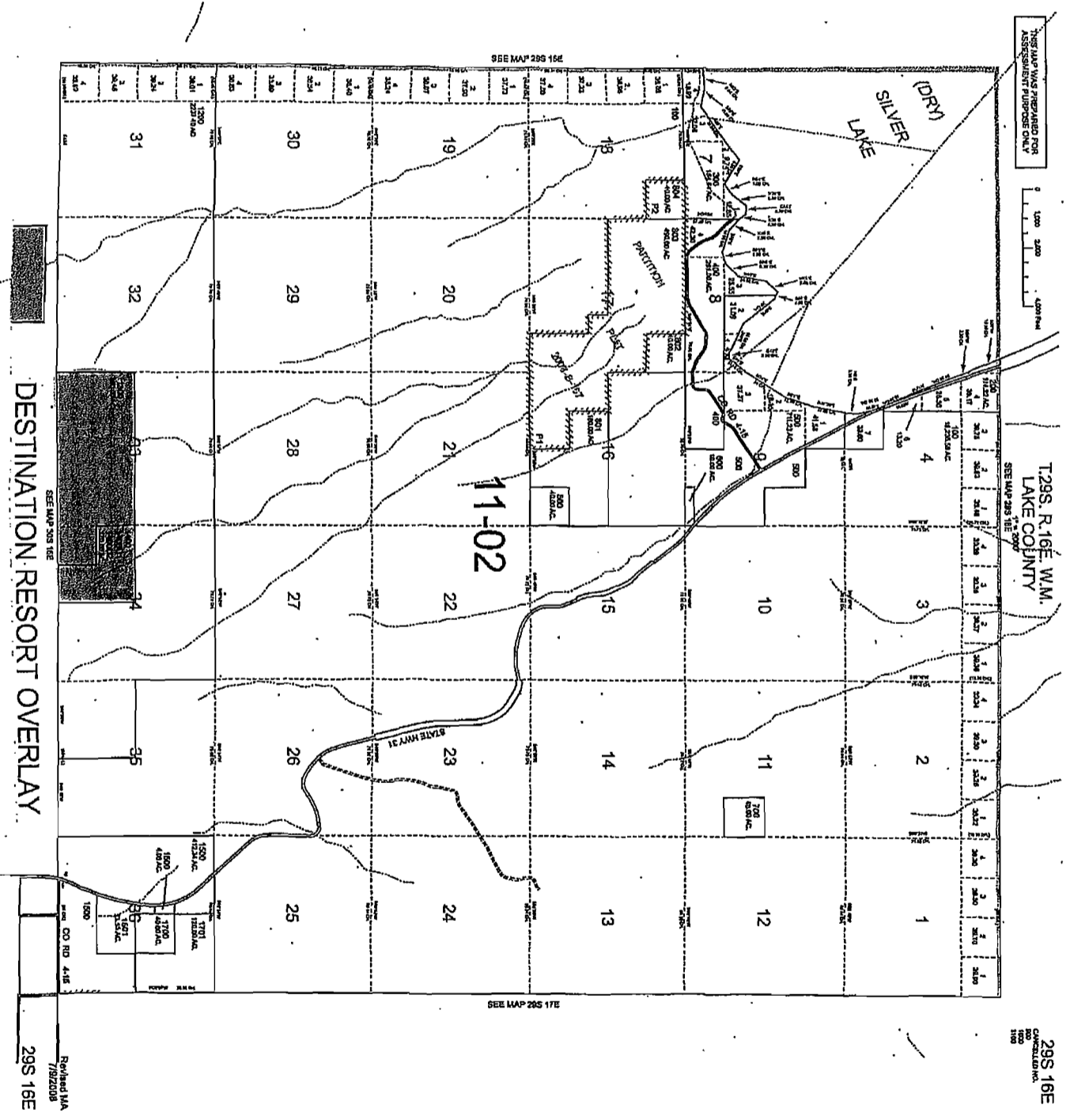


SEE MAP 29 15

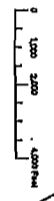
SEE MAP 28 14

29 14





THIS MAP WAS PREPARED FOR
ASSISTANT COUNTY ENGINEER



T29S, R.16E, W.M.
LAKE COUNTY
T. 29S
SEE MAP 29S 16E
SEE MAP 29S 17E

29S 16E
LAKE COUNTY
1999

SEE MAP 29S 16E

SEE MAP 29S 17E

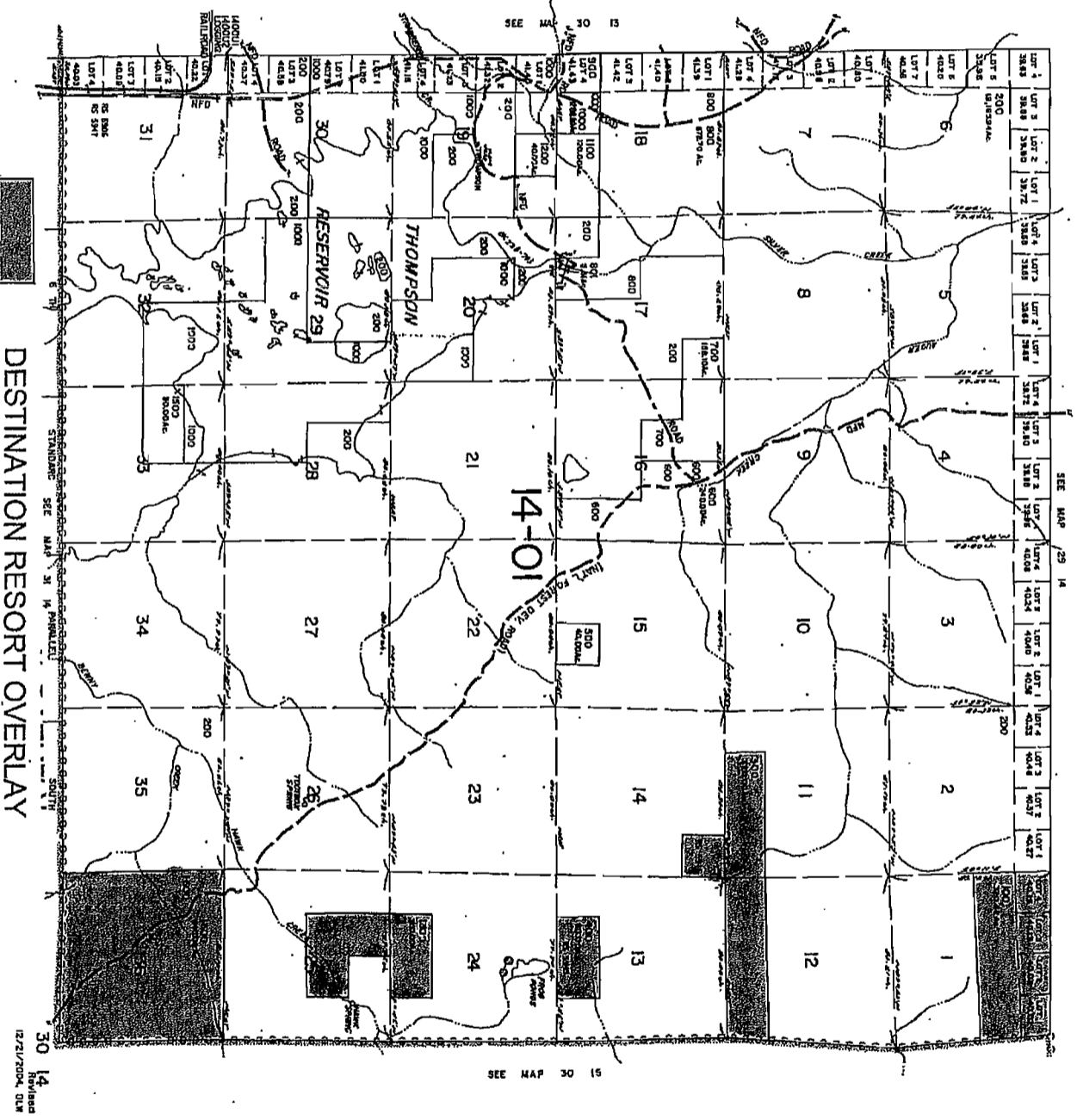
DESTINATION RESORT OVERLAY

Richard MA
7/20/2018
29S 16E

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T30S R4E W4M
LAKE COUNTY
1" = 2000'

30 14



DESTINATION RESORT OVERLAY

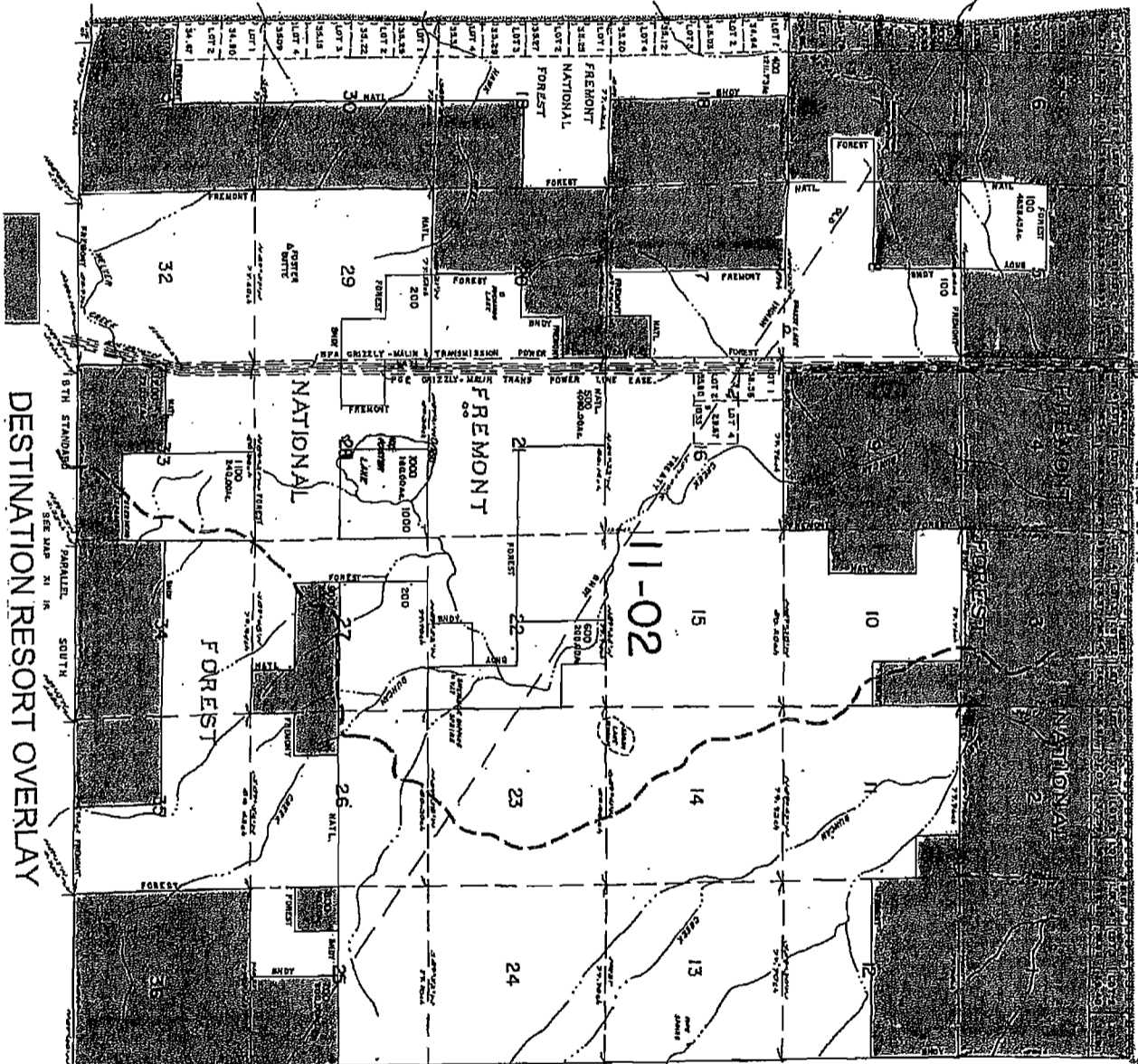
12/21/2004 DLR

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T30S, R15E, W1M,
LAKE COUNTY,
1"=4000'

30 15

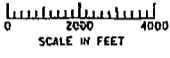
SEE MAP 30 14



SEE MAP 30 16

30 15

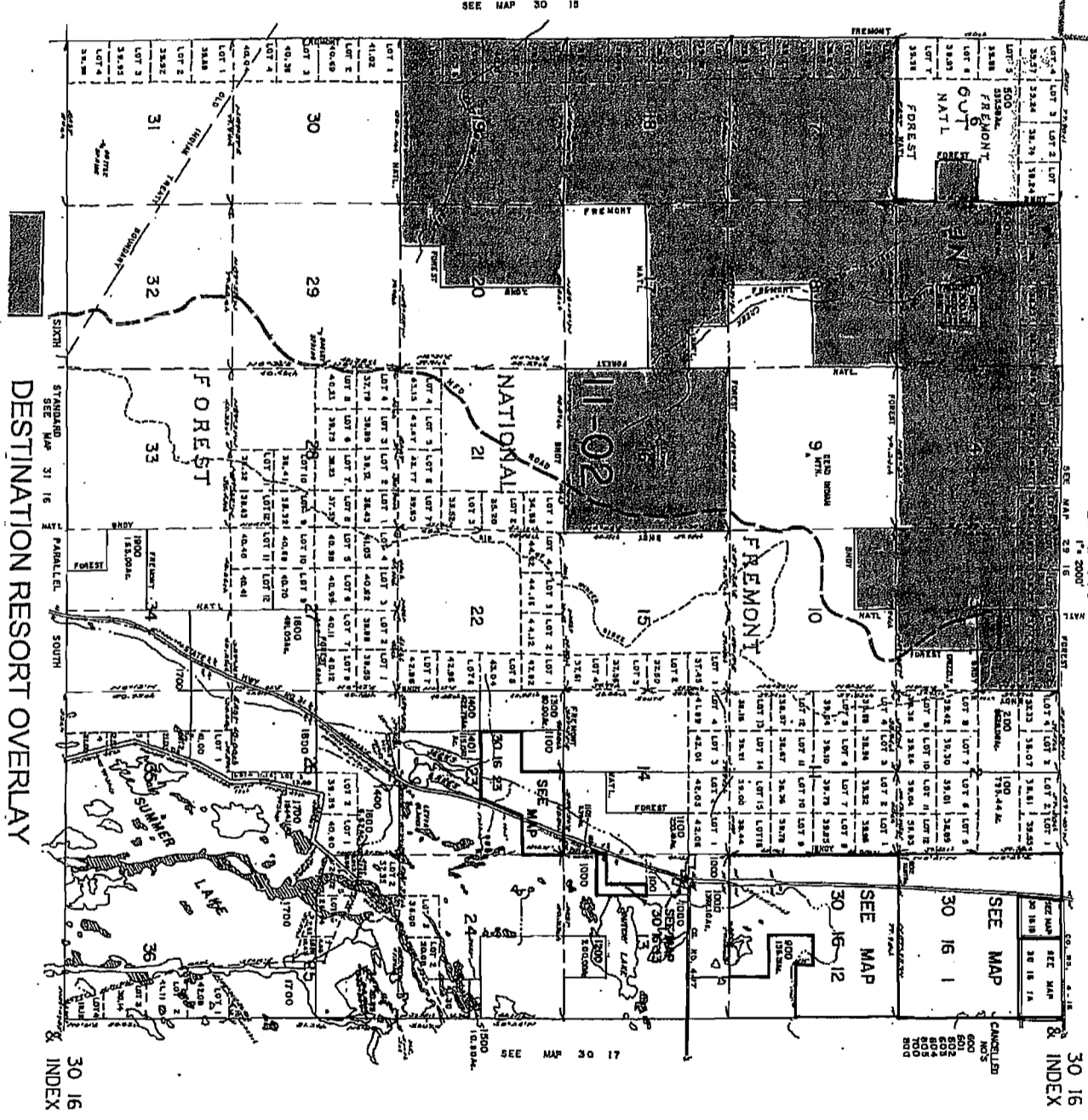
DESTINATION RESORT OVERLAY



SEE MAP 30 18

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

T. JOE R. IGE, W.M.
LAKE COUNTY



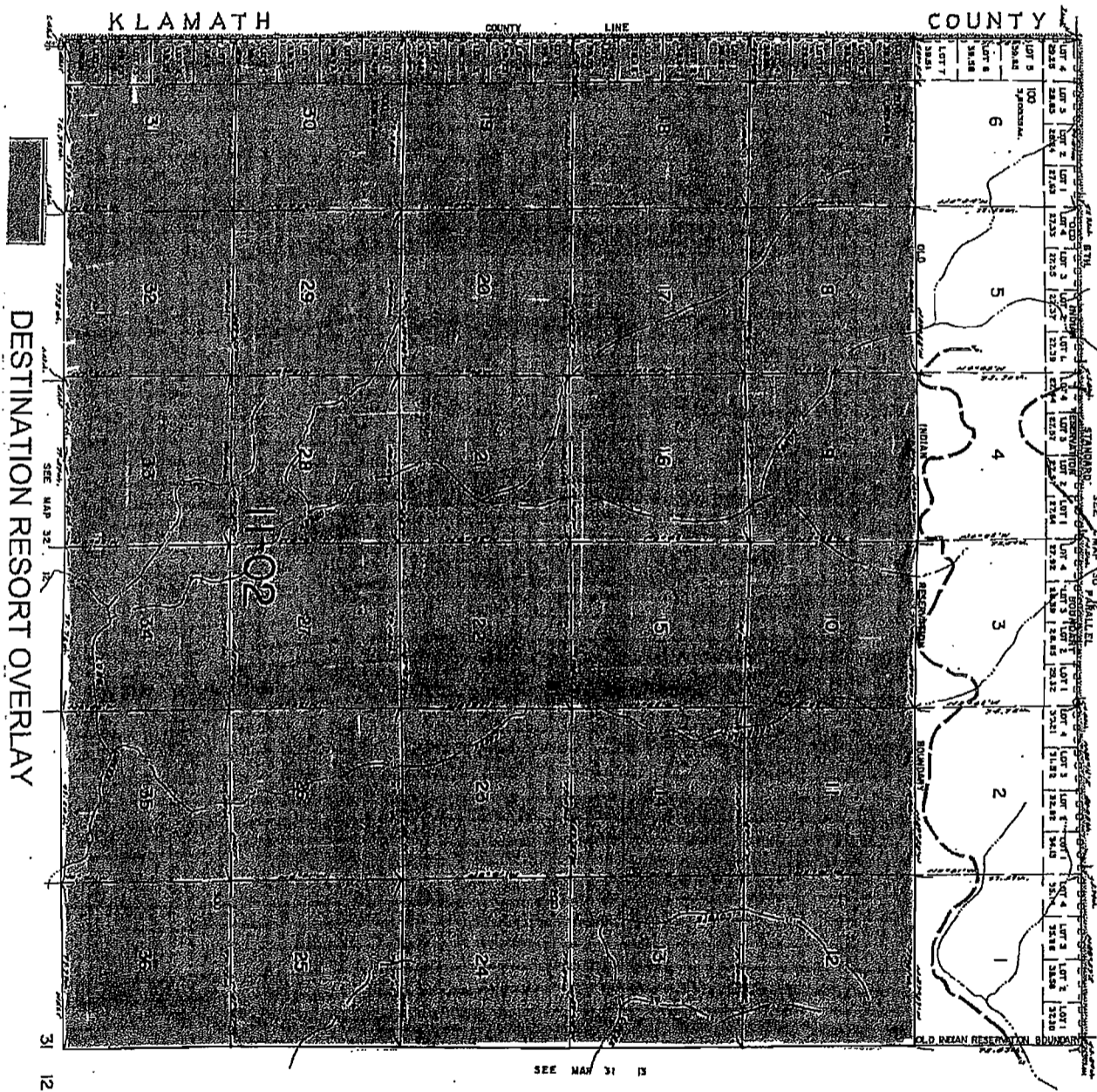
DESTINATION RESORT OVERLAY

30 16 INDEX

30 16 INDEX

SEE MAP 30 16 1
SEE MAP 30 16 12
SEE MAP 30 16 11

SEE MAP 30 16



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

T31S R12E W.M.
LAKE COUNTY

31 12

DESTINATION RESORT OVERLAY

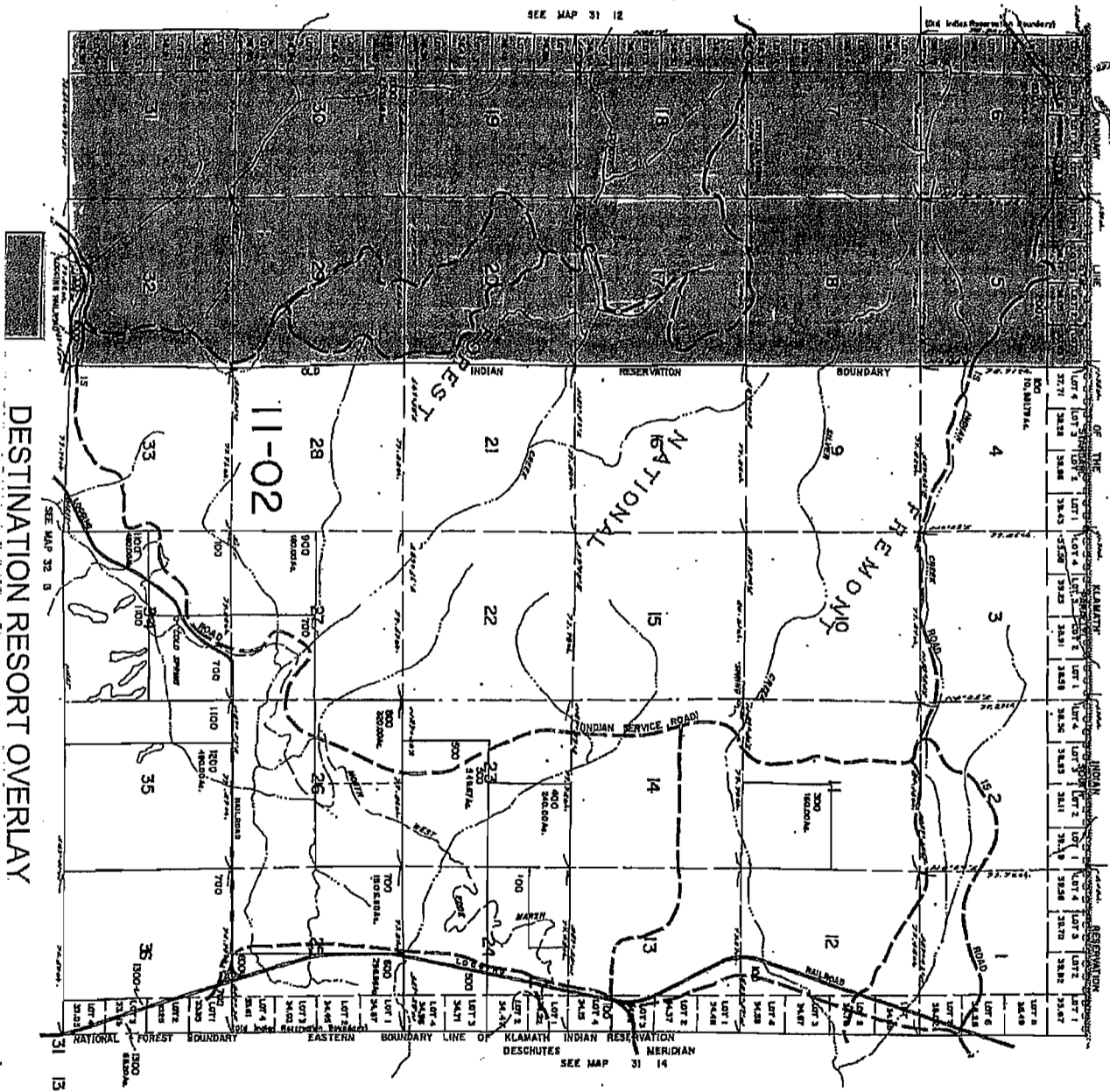
SEE MAP 32

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

T.S. RISE W.M.
LAKE COUNTY
1-1890'

SEE MAP 30 B

31 13



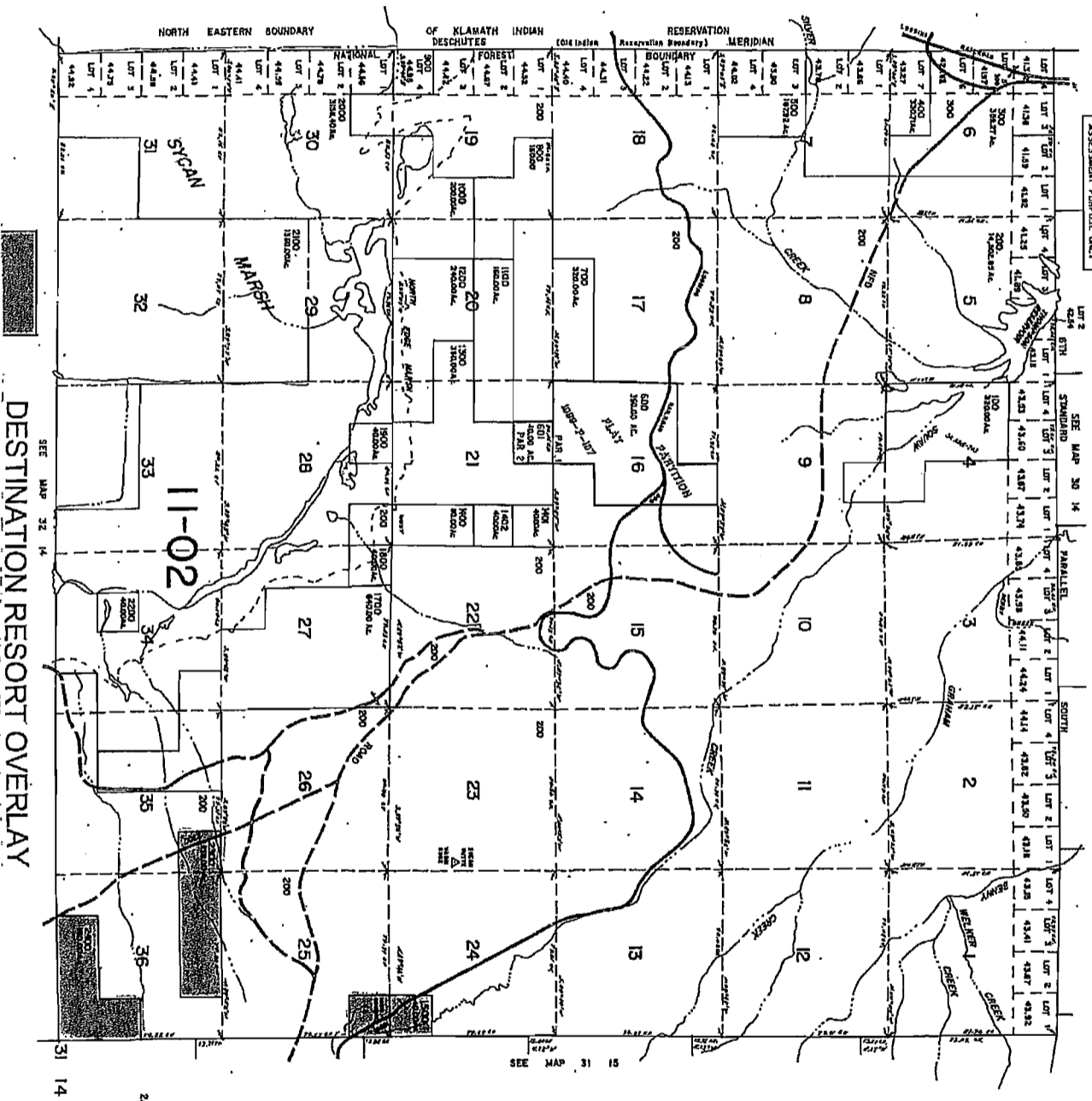
DESTINATION RESORT OVERLAY

0 2000 FEET 4000
SCALE IN FEET

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

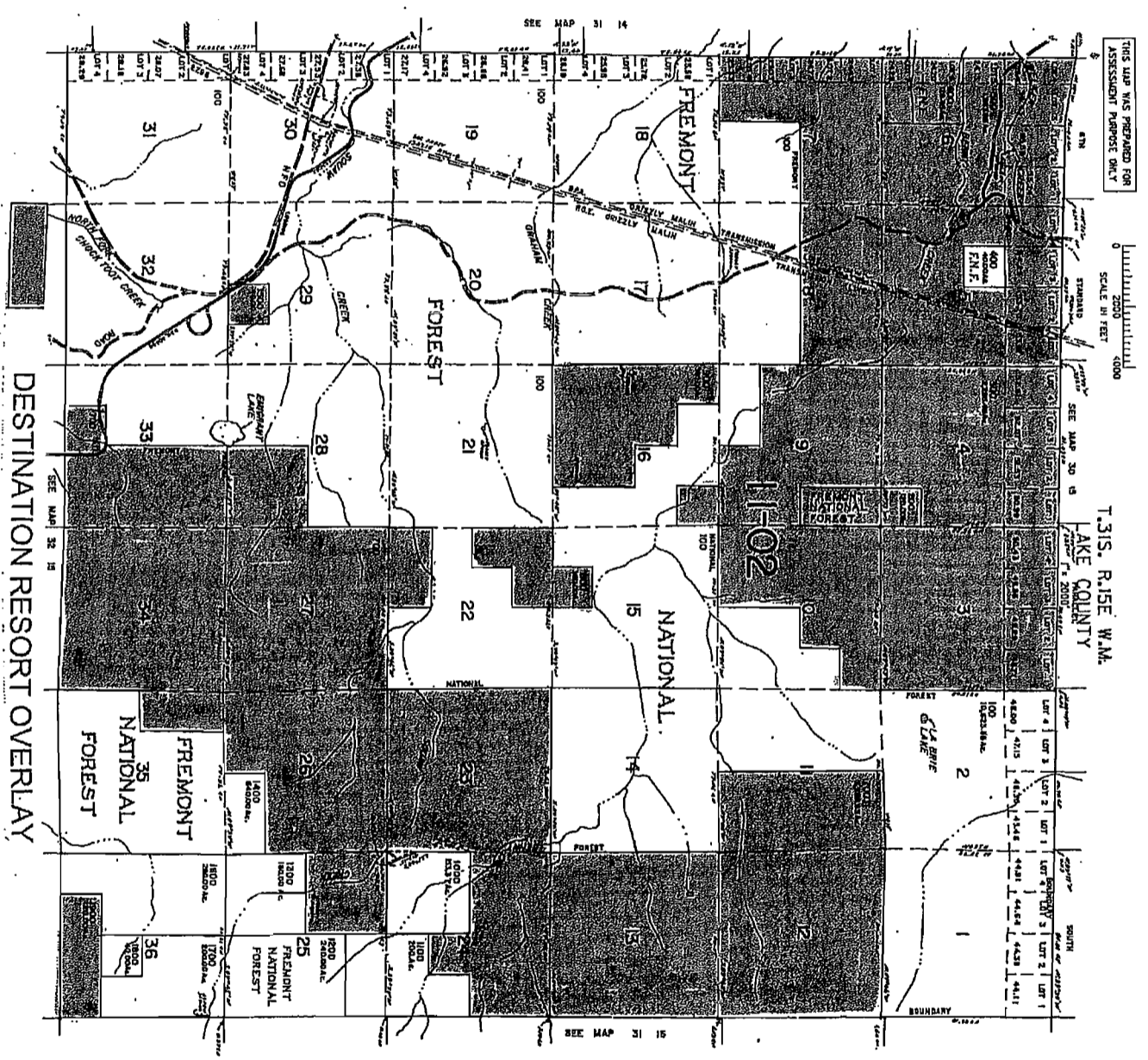
T-31 S. R14E W.M.
LAKE COUNTY
1" = 8000'

31 14



DESTINATION RESORT OVERLAY

2/7/01, RT
31 14



THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

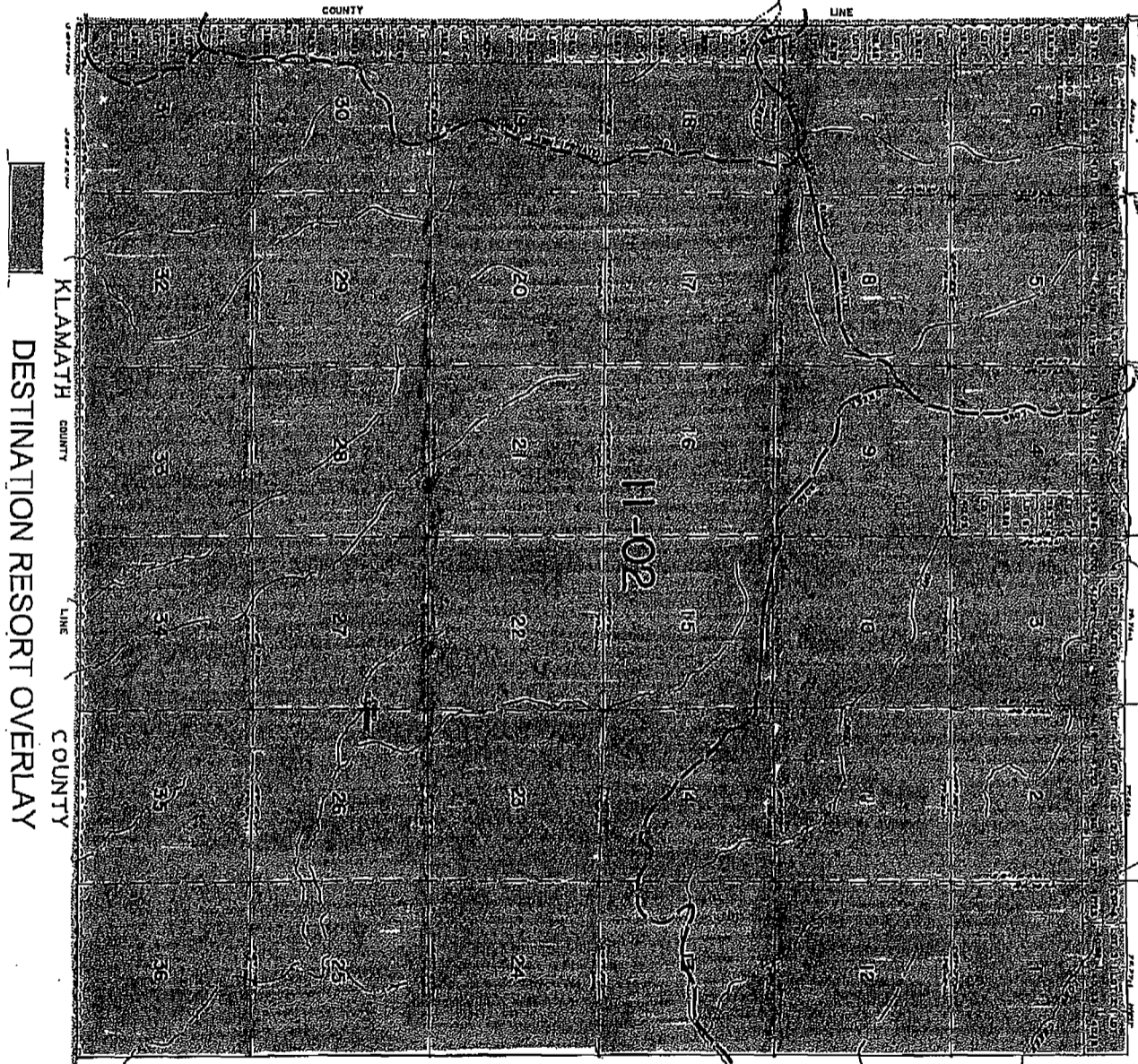
T.31S, R.15E, W.4M
LAKE COUNTY

31 15

DESTINATION RESORT OVERLAY

Revised
6/4/01, RT
31 15

KLAMATH COUNTY



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.

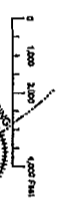
T32S R12E W1M
LAKE COUNTY
SEE MAP 32 12

DESTINATION RESORT OVERLAY

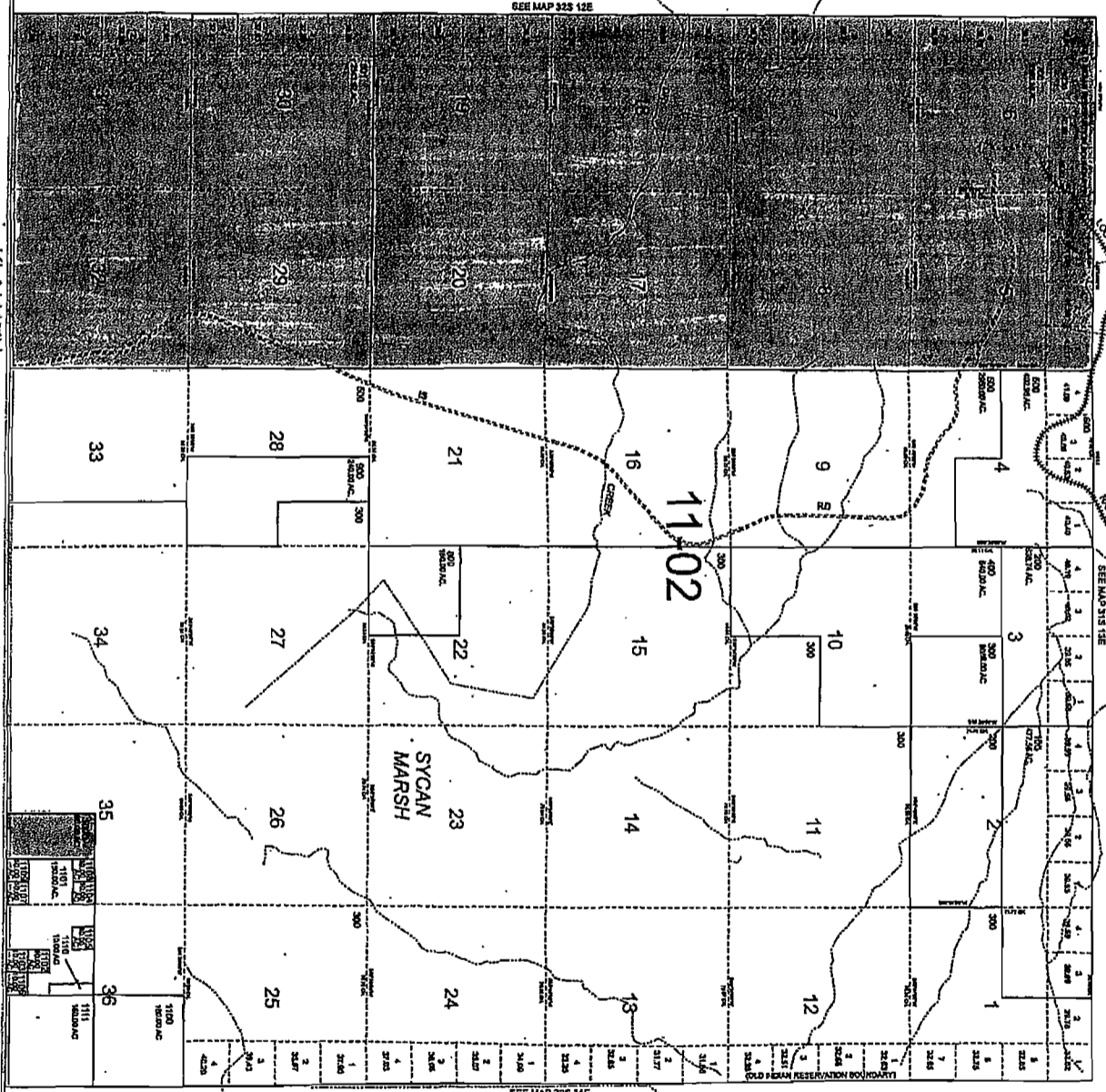
SEE MAP 32 12

32 12

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



T.32S, R.13E, W.1M
LAKE COUNTY
OREGON



SEE MAP 32S 13E

SEE MAP 32S 13E

CLAMATH COUNTY
DESTINATION RESORT OVERLAY

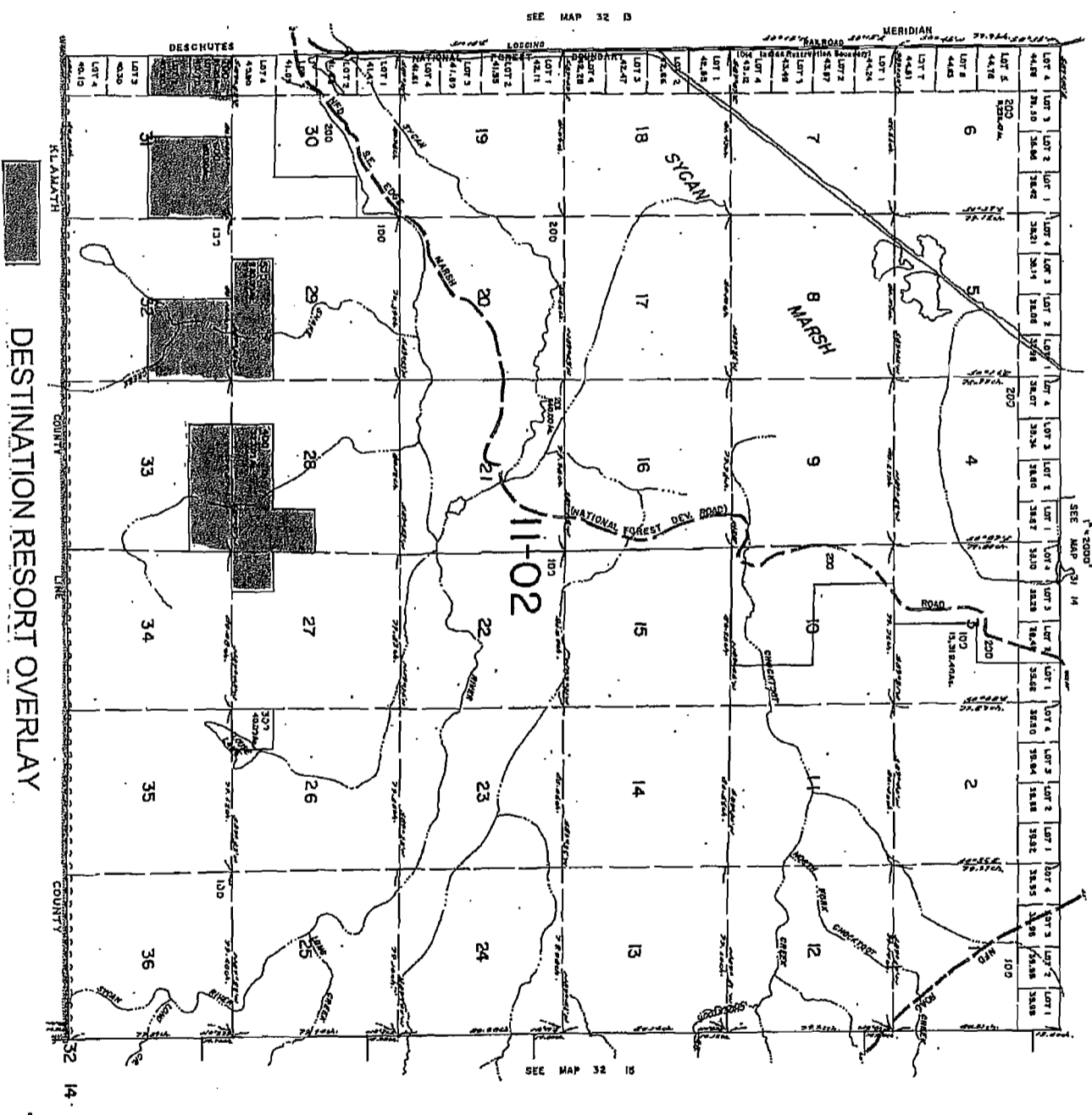
Revised MA
5/27/2008
32S 13E

32S 13E

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T32S, R14E, W.M.
LAKE COUNTY

32 14



DESTINATION RESORT OVERLAY

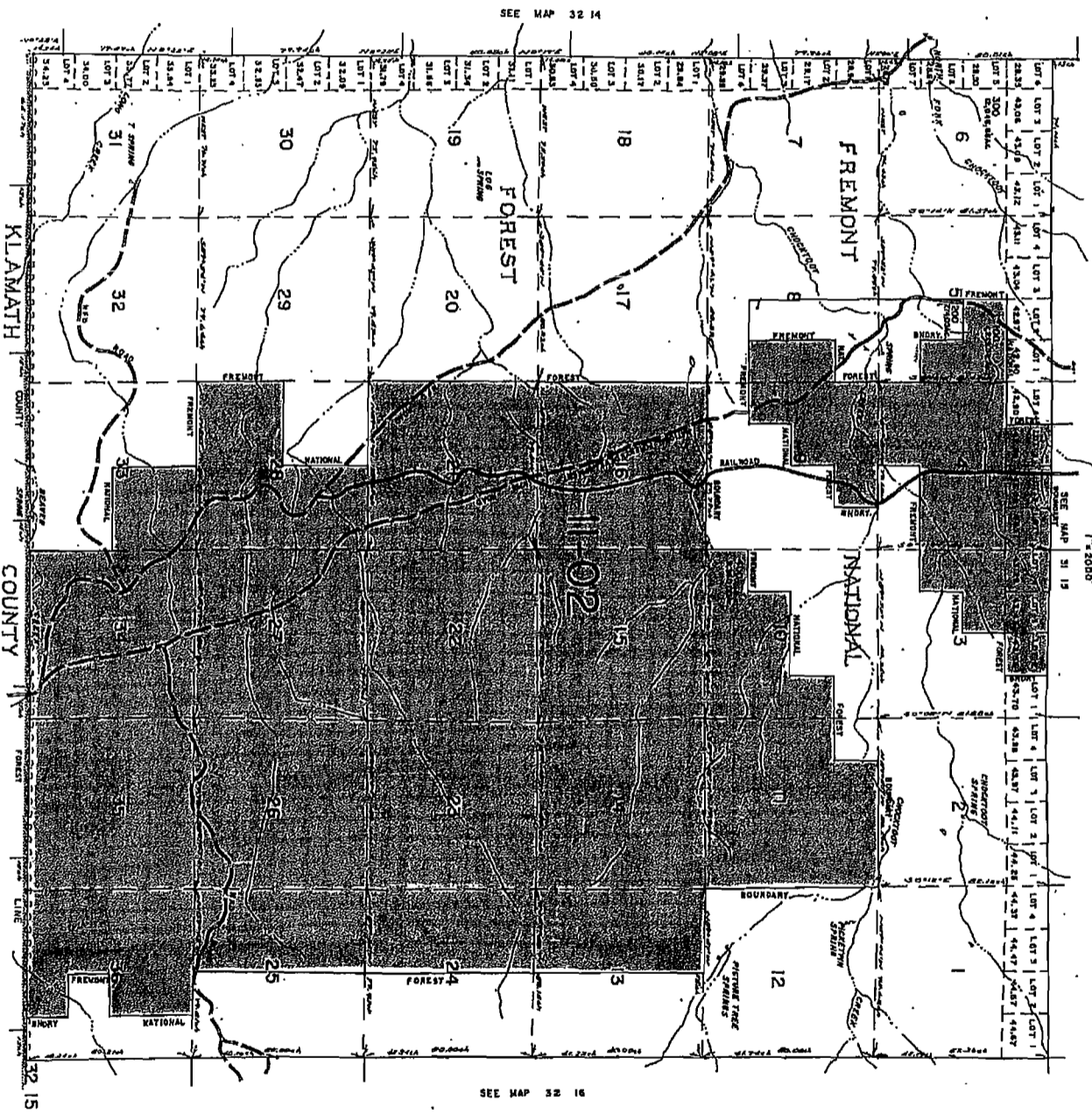
SEE MAP 32 D

SEE MAP 32 E

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T32S R15E W.M.
LAKE COUNTY
1"=2000'

32 15

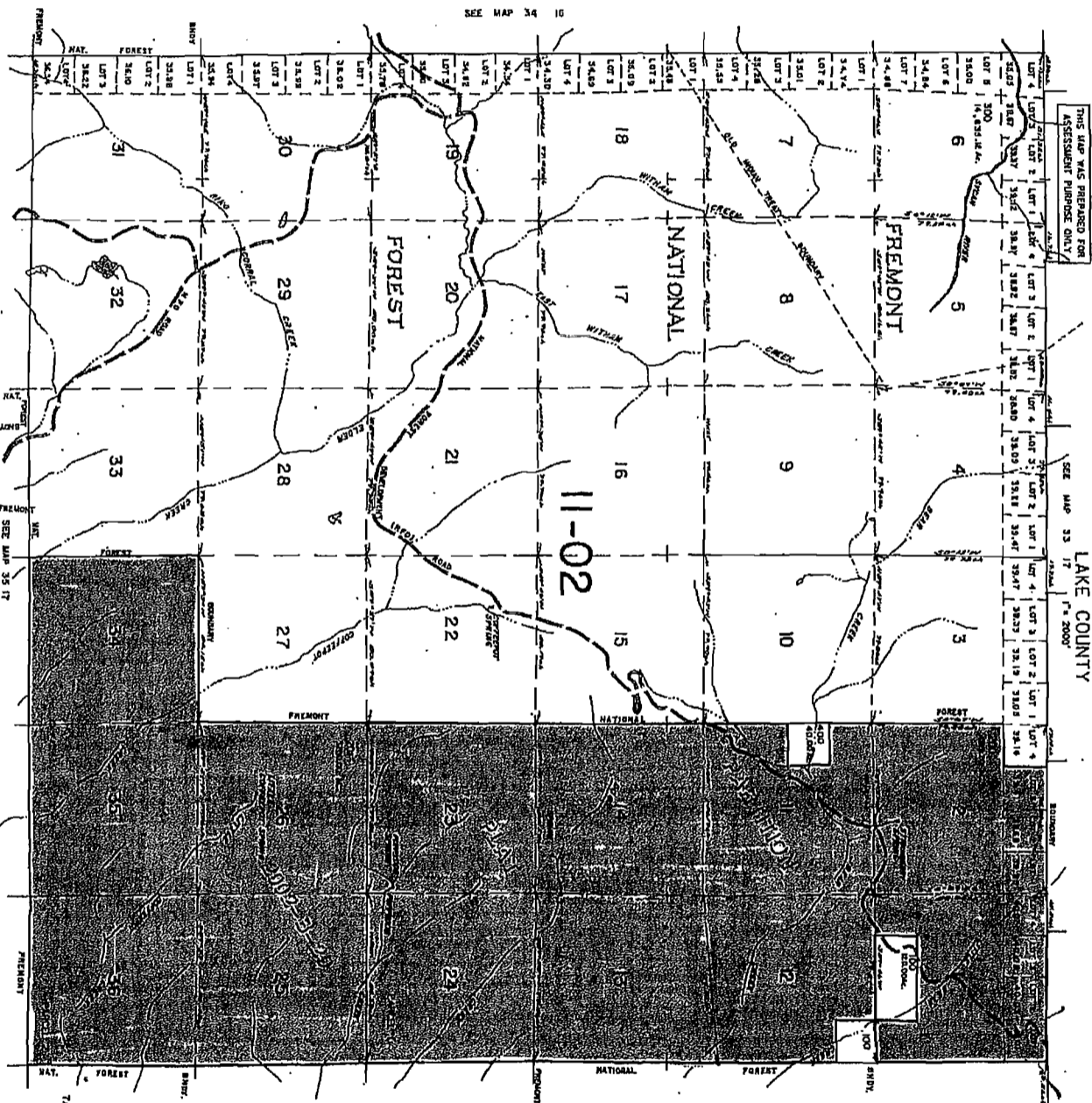
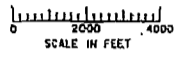


DESTINATION RESORT OVERLAY

KLAMATH COUNTY

COUNTY

32 15



THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY

T.34S, R.17E, W.M.
LAKE COUNTY

SEE MAP 33 17
1" = 2000'

11-02

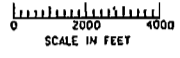
SEE MAP 34 10

SEE MAP 34 16

DESTINATION RESORT OVERLAY

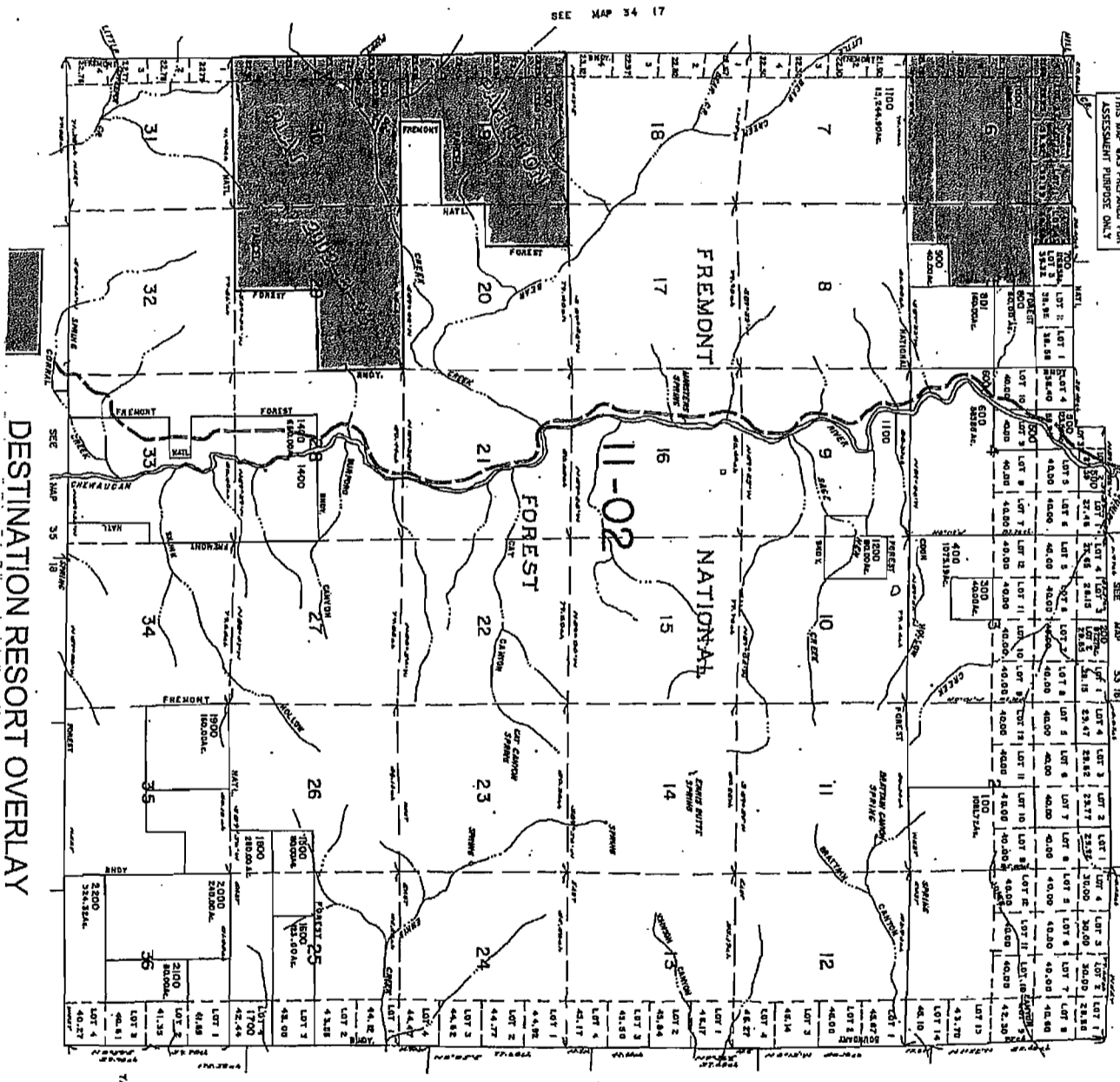
Revised
7/19/2002, NT
34 17

34 17



THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY

T.34S. R.18E. W.M.
LAKE COUNTY



34 18

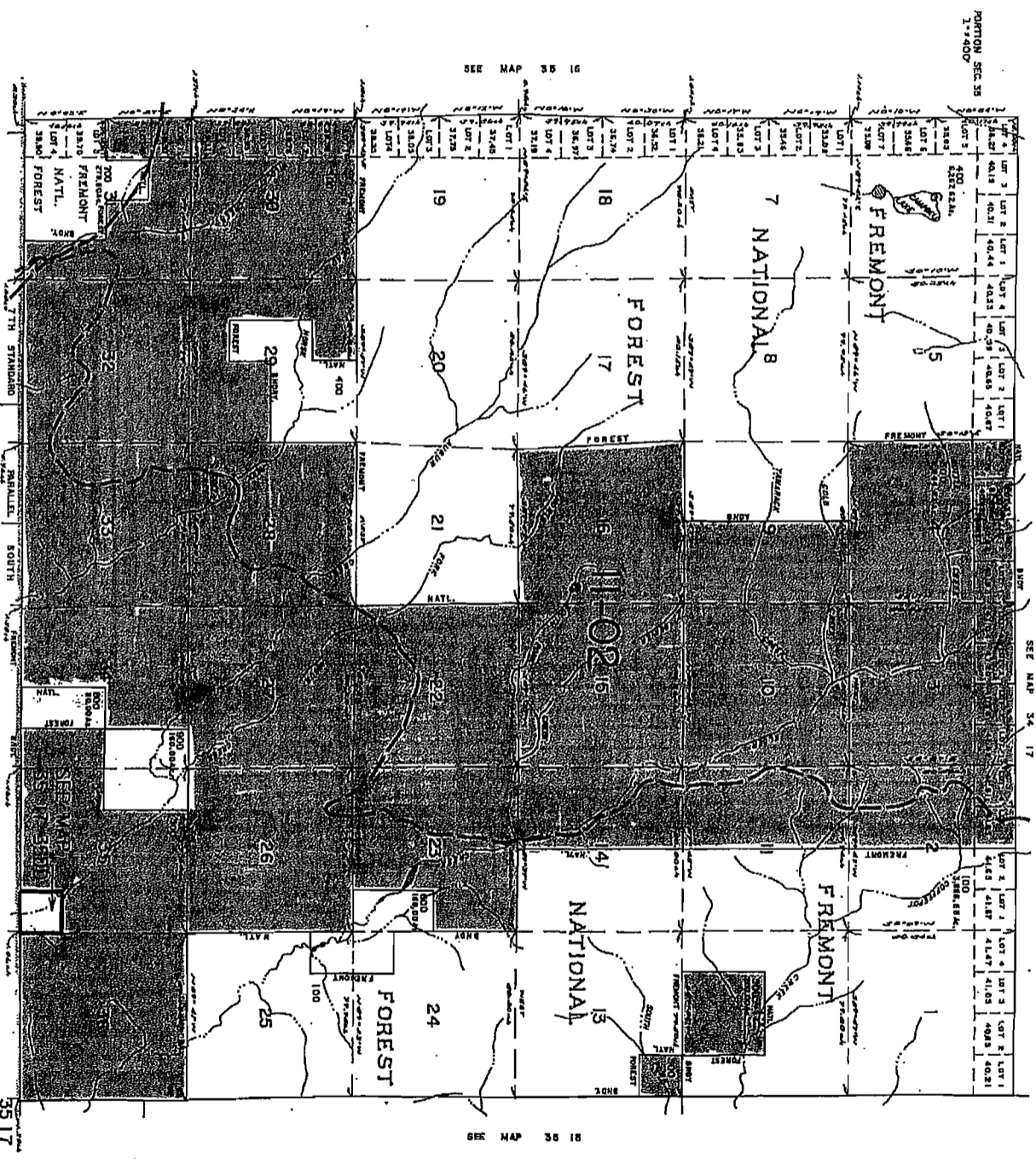
34 18

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T355, R17E W.M.
LAKE COUNTY

CANCELLED NO.
1000 THRU 1102

35 17



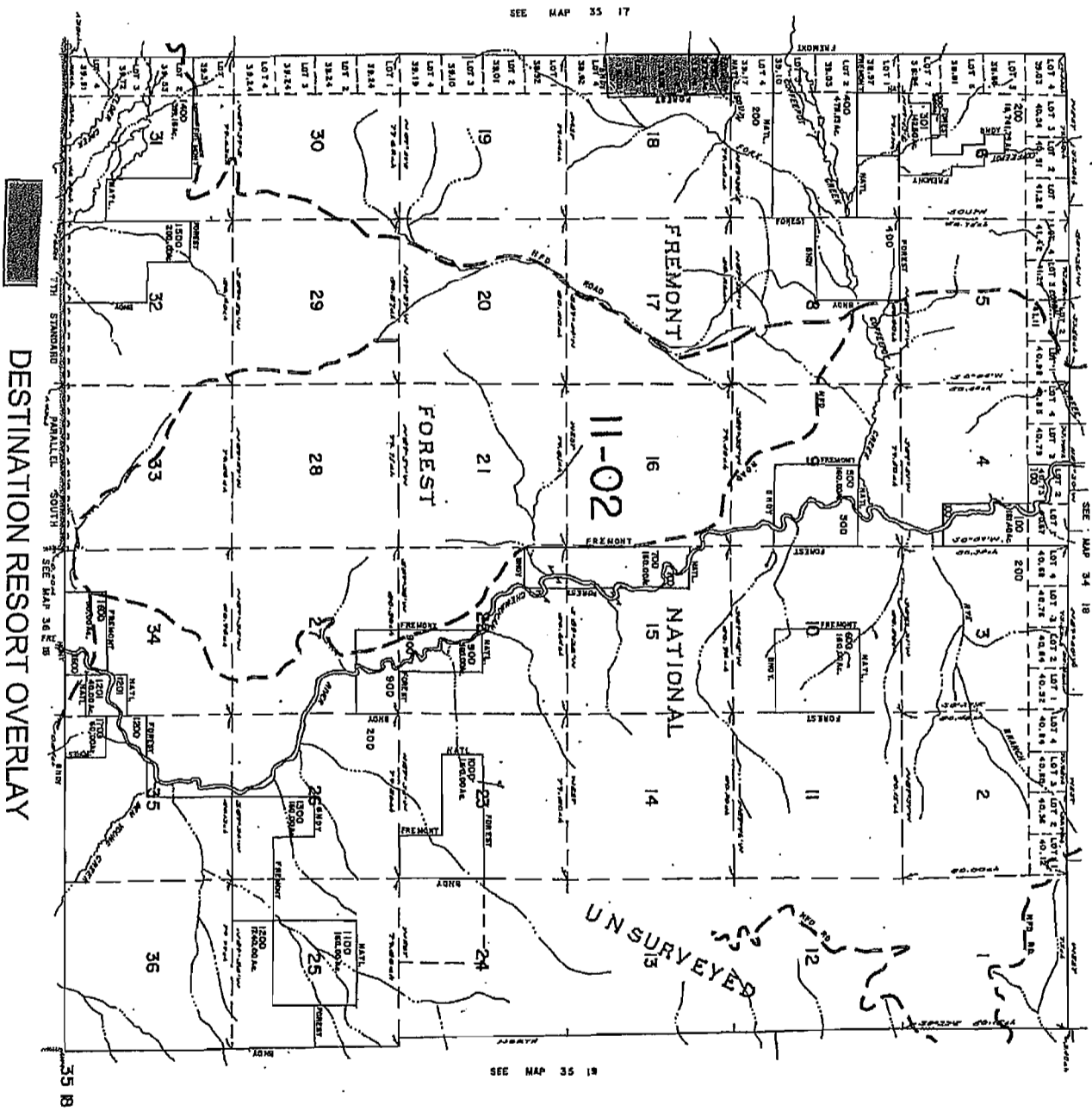
DESTINATION RESORT OVERLAY

35 17
Revised 7/6/93, B.L.

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T355, R18E, W4M,
LAKE COUNTY

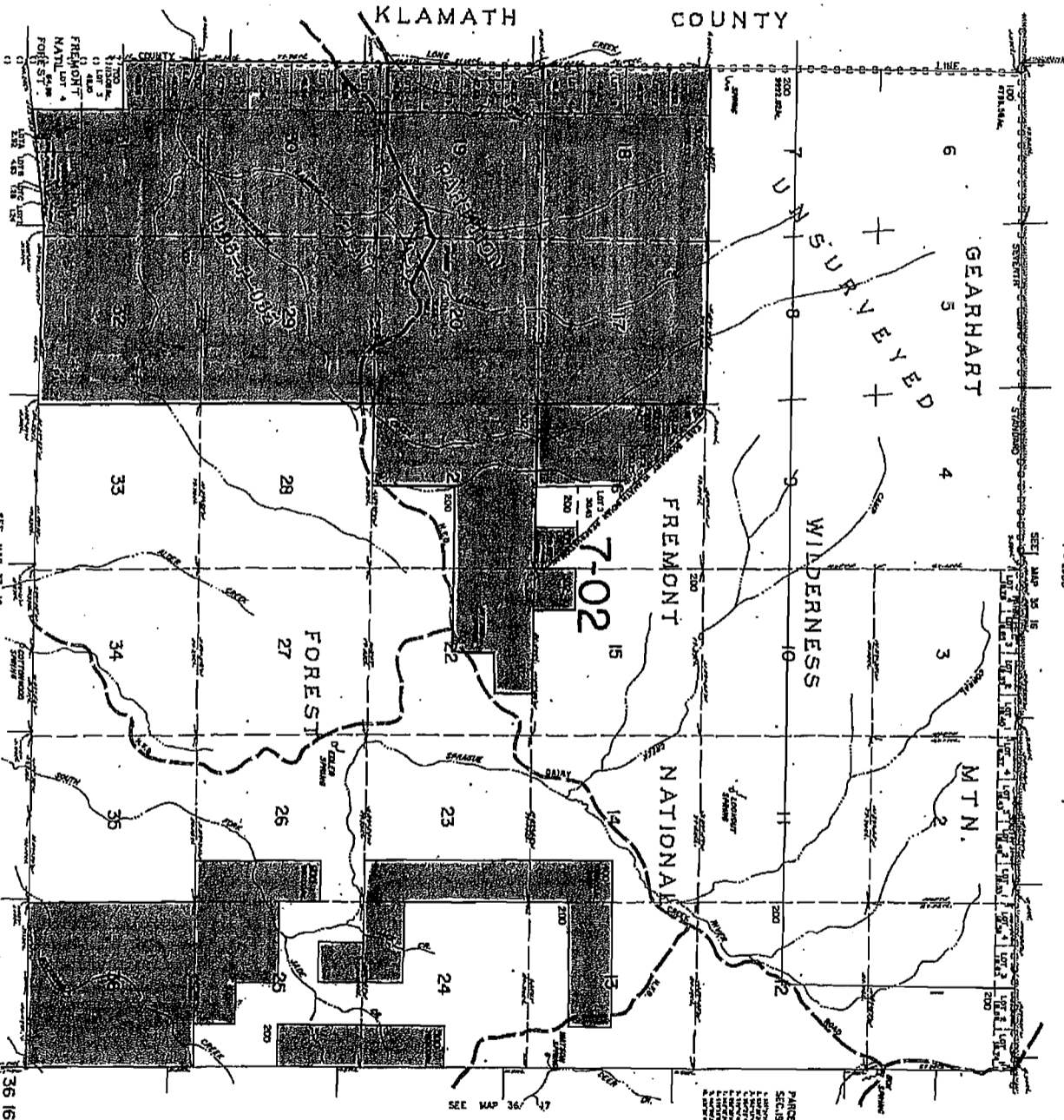
35 18



THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T36S, R16E W.M.
LAKE COUNTY
1" = 2000'

36 16



DESTINATION RESORT OVERLAY

REVISED 5-1-97, JPM

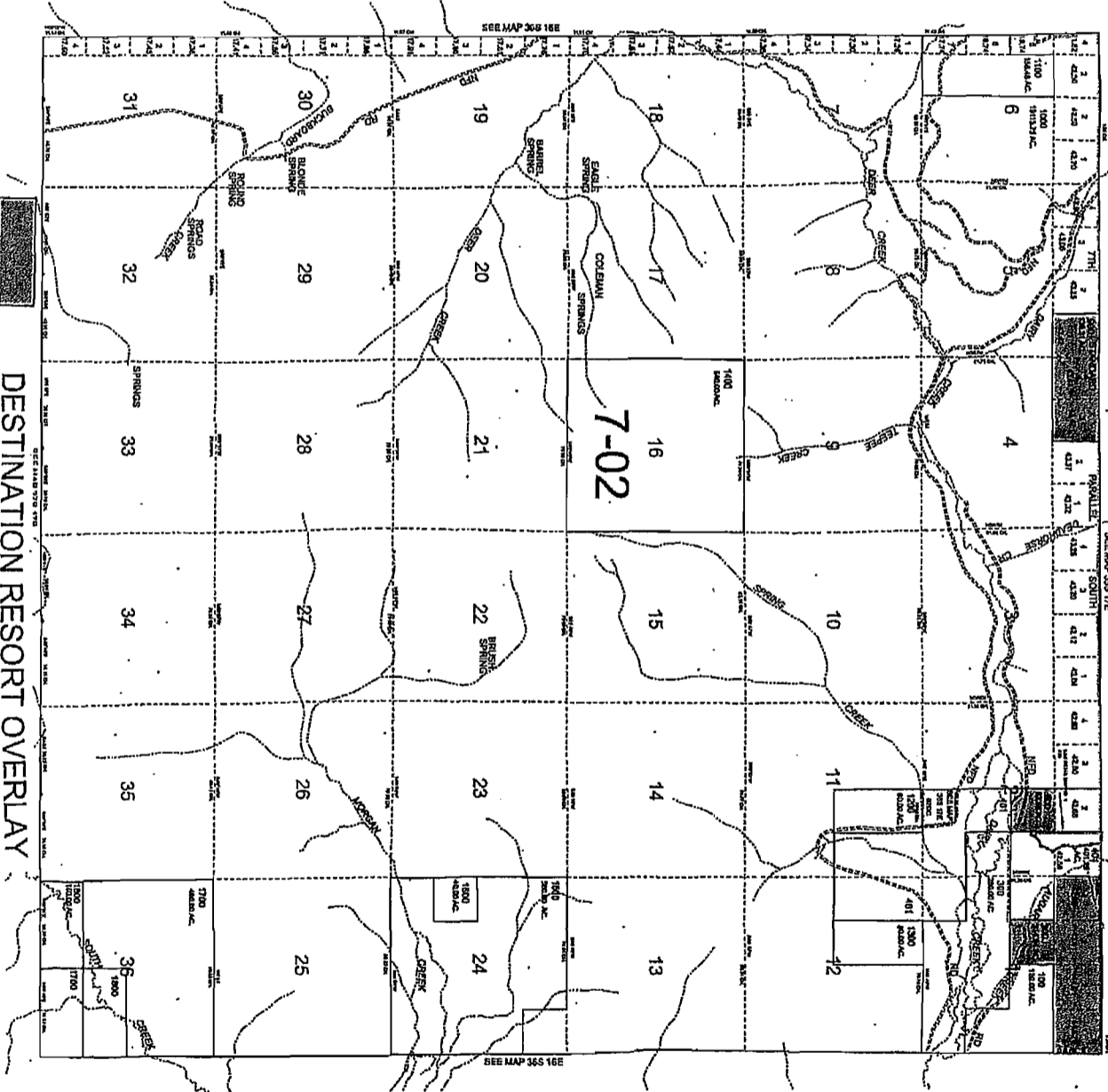
36 16

THIS MAP WAS PREPARED FOR
RECORDING PURPOSES ONLY



T36S, R17E, W.M.
LAKE COUNTY
1/4 2007

36S 17E
SECTION 16



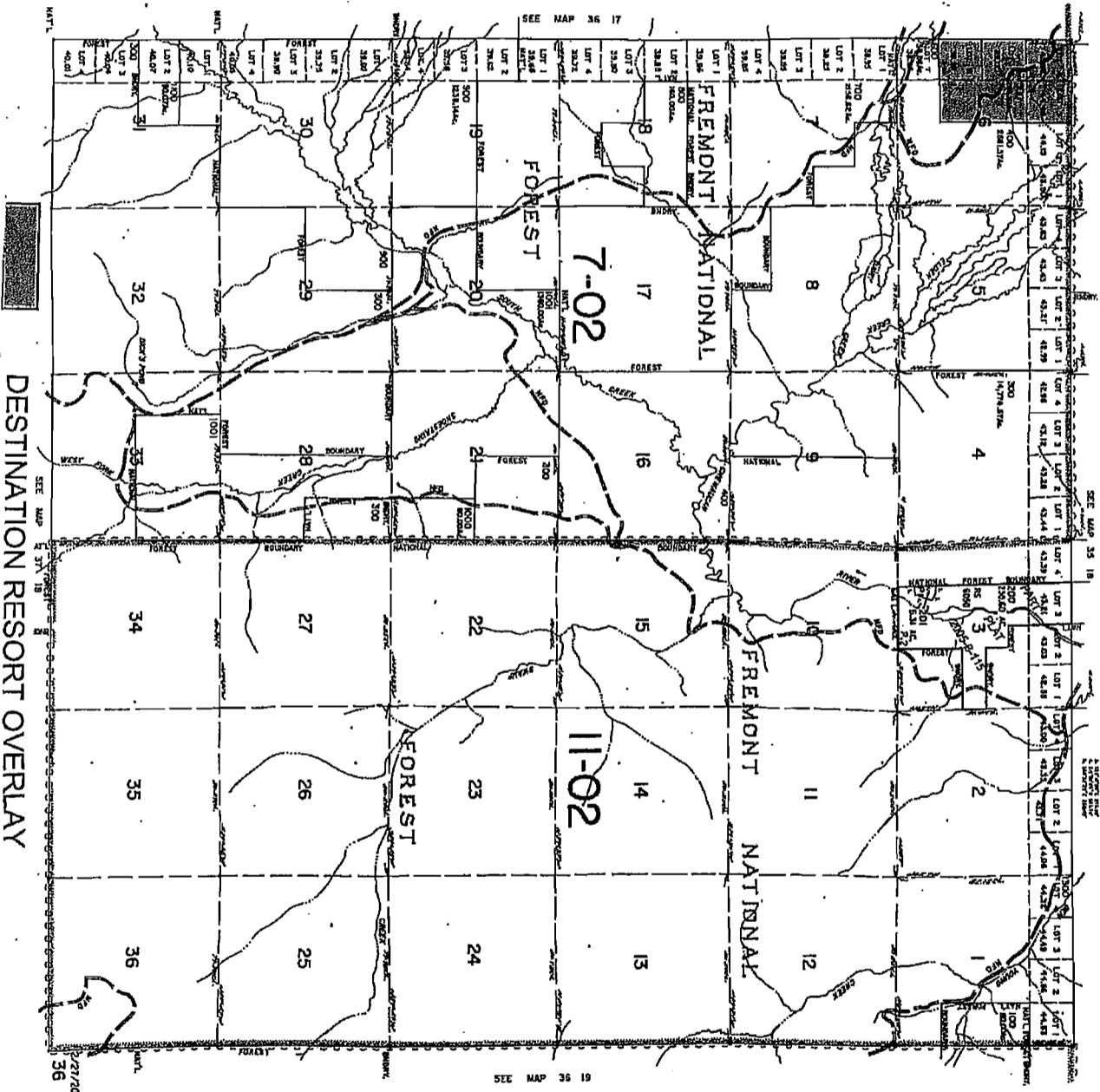
DESTINATION RESORT OVERLAY

Revised: EB
10/12/2007
36S 17E

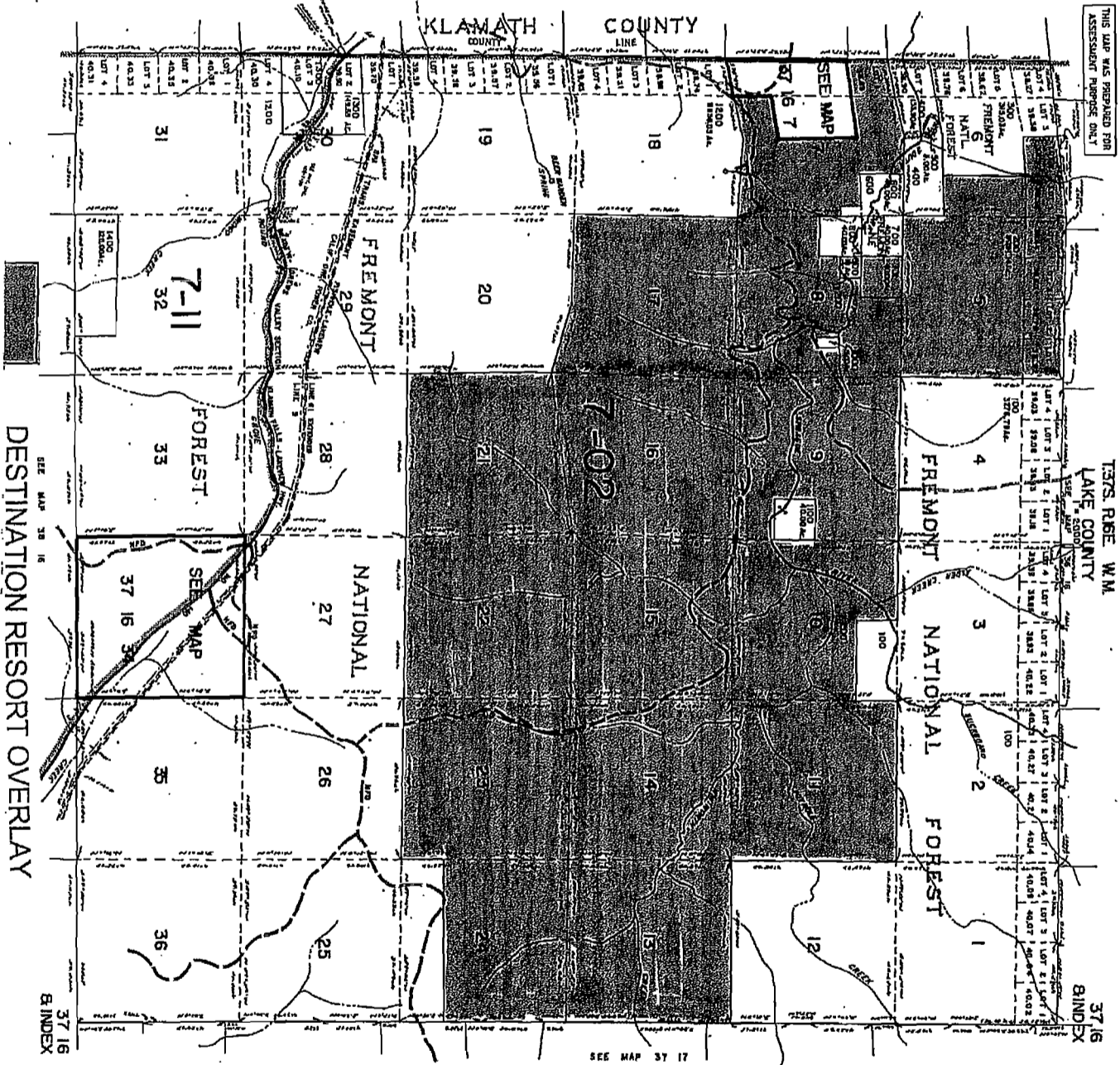
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY

T.36S. R.18E. W.1M.
LAKE COUNTY
1" = 2000'

36 18



Revised
2/27/2006, D.L.W.
36 18



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

7375. RISE W.M. LAKE COUNTY

37 16 B INDEX

DESTINATION RESORT OVERLAY

37 16 B INDEX

SEE MAP 37 17

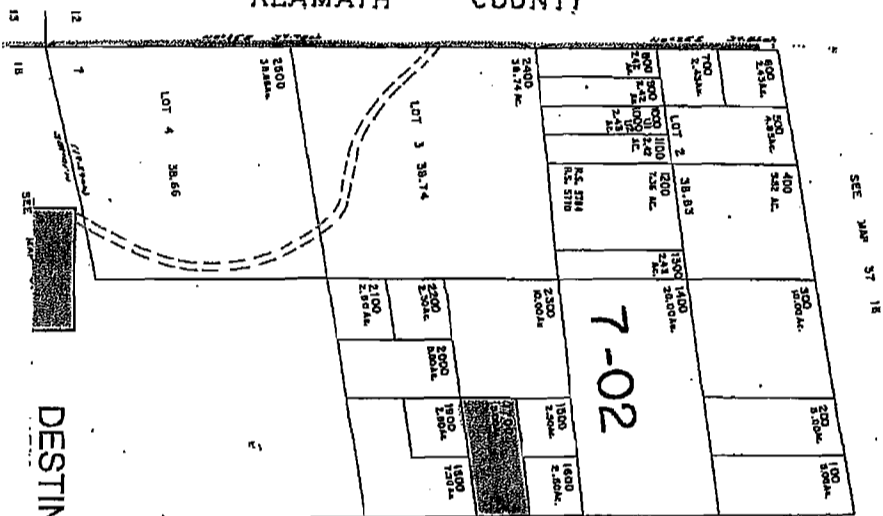
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 7 137S R16E W4M
LAKE COUNTY
T. 40N

37 16 7



KLAMATH COUNTY



SEE MAP 37 18

DESTINATION RESORT OVERLAY



37 16 7

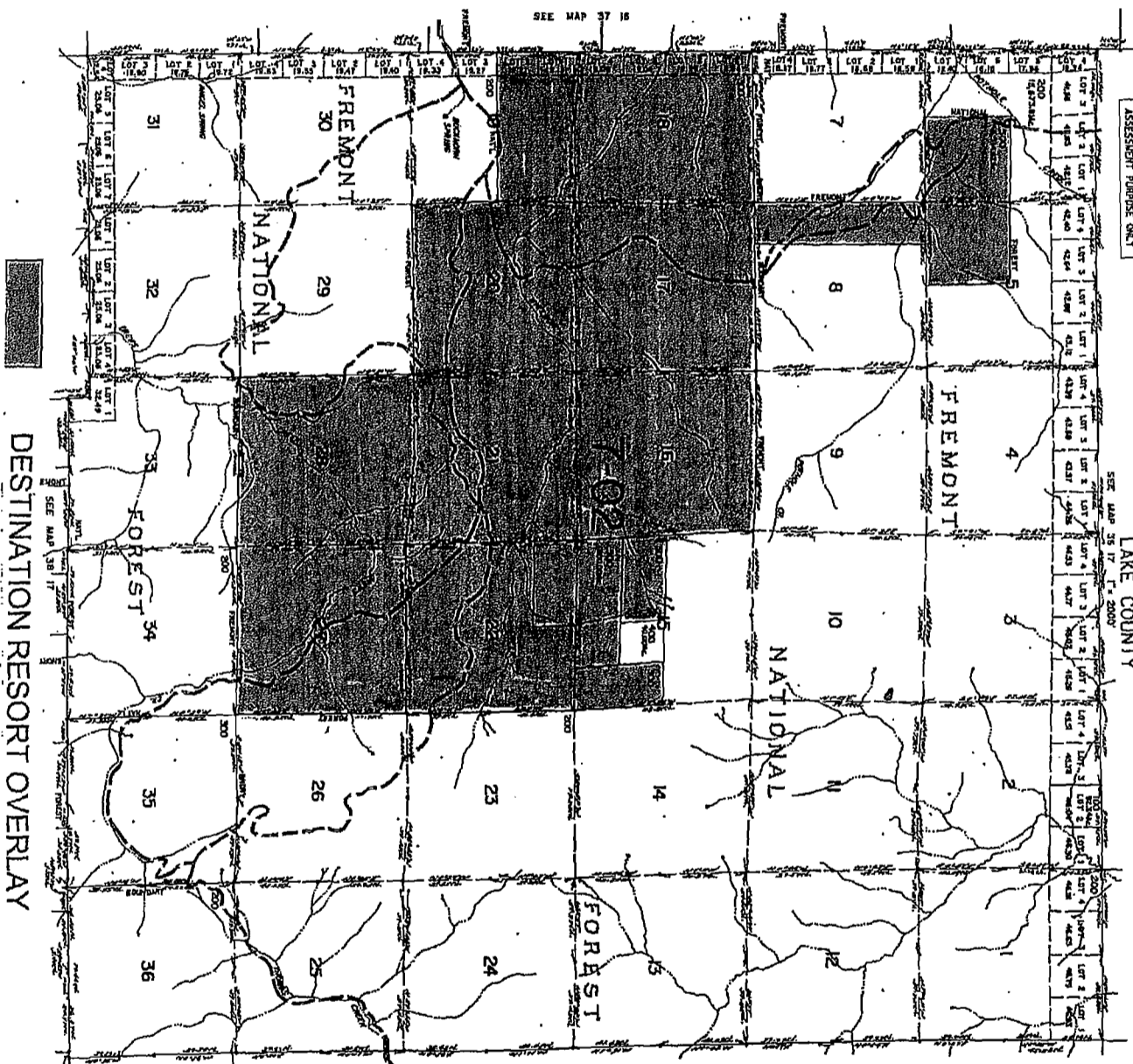
Revised
2/26/2003, RT

0 2000 4000
SCALE IN FEET

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T.37S. R.17E. W.4M.
LAKE COUNTY

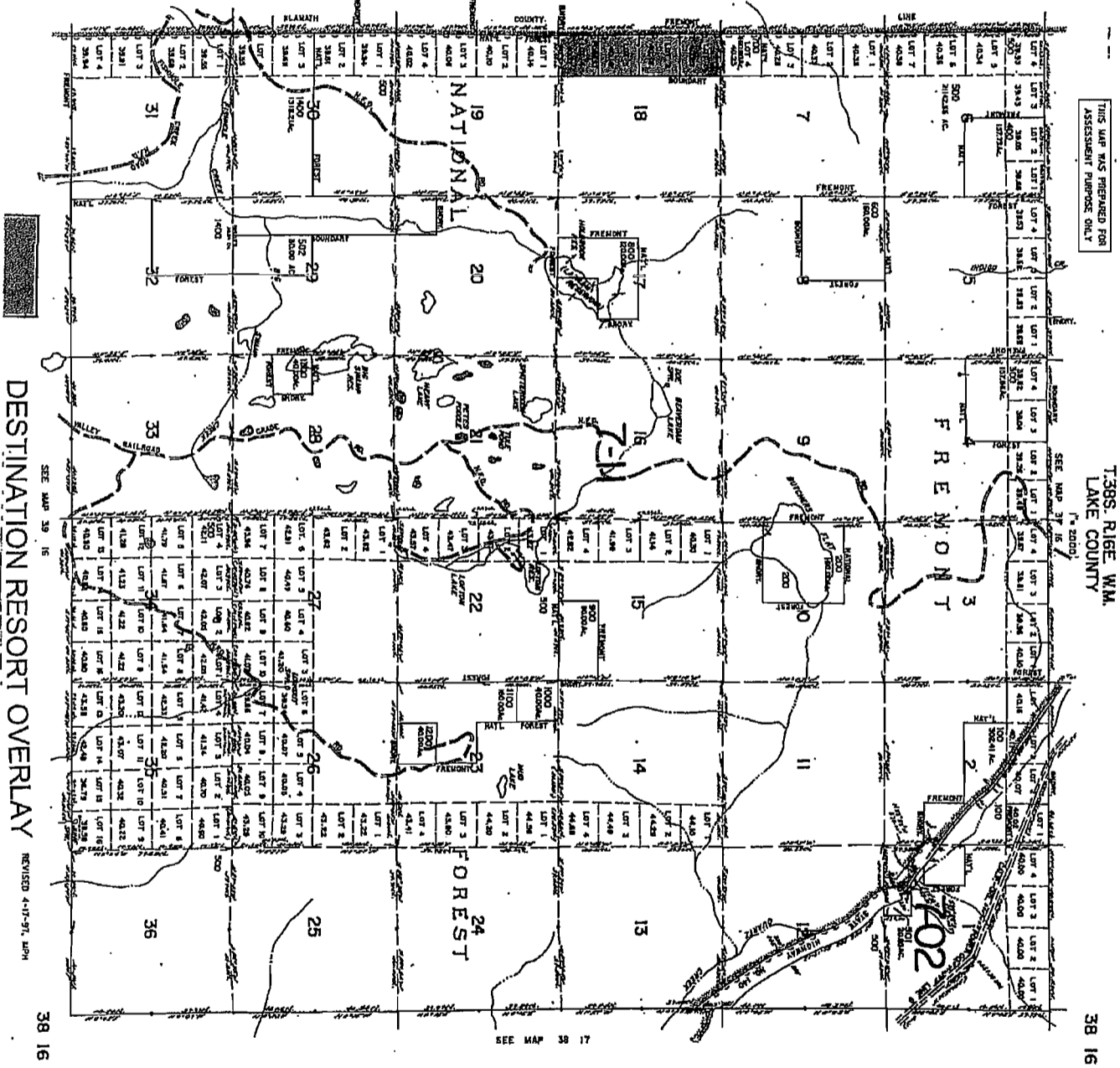
37 17



DESTINATION RESORT OVERLAY

37 17
1/21/2003, RT

KLAMATH COUNTY



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.

T-388, RIBE W.M. LAKE COUNTY

DESTINATION RESORT OVERLAY

38 16

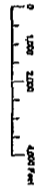
38 16

SEE MAP 38 17

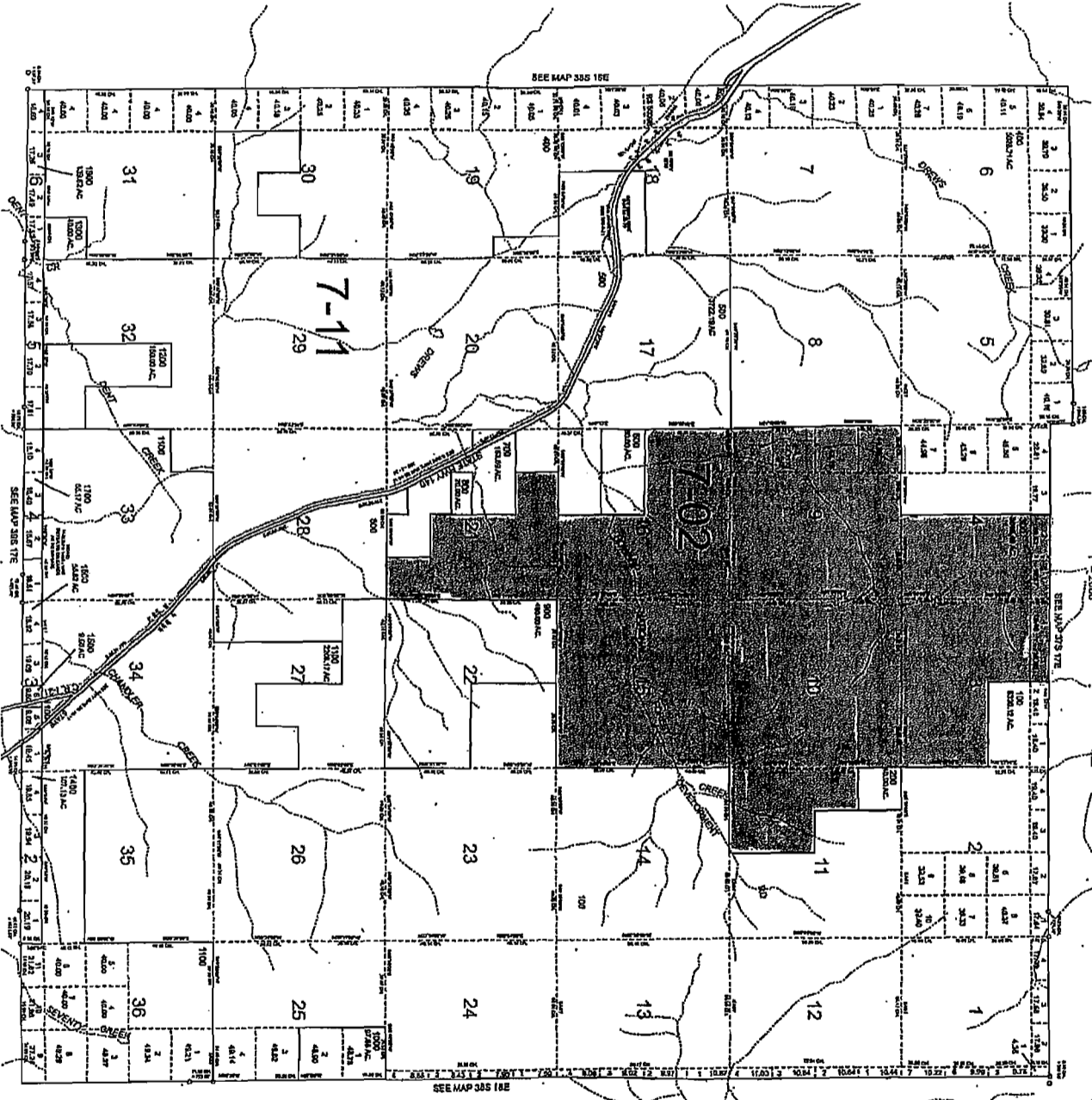
SEE MAP 38 16

REVISED 4-17-91, LPH

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY



T.385, R.17E, W.M.
LAKE COUNTY
1/4 - 200'



38517E
CANCELED

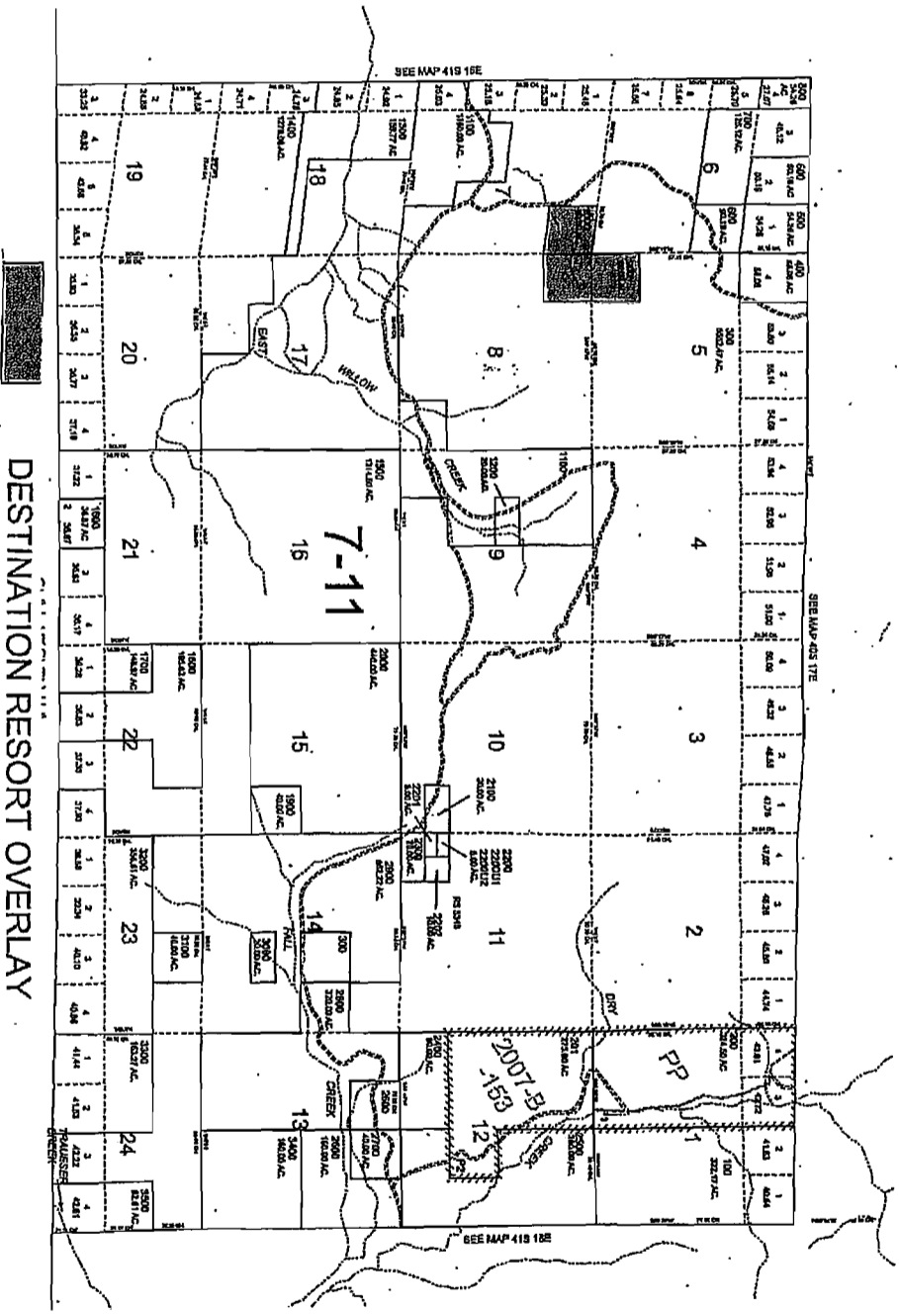
Revised: MA
9/27/2009
38517E

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



T41S, R17E, W.M.
LAKE COUNTY
T-1-2000

41S 17E



Revised MA
3/28/2008
41S 17E



**BOARD OF COMMISSIONERS
STAFF REPORT**

Hearing Date: 02/03/2010

This report is financed in part by an Oregon Department of Land Conservation and Development Planning Assistance Grant.

Lake County Board of Commissioner Staff Reports are considered part of the record and may be utilized for decision making purposes.

TITLE: ZONE TEXT and COMPREHENSIVE PLAN
AMENDMENT APPLICATION NO. 1213

APPLICANT(S): Perkins Coie, on behalf of their Client JWTR, LLC-Applicant
1120 N.W. Couch Street, Tenth Floor, Portland, OR 97209-4128

PROPERTY

OWNERS(S): All JWTR, LLC properties within Lake County, Oregon

AGENT: Perkins Coie
1120 N.W. Couch Street, Tenth Floor, Portland, OR 97209-4128

REPORT BY: Ken Gerschler, Planning Director

SUMMARY: The applicant has proposed changes to portions of the Comprehensive Plan and Zone Ordinance relative to the development of Destination Resorts.

ADVERTISEMENT

The proposed amendments were advertised and notified to the following:

Oregon Department of Fish & Wildlife, United States Forest Service, United States Bureau of Land Management, Oregon Department of Transportation prior to the July 21, 2009 Planning Commission meeting.

Department of Land Conservation and Development 45 days prior to the first evidentiary meeting held July 21, 2009 before the Lake County Planning Commission.

Publication to Newspapers, the Lake County Examiner and Desert Whisper twice in the weeks preceding the July 21, 2009 Planning Commission Meeting.

Publication to Newspaper, the Lake County Examiner twice in the weeks preceding the February 3, 2010 Board of Commissioners Meeting.

The property owners (JWTR) have been notified of the proposal status by Perkins Coie.

PROPOSAL:

The proposed changes to portions of the Comprehensive Plan and Zone Ordinance involve the following aspects:

- a) An amendment to the Lake County Comprehensive plan text to include a policy regarding Destination Resorts.
- b) An amendment to the acknowledged Lake County Zoning Ordinance to implement destination resorts pursuant to ORS 197.435-.470.
- c) An amendment to the Lake County Comprehensive Plan Map and to the Lake County zoning map to map lands owned by JWTR that are eligible for Destination Resort designation pursuant to ORS 197.435-.470.

LAND USE DOCUMENTS

Cities and Counties in Oregon possess certain land use documents that guide and regulate development and these are:

The Comprehensive Plan.

While the Comprehensive Plan is a land use document containing text, photographs and maps. This document is designed to identify the history, current conditions and the future aspirations of the County.

The Zone Ordinance and/or Land Development Ordinance.

The Zone Ordinance and Land Development Ordinance are regulatory documents that identify land use activities that can occur on properties and specifically how the development is to be constructed.

The Zone Ordinance and Land Development Ordinance correspond to the Zone Map, a graphic representation that which shows tax lot boundaries with words, numerals or shading.

Relationship of Documents.

When a prospective land use application for development is presented to the County, the Planning Department initially evaluates the activity for consistency with the Zone Ordinance and Land Development Ordinance and Zone Map. If the development is permissible, the land use application is accepted and more thoroughly evaluated for consistency with the Comprehensive Plan and Map together with State laws/regulations.

BACKGROUND:

The Lake County Planning Commission held public hearings on July 21 and October 20, 2009 where the proposed amendments were discussed in detail. It was anticipated that the Planning Commission would arrive at a recommendation (to approve or deny) which was to be forwarded to the Board of Commissioners.

The Planning Commission vote failed to reach a majority opinion and accordingly was unable to provide a recommendation.

The meeting minutes document the discussion amongst the applicant, the Planning Commission and the various government entities that attended the meeting or submitted correspondence.

The primary issues of discussion related to:

- Environmental impacts upon native flora and fauna.
- Definition of forest lands.
- Infrastructure, extension and access to facilities.
- Consistency with State rules and regulations.

The original proposal presented to Lake County sought to amend the text of the comprehensive plan and zone ordinance. Amendment of the comprehensive plan map was not originally proposed due to the cost and extensive property owner notification involved.

During review, the DLCD and 1000 Friends of Oregon presented concerns that mapping be completed prior to proceeding with the amendments. Mike Robinson in consultation with the DLCD suggested that the County consider only mapping JWTR lands on the comprehensive plan map because these parcels were not shown on the map entitled "*Lands Excluded From The Goal 8 Resort Siting Process*".

Planning Commissioners were invited to provide comments on the Planning Commission Staff Report or by separate correspondence.

Planning Commissioner Ken Hamlington has provided correspondence for consideration by the Board of Commissioners.

Mike Robinson, legal counsel for JWTR has attended both Planning Commission meetings and has responded in writing and amended as needed, each of the relevant issues and concerns identified in the Staff Report and by the Planning Commissioners.

DECISION CRITERIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Lake County Zone Ordinance Section 29.04 identifies the source of findings as:

- A. **Comprehensive Plan, Supplemental Atlas, and other ordinances and plan supplements.**
- B. **Information presented at hearings or other public discussions of related issues.**
- C. **Findings presented by the applicants.**
- D. **Various sources of physical, social, legal, economic, environmental or other applicable information.**

Response: Perkins Coie has submitted text in support of the Comprehensive Plan Amendment outlining the relevant sections of the Comprehensive Plan with a response. Additionally, Planning Commission staff reports, meeting minutes and related correspondence have been included into the record. Each of these sources are shown as attachments in this report.

OREGON STATEWIDE PLANNING GOALS

Response: In addition to the applicant-provided findings of fact and conclusions of law, the Lake County Planning Department addresses the Oregon Statewide Planning Goals as follows:

GOAL 1: CITIZEN INVOLVEMENT

OAR 660-015-0000(1)

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: Lake County has advertised the dates and times of the Planning Commission and Lake County Board of Commissioner meetings in local newspaper publications to include the Lake County Examiner and the Desert Whisperer.

The proposal was reviewed in a Public Hearing by the Lake County Planning Commission on August 21, 2009 and October 20, 2009 and in each meeting, members of the public were given opportunity to comment.

In addition to the Public Hearings, Citizens were invited to view details of the proposal electronically over the Internet or by contacting the Lake County Planning Department.

The Lake County Board of Commissioners find that Goal 1 has been satisfied.

GOAL 2: LAND USE PLANNING
OAR 660-015-0000(2)

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: The Lake County Board of Commissioners concur with the applicant's findings shown within the attachments of this report.

GOAL 3: AGRICULTURAL LANDS
OAR 660-015-0000(3)

To preserve and maintain agricultural lands.

Finding: The Lake County Board of Commissioners concur with the applicant's findings shown within the attachments of this report.

GOAL 4: FOREST LANDS
OAR 660-015-0000(4)

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: The Lake County Board of Commissioners concur with the applicant's findings shown within the attachments of this report.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES
OAR 660-015-0000(5)

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The Lake County Board of Commissioners concur with the applicant's findings shown within the attachments of this report.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY
OAR 660-015-0000(6)

To maintain and improve the quality of the air, water and land resources of the state.

Finding: This goal is not applicable to this application in Lake County.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: This goal is not applicable to this application as there is no specific development proposed at this time in Lake County.

Oregon's Statewide Planning Goals & Guidelines

GOAL 8: RECREATIONAL NEEDS

OAR 660-015-0000(8)

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: The Lake County Board of Commissioners concur with the applicant's findings shown within the attachments of this report.

GOAL 9: ECONOMIC DEVELOPMENT

OAR 660-015-0000(9)

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: This goal is not applicable to this application in Lake County.

GOAL 10: HOUSING

OAR 660-015-0000(10)

To provide for the housing needs of citizens of the state.

Finding: This goal is not applicable to this application in Lake County.

GOAL 11: PUBLIC FACILITIES AND SERVICES

OAR 660-015-0000(11)

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: This goal is not applicable to this application in Lake County.

GOAL 12: TRANSPORTATION

OAR 660-015-0000(12)

To provide and encourage a safe, convenient and economic transportation system.

Finding: Lake County is a rural county with a combination of road types and ownership. The County finds that development proposal for destination resort would need to comply with the adopted transportation system plan and other applicable regulations and policies. If the proposed amendments are approved, conditions of approval will require extensive traffic studies to be conducted.

GOAL 13: ENERGY CONSERVATION

OAR 660-015-0000(13)

To conserve energy.

Finding: This goal is not applicable to this application in Lake County.

GOAL 14: URBANIZATION

OAR 660-015-0000(14)

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: The Lake County Board of Commissioners concur with the applicant's findings shown within the attachments of this report.

GOAL 15: WILLAMETTE RIVER GREENWAY

OAR 660-015-0005

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: This goal is not applicable to Lake County.

GOAL 16: ESTUARINE RESOURCES

OAR 660-015-0010(1)

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

Finding: This goal is not applicable to Lake County.

GOAL 17: COASTAL SHORELANDS

OAR 660-015-0010(2)

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and
To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Finding: This goal is not applicable to Lake County.

GOAL 18: BEACHES AND DUNES

OAR 660-015-0010(3)

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

Finding: This goal is not applicable to Lake County.

GOAL 19: OCEAN RESOURCES

OAR 660-015-0010(4)

To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

Finding: This goal is not applicable to Lake County.

LAKE COUNTY ZONING ORDINANCE

Lake County has addressed the relevant section of the Zoning Ordinance in the following areas:

ARTICLE 28: ZONING AMENDMENTS

Section 28.01 Authorization to Initiate Amendments. An amendment to the text of this Ordinance or to a zoning map may be initiated by the Commission, the County Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the Planning Administrator using forms prescribed pursuant to Article 28 of this Ordinance.

Finding: Lake County finds that the applicant, JWTR has initiated this amendment application.

Section 28.02 Application for a Zone Amendment. An application for a Zone Change or Zone Text Amendment by a property owner or authorized agent thereof shall be filed with the County Planning Director on forms prescribed by the County and shall be accompanied by the required filing fee. Said application shall be filed not less than 21 days prior to the date of the Commission hearing thereon. The applicant shall provide reasons for the requested change, and shall present sufficient facts to show that the amendment will be in substantial compliance with the goals, objectives and policies of the County Comprehensive Plan and applicable Statewide Planning Goals and DLCD Administrative Rules.

Finding: Lake County finds that the applicant, JWTR has presented sufficient supporting documentation with a specificity to enable consideration of this amendment application.

Section 28.03 Public Hearings on Amendments. The Planning Commission shall, at its earliest practicable meeting date following the 21 day filing period, duly advertise and conduct a public hearing on the proposed amendment, and shall within five working days following the conclusion of such hearing, recommend to the Board of County Commissioners, approval, disapproval or modified approval of the proposed amendment. Within 30 days of the receipt of the Commission's recommendations, the Board shall duly advertise and conduct a public hearing on the proposed amendment. The Board shall approve, approve with modifications, or disapprove the proposed amendment. The Commission or the Board may recess or continue a hearing in order to obtain additional information and input on the proposed amendment.

Finding: Lake County finds that the proposed public hearings of the Lake County Planning Commission Board of Commissioners have been advertised in accordance with law. There were several applicant requested meeting continuances and for this reason, the Board of Commissioners was not able to hear the recommendations of the Planning Commission within 30 days.

Section 28.04 Public Notice Requirements. The following public notice requirements shall apply to applications for a zoning amendment:

- A. Each notice of a public hearing regarding a zoning amendment shall be published once a week for the two successive weeks prior to the date of the hearing in a newspaper of general circulation in the County.

Finding: Lake County finds that the proposed public hearings of the Lake County Planning Commission Board of Commissioners have been advertised in accordance with Section 28.04.

- B. In addition to the notice requirements set forth in Sub-section A. above, for an amendment that proposes to rezone property individual notice shall be given as set forth by ORS 215.503(2) (c) except as provided otherwise by ORS 215.508. If such rezoning is for a single lot or parcel, individual notice shall be provided to all property owners within 250 feet of the exterior boundaries of the subject property.

Finding: Lake County finds that the proposal *does* include amendments to the comprehensive plan and the zone ordinance however there is *no* change to the zoning of the properties owned by JWTR. The proposed amendment to the comprehensive plan map would identify that a destination resort land development application could be submitted and considered by Lake County. When an application for destination resort was submitted to the County, a land use notice would be provided to adjoining property owners at that time. For this amendment to the comprehensive plan map, Lake County finds that no individual notice is required for adjoining property owners.

- C. Notice of an application for a zone amendment shall be provided to the owner of a public use airport if the property subject to the zone amendment is:

1. Within 5,000 feet of the side or end of a runway of a “visual airport”; or
2. Within 10,000 feet of the side or end of the runway of an “instrument airport” and
3. If the zone amendment would allow a structure greater than 35 feet in height on property located inside the runway “approach surface”.

Finding: Lake County finds that this amendment application does not involve an aircraft facility and therefore this criterion is not applicable.

- B. Notice of an application for a zone change of property which includes all or part of a mobile home park shall be given by first class mail to each existing mailing address for tenants of the mobile home park at least 20 days but not more than 40 days before the date of the first hearing.

Finding: Lake County finds that this amendment application does not involve a mobile home park and therefore this criterion is not applicable.

- C. Notice of an application for a proposed zoning amendment, together with a copy or description of the proposed amendment, shall be provided to the State Land Conservation & Development Commission (LCDC) at least 45 days prior to the date of the final hearing thereon.

Finding: Lake County finds that the required notice was made at least 45 days prior to the first evidentiary meeting held on July 21, 2009.

IMPLICATIONS

The applicant has worked with the Planning Department and other affected agencies to resolve outstanding issues however, the proposed amendments could present the following implications and these are recommended for discussion by the Board of Commissioners:

1. **The proposed amendments would allow Destination Resorts to be considered within the F-1, Forest Zone.**

Lake County’s current regulations identify that Destination Resorts can be considered in the A-1, Exclusive Farm Use and A-2, Agricultural Use zone designations. In the proposed regulations, Destination Resorts could be considered in the F-1, Forest zone designation, provided of course that the proposed development could meet the specific restrictive criteria imposed by the State. Additionally, the introduction of residential development into F-1 zoned lands could pose inadvertent adverse impacts to include-

- Human caused introduction of fire into the forestlands.
- Increased cost of fire suppression.
- The introduction of domesticated flora and fauna and previously excluded diseases into the native population.

- Additional costs associated with the provision and maintenance of infrastructure to include roads, electric, telephone etc.

2. The proposed amendments would provide clear standard statewide criteria for Destination Resorts.

The proposed amendments would provide a regulatory environment that is consistent with other Oregon Counties and as a result, potential developers could more easily identify potential project areas.

The proposed amendments would add new regulations however some current regulations for Destination Resorts would remain active until Lake County is able to update the 1980 zoning ordinance and comprehensive plan.

3. A mapping portion of the proposed amendments would exclusively benefit the applicant.

The destination overlay will apply to the entire County but the mapped parcels would only reflect the properties benefitting the applicant. As other properties were considered for inclusion, other notification and legal processes would be necessary.

The ramifications of mapping the proposed parcels would not necessarily give favor to the applicant because other property owners could approach the County for inclusion at any time.

4. The financial implications of the proposal.

Destination Resorts can add significant value to the County tax base.

Destination Resorts typically provide self-funded internal infrastructure and services such as:

- Community Water , Sewer and Road Facilities
- Security and Fire Protection
- Private Recreation Facilities

Some potential adverse financial impacts relate to the increased geographic distance between Destination Resorts and existing regional communities. These adversities include:

Extension of electric and telephone lines and continued maintenance of these facilities. The cost of maintenance is borne by all subscribers across the County.

Extension or upgrading of roads and maintenance of these facilities. The cost of construction and maintenance is borne by all taxpayers in the County, State and Federal Government.

- Provision of Sheriff, Jail and social services to distal locations. The cost is borne by all taxpayers in the County.

It is noted that the applicant has indicated that there are no plans for JWTR to pursue a Destination Resort in the County.

The proposed amendments would enable Lake County to consider applications for Destination Resort subject to stringent requirements.

5. Development near Lake/Klamath County Line.

If a destination resort is proposed near the Lake/Klamath County line, there may be coordination required for the provision of road access, upgrades and maintenance.

DECISION OUTCOMES:

The Lake County Board of Commissioners has the following decision options available:

1. Approve the proposed amendments presented by Perkins Coie on behalf of JWTR subject to conditions articulated by the Board of Commissioners in consultation with Lake County Legal Council.
2. Deny the application and continue use of the existing Destination Resort provisions in the Zoning Ordinance and Comprehensive Plan.
3. Continue consideration of the proposed amendments until a future meeting.

CONDITIONS OF APPROVAL:

The proposed amendments are subject to the following condition of approval:

1. Pursuant to OAR 660-012-0060(2)(E), No destination resort permit approval shall occur without a traffic impact study that analyzes the proposal's impact on affected roads and requires that the applicant shall be responsible for maintaining required levels of service on such roads by mitigating the impact of destination resort traffic on these roads.
2. Electronic documents in modifiable MsWord format are to be provided to the Lake County Planning Department to enable Lake County to efficiently update the text amendments.
3. The Applicant has agreed to pay for costs associated with mapping. Payment details are to be arranged with the County Planning Director.

POST DECISION PROCEDURES:

To finalize the amendment, Lake County identifies that the applicant satisfy the following procedures:

- A. Provide the County Planning Department with the Ordinance, Zone Text and Comprehensive Plan text. County Planning Staff will forward the documents to County Council for review.
- B. The Planning Department will arrange a meeting date for the Ordinance to be decided by the Lake County Board of Commissioners.
- C. Maps are to be prepared depicting the JWTR properties subject to the Destination Resort Overlay.
- D. If County Counsel and Planning Director are satisfied with the legal documentation, the Ordinance will be forwarded to the Lake County Board of Commissioners for approval.
- E. When a decision is rendered for the Ordinance, the application will be considered final. The Planning Department will notify all parties that submitted correspondence and the DLCD. The 21 day appeal process is to occur in accordance with law.

ATTACHMENTS:


Attachment	Document Name	E-Doc Reference(Staff Use)
BOC-A	Letter from Perkins Coie 1 Dec09	ATTACHMENT A a exhibit 0 JWTR 022010.PDF
BOC-A01	Perkins Coie Exhibit List	ATTACHMENT A01 b Exhibit list.PDF
BOC-A02	Letter from Perkins Coie 1 Oct09	ATTACHMENT A02 c exhibit 1 Oct 12.PDF
BOC-A03	Letter from Perkins Coie 16 Jul09	ATTACHMENT A03 d exhibit 2 letterJuly16.PDF
BOC-A04	Proposed Ordinance Amendment	ATTACHMENT A04 e exhibit 3 proposed ord.PDF
BOC-A05	Proposed Comp Plan Amendment	ATTACHMENT A05 f exhibit 4 DraftGoal8.PDF
BOC-A06	Big Game Habitat Map	ATTACHMENT A06 g Exhibit 5 BigGameHabMap.pdf
BOC-B	Map of JWTR-Owned Properties	ATTACHMENT B colour map of jwtr lands.pdf
BOC-C	Planning Commissioner Response	ATTACHMENT C Comm. Hamlington response 1213.pdf
BOC-D	PC Meeting Minutes 20 Oct 2009	ATTACHMENT D 10.20.2009_PC_Minutes.pdf
BOC-E	PC Meeting Minutes 21 Aug 2009	ATTACHMENT E 07.21.2009_PC_Minutes.pdf
BOC-F	Full PC Report-20 Oct 2009	ATTACHMENT F 1213 Oct PC RPT packet.pdf

BOARD OF COMMISSIONER VOTE RESULT:

LAKE COUNTY COMMISSIONER	MOTION	YES	NO	ABSTAIN
Ken Kestner	X	X		
Dan Shoun		X		
Brad Winters		X		

SIGNATURE:

Upon the vote of quorum of the Lake County Board of Commissioners, the proposed amendments are approved this 3rd day of February, 2010 subject to conditions and procedures specified within this document.


Ken Gerschler
Planning Director
Under delegation of the Lake County Board of Commissioners

11:00 a.m.-Hearing-Zone Change Amendment-JWTR Destination Resort:

The applicant has proposed changes to portions of the Lake County Comprehensive Plan and Lake County Zoning Ordinance relative to the siting of Destination Resorts.

Hearing Opened: 11:00 a.m.

Commissioner Winters indicated Robert Latham had submitted a letter to the Board and they have read the letter. Jennifer Stephens, Code Specialist/Planning indicated that she had not read the letter.

Roger Alfred, representative of Jeld-Wen Timber Resource (JWTR) introduced himself. He continued by providing some background information for the request. What has come before the Board today is the County considering the possibility of development of Destination Resorts. 1.) First step is identifying the lands within the County that are eligible; 2nd-Amendment to the Lake County Zoning Ordinance and 3rd- map amendment identifying areas within the County where someone could in the future apply for a destination resort. Mr. Alfred indicated this process has been worked through with County Staff, original hearings were done in July and October last year and comments were heard from the Planning Commission to which we responded and made the necessary requested changes to the original plan. The original plan was to go through a site plan review, but based upon concerns expressed by the Planning Commission about the County feeling more comfortable with conditional use process, it has been changed.

Mr. Alfred indicated that they have also responded to the Department of Land Conservation and Development (DLCDD) and the Oregon Department of Transportation (ODOT) and Department of Fish and Wildlife (ODFW). He continued by saying his understanding is those agencies are now comfortable with the proposal before the Board of Commissioners.

Tom Ludlow, JWTR, indicated in a couple of the Planning Commission meetings there might have been some misunderstandings about where they were going and what they wanted to do. He indicated that they have continually stressed what they want to do is to extend properties that traverse the Lake/Klamath County line. Mr. Ludlow indicated that JWTR has a number of properties on both sides. On one side they have a destination resort overlay and on the other side, we don't. If the development of some of those properties were to continue it would be better from a planning standpoint to have at least a baseline that would look the same on both sides. Mr. Ludlow continued by saying they don't have any plans in the immediate future but all they were trying to do was set up a system in order to manage their properties on a similar basis on both sides of the county line.

Commissioner Winters questioned if they were asking for the conditional use process not to be used but for an amendment to have it done administratively. Mr. Alfred responded "no".

Ken Gerschler, Lake County Planning Director explained what the process would be. 1) JWTR would like to change the Comprehensive Plan text to address the introduction of a destination resort along with; 2) A Destination Resort Overlay which would be included in the zoning ordinance with only JWTR properties mapped to be considered for a Destination Resort. The original proposal that came to Lake County identified an administrative review but Mr. Gerschler and the Planning Commissions' concern was that it did not give the County enough say in evaluating Destination Resorts. Mr. Gerschler recommended that a Type II Conditional Use Permit was suitable. As a Type II Conditional Use Permit, an application for Destination Resort would be notified to surrounding property owners and advertised in the newspapers to allow public input. State and Federal agencies would also be involved and any proposal would need to meet the requirements of those agencies and other County development criteria. All of this information would come before the Planning Commission for review.

Mr. Alfred indicated that they were ready to accept any questions the Board may have.

Commissioner Kestner asked if there was a three mile buffer zone set up on the Klamath County Line. Mr. Ludlow explained the buffer zone and when it was set up originally, in theory Klamath County did not know how the land use zoning and plans set up on the Lake County side of the line so a three mile wide buffer was established. On February 23, 2010, Klamath County will be holding a public meeting to discuss removal of the three mile wide buffer.

Discussion continued on the possible expansion on the Lake County side. Issues regarding destination resorts were discussed on the local level as well as the State level. The Board asked Mr. Gerschler for a recommendation. Mr. Gerschler advised that the application had been through proper review with Jon Jinnings of DLCD and Craig Foster of ODFW and the ODOT. The DLCD and ODFW were comfortable with the changes to the original proposal because there were no Goal 8 lands included. ODOT requirements could be met following a traffic study and this is required in the conditions of approval in the Staff report. Mr. Gerschler's recommendation was for the Board to discuss the ramifications on report pages 10 and 11 of the Staff report. Mr. Gerschler has been in contact with Dr. Latham and suggested that his comments could have some additional input for the Board.

Commissioner Winters continued with the letter from Dr. Latham and stated he had only brought it forward because of the need to disclose the letter had been received. He continued to say the person was not here to present his opposition in the public meeting.

Commissioner Winters asked Mr. Gerschler about the cost of remapping and if the cost would be paid by JWTR or the County. Mr. Gerschler answered under the current pricing arrangement that the cost was all inclusive for the entire application. He indicated that Commissioner Winters could ask County Counsel if there was a mechanism for the County to charge back those fees. Mr. Gerschler indicated that one of the conditions of approval required that the applicant provide modifiable electronic text documents as this would allow the County to easily update its records. The conditions could be slightly

modified to require mapping electronically and this was a reasonable request of the applicant.

Commissioner Winters asked if there were any other costs associated with this. Mr. Gerschler advised that there would not be any further costs to the applicant and at some point the County would be able to use the amendments to map other consideration areas.

Tom Burkholder, Planning Commission Member indicated that he had not been in the last meeting and had not participated in the final recommendation vote but noted that he had found the PC report to be well organized. Mr. Burkholder indicated it was not clear if we (being Lake County) were just voting on the Klamath/Lake border or overlaying the County. Once it became clear that we were exposing the entire County to the entire overlay, some of the Planning Commissioners backed away from exposing the entire County.

Commissioner Winters addressed Mr. Gerschler in regards to ODOT, ODFW and US Forest Service not opposing the development so long as their agency requirements were met. Mr. Gerschler indicated that each of these agencies had taken the opportunity to review and comment.

Commissioner Kestner asked Mr. Gerschler if there had been any coordination with Klamath County thus far and Mr. Gerschler replied "no".

Commissioner Winters addressed JWTR about management of their timberlands and preserving heritage of the land.

Mr. Ludlow continued with the management of JWTR timberlands. He indicated that the company manages approximately 630,000 acres of timberlands in Jackson, Klamath and Lake Counties and they were very interested in preserving their lands and commerce in every County.

Commissioner Shoun questioned the plan for development and the potential financial ramifications in approving the amendments on extension of public infrastructure-roads and services such as police and fire. He suggested studying this further.

Commissioner Kestner indicated that he was not concerned about adverse impacts because there would be further scrutiny when any destination resort applications came to the County for review.

The Commissioners and applicant discussed additional work, processes and costs that might be anticipated when an application for Destination Resort was submitted to the County.

Commissioner Shoun asked about the statement by Planning Commissioner Burkholder of 'County-Wide' and if they were considering this to be county-wide if approved. Mr. Alfred answered "yes and no", the only thing that would be applied "County Wide" are

the text amendments, which create the process but the mapping part was not "County Wide" but only on JWTR owned lands.

Commissioner Winters asked about the findings in the report and Mr. Gerschler advised they were articulated for the benefit of the Board of Commissioners.

Commissioners discussed the decision options to approve, deny or continue the matter. Mr. Gerschler advised the Commissioners that if there was new information to be considered that the matter could be continued. Commissioner Winters indicated that there was no new information provided that would significantly change the proposal.

Commissioner Kestner indicated that he felt a decision could be made.

Mrs. Stephens asked if JWTR needed to go through the CUP process in Klamath County and a situation where one county approved while the other did not. Mt Ludlow said it would all have to start over and go through a new planning consideration process.

Discussion about the cost of the maps continued and JWTR agreed to reimburse map preparation costs.

Commissioner Winters moved to accept proposed amendment 1213 to the Comprehensive Use Plan, Zoning Ordinance & Mapping for JWTR Destination Resort Overlay, findings and fact that JWTR will electronically submit updated documents and pay for the mapping as requested in the amendment. Commissioner Kestner seconded.

Discussion: Mr. Gerschler indicated the zoning ordinance may be worked on with the Board and County Counsel before the entire application could be finalized.

Commissioner Winters asked Legal Counsel if a hearing needed to be set for the changes requested in the zoning ordinance, Mr. Bailey (County Counsel) said 'yes'.

Commissioner Winters asked legal Counsel if he saw any problems with the process. Mr. Bailey answered he did not see any problems with the process.

Motion carried.

Commissioner Winters indicated he would like to give direction to Legal Counsel along with Bob Pardee, to work on the zoning ordinance language.



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October 12, 2009

VIA E-MAIL

Mr. Ken Gerschler
Community Development Director
& Planning Manager
Lake County, OR
513 Center St.
Lakeview, OR 97360

Re: Application by JWTR; Lake County File No. 1213-CP/ZTA

Dear Mr. Gerschler:

- This office represents JWTR. As you know, the Planning Commission continued this application at the request of the applicant from the July 2009 hearing date until October 20, 2009. I will be present at that public hearing to discuss this application. After speaking with you and Jon Jinings, Field Representative for the Oregon Department of Land Conservation and Development ("DLCD"), JWTR has authorized me to amend this application. I am amending the application by asking that the County map the JWTR owned land shown in **Exhibit 1** for destination resort use pursuant to ORS 197.465(1).

At the July public hearing, I sensed some concern on the part of the Planning Commission about the scope of this proposal. This amended application limits the destination resort mapping to JWTR owned lands. There is a need for JWTR to have its lands designated destination resort. This will give the County ample opportunity to study the issue of whether additional destination resort lands should be mapped. ORS 197.465 requires a land use ordinance to govern uses within mapped destination resort areas. I have not proposed a change to the applicant's original text amendment.

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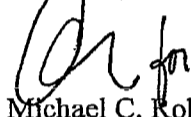
EXHIBIT 1

Mr. Ken Gerschler
October 12, 2009
Page 2

JWTR respectfully requests that the Planning Commission recommend approval of this amended application. In the event it believes it cannot do so, JWTR respectfully requests that the Planning Commission conclude its public hearing and send the matter to the Board of County Commissioners which will make the final decision.

Thank you in advance for your courtesy. I look forward to being before the Planning Commission on October 20 and answering any questions that the Members may have.

Very truly yours,



Michael C. Robinson

MCR/cfr

Enclosure: Map of proposed destination resort area (original in color) consisting of JWTR owned lands

cc: Mr. Tom Ludlow (w/encl.) (via email)
Mr. Jon Jinings (w/encl.) (via email)
Mr. Richard Whitman (w/encl.) (via email)
Ms. Corinne Celko (w/encl.) (via email)
Mr. Tony West (w/encl.) (via email)



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July 16, 2009

VIA E-MAIL AND FIRST-CLASS MAIL

Ken Gerschler
Community Development Director & Planning Manager
Lake County
513 Center Street
Lakeview, OR 97630

**Re: Lake County File No. 1213-CP/ZTA; Response to Recommended Discussion Items
Raised in Staff Report**

Dear Ken:

As you know, this office represents the applicant in the above-referenced post-acknowledgment plan amendment application to allow siting of destination resorts in Lake County. The purpose of this letter is to respond to recommended discussion items for this application raised in the Staff Report.

I. Decision Process.

Currently, the Lake County Zoning Code allows destination resorts under a Type II Conditional Use process. In order to comply with Goal 8 and state law requiring counties to adopt implementing measures which map eligible lands within the county where destination resorts are allowed and which regulate the siting of destination resorts, the subject amendments have been proposed. The procedure for Destination Resort Development has been proposed as the existing Site Plan Review Procedures under Article 23 of the Lake County Zoning Code. The Site Plan Review Procedures afford the Planning Commission considerable discretion in imposing conditions of site plan approval based on the impact of the proposed use on nearby property, on the capacity of the street to carry that volume of traffic, appearance of the use, and other considerations determined applicable. *See Lake County Zoning Code Section 23.03.* However, the Planning Commission may add the additional requirement of a hearings process to

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EXHIBIT 2

Ken Gerschler
Lake County
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Page 2

Site Plan Review for a destination resort or may adopt a separate procedure for Destination Resort Development altogether.

Destination resorts would not be considered as conditional uses within the Destination Resort Overlay Zone, but the regulations in the Destination Resort Zoning Ordinance and the requirements of the Site Plan Review Procedure assure that uses and development activities are limited to those allowed by statute and are compatible with the site and adjacent land uses.

II. Protection of the Most Productive Forest Land.

As noted in the proposed amendments to the Lake County Comprehensive Plan, the state has recognized the importance of destination resorts to encourage tourism and contribute to economic development while still protecting the most productive forest land. Specifically, the state has ensured that the most productive forest land will be protected by requiring that destination resorts be excluded from predominantly Cubic Foot Site Class 1 or 2 forestlands as determined by the State Forestry Department and which are not subject to an approved goal exception. *See* ORS 197.455(1)(c). The draft amendments to the Lake County Zoning Code implementing a Destination Resort Overlay Zone comply with such statutory protection of the most productive forest lands by providing that uses permitted in within the Destination Resort Overlay Zone are only those allowed by Goal 8 and ORS 197.435 to ORS 197.467.

III. Protection of Smaller Species of Fauna.

The proposed amendments to the Lake County Zoning Code implementing a Destination Resort Overlay Zone require that at least 50% of the site be dedicated to permanent open space. Additionally, the amendments require conservation easements sufficient to protect the resource values of resource sites and require setbacks and buffers from riparian vegetation and surrounding lands. Such requirements will serve to protect smaller species of fauna.

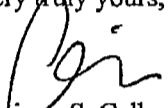
In addition, the Planning Commission may add further regulations, such as requiring clustered development, to assure the preservation of non-big game animals.

In summary, the draft amendments protect the most productive forest land, as required by statute, and afford the Planning Commission considerable discretion in imposing conditions of approval for destination resort development. If determined desirable or necessary, a hearings process can be added to any destination resort development procedure, and further provisions can

Ken Gerschler
Lake County
July 16, 2009
Page 3

be required to preserve smaller species of fauna. If you have any questions or would like to discuss the issues raised in this letter further, please contact us at any time.

Very truly yours,



Corinne S. Celko

CSC:crl

cc: Client
Michael C. Robinson

REVISED PROPOSED AMENDMENT TO
LAKE COUNTY ZONING ORDINANCE

ARTICLE ___: DESTINATION RESORT OVERLAY ZONE: DRO

Section __.01: Destination Resort Overlay Zone. The purpose of the Destination Resort Overlay zone is to provide a process for the siting of destination resorts on rural lands that have been mapped by the County as eligible for this purpose. The Destination Resort Overlay is intended to provide for properly designed destination resort facilities which enhance and diversify the recreational opportunities and economy of Lake County. The Destination Resort Overlay will ensure resort development that complements the physical attractiveness of an area without significant adverse effect on commercial farming and forestry operations or the significant natural and cultural features which contribute to the setting.

Section __.02: Applicability. The provisions of this Article shall apply solely to development which meets the standards set forth in Sections __.04 and __.05 [Standards/Standards for Small Destination Resorts]. Other provisions of this Code shall remain in full force and effect, except as otherwise specified herein.

- A. Development which meets the standards in Section __.04 [Standards] shall be referred to hereafter as destination resorts, and development which meets the standards in Section __.05 [Standards for Small Destination Resorts] shall be referred to hereafter as small destination resorts. Where special standards or criteria are not specifically called out for small destination resorts, the standards for destination resorts shall apply.
- B. For a destination resort application, the standards and procedures of this Article shall govern in cases where they conflict with the standards or procedures of the underlying zone.
- C. Destination resorts shall be allowed only on tracts mapped by the County as eligible for destination resort siting and designated as such in the Comprehensive Plan.

Section __.03: Definitions. The following definitions are applicable to this Article ___ [Destination Resort Overlay Zone]:

- A. "Developed recreational facilities" means improvements constructed for the purpose of recreation and may include but are not limited to golf courses, tennis courts, playing fields, interpretive centers, wildlife observation shelters, nature trails, swimming pools, marinas, ski trails, snowmobile trails, bicycle paths, and indoor and outdoor sport facilities.
- B. "Open space" means any land that is retained in a substantially natural condition, or is improved for outdoor recreational uses such as golf courses, playing fields, hiking or nature trails or equestrian or bicycle paths, or is specifically required to be protected by a

conservation easement. Open spaces may include ponds, lands protected as important natural features, lands preserved for farm or forest use, required landscaped areas and lands used as buffers. Open space does not include residential lots or yards, streets or parking areas.

- C. "Overnight lodgings" means permanent, separately rentable accommodations which are not available for residential use. Overnight lodgings include hotel rooms, lodges, cabins and time-share units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation system. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.
- D. "Self-contained development" means a development for which community sewer and water facilities are provided onsite and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A "self-contained development" shall have developed recreational facilities provided onsite.
- E. "Tract" means a lot or parcel or more than one contiguous lot or parcel in a single ownership. A tract on which a destination resort is sited may include property that is not included in the destination resort if the property to be excluded is on the boundary of the tract and constitutes less than 30 percent of the total tract.
- F. "Visitor-oriented accommodations" means overnight lodging, restaurants and meeting facilities which are designed to provide mainly for the needs of visitors rather than area residents.

Section __.04: Standards. A destination resort is a self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. A destination resort shall meet the following standards:

- A. Development shall be located on a tract that contains a site of at least 160 acres.
- B. Development shall include meeting rooms, restaurants with seating for at least 100 persons, and a minimum of 150 separate rentable units for overnight lodging, oriented toward the needs of visitors rather than area residents. However, the rentable units may be phased in as follows:
 - 1. A total of 150 units of overnight lodging shall be provided as follows:
 - a. At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units.
 - b. At least 50 units of the remaining 100 required

overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurances within 5 years of the initial lots sales.

- c. The remaining required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurance within 10 years of the initial lot sales.
2. The number of units approved for residential sale shall not be more than 2 1/2 units for each unit of permanent overnight lodging provided under subparagraph (a) of this subsection.
 3. If the developer of a resort guarantees the overnight lodging units be required under subparagraphs (b) and (c) of this subsection through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurances.
- D. All required developed recreational facilities, key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or guaranteed through surety bonding or equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding.
- E. At least \$7 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.
- F. Commercial uses are limited to those types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.
- G. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.
- H. If the site includes a resource site designated for protection in Section ___ of the [Lake County Comprehensive Plan] pursuant to open spaces, scenic and historic areas and natural resource goals in Section ___ of the [Lake County Comprehensive Plan], that tract shall be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to

development of the phase of which the resource site is a part.

- I. Riparian vegetation within 100 feet of lakes, rivers, streams and designated significant ("IC") wetlands shall be retained.
- J. All destination resorts shall contain buffers and setbacks of sufficient size to separate the resort from surrounding lands and to minimize impact on those lands.

Section __.05: Standards for Small Destination Resorts. In lieu of the standards set forth in Section __.04 [Standards], the standards set forth in this section may be applied to a destination resort on land that is not defined as agricultural or forest land under any statewide planning goal, on land where there has been an exception to any statewide planning goal with respect to agricultural lands, forestlands, public facilities and services and urbanization, or on secondary lands as the Land Conservation and Development Commission deems appropriate.

Developments which meet the following standards shall be considered small destination resorts:

- A. The resort shall be located on a tract that contains a site of at least 20 acres.
- B. The resort must provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing stream.
- C. At least 25 units, but not more than 75 units, of overnight lodging shall be provided. A restaurant and meeting room with at least one seat for each unit of overnight housing shall be provided.
- D. At least \$2 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.
- E. Residential uses shall be limited to those necessary for the staff and management of the resort.
- F. The resort shall be constructed and located so that it is not designed to attract highway traffic. Resorts shall not use any manner of outdoor advertising signing except:
 - 1. Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and
 - 2. Onsite identification and directional signs.
- G. Commercial uses are limited to those types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any

kind are not permitted.

- H. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.
- I. If the site includes a resource site designated for protection in Section ___ of the [Lake County Comprehensive Plan] pursuant to open spaces, scenic and historic areas and natural resource goals in Section ___ of the [Lake County Comprehensive Plan], that tract shall be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase of which the resource site is a part.
- J. All destination resorts shall contain buffers and setbacks of sufficient size to separate the resort from surrounding lands and to minimize impact on those lands.

Section ___: Permitted Uses.

- A. The uses permitted in this zone are those allowed by Goal 8 and ORS 197.435 to ORS 197.467.

Section __.06: Application Procedures and Contents. Destination Resort Development applications shall be governed by Article 243, Conditional Uses~~Site Plan Review Procedures.~~

Draft Example Goal 8 Element for Lake County Comprehensive Plan

VIII. RECREATION NEEDS

- A. State Planning Goal No. 8
To satisfy the recreational needs of the citizens of Lake County and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.
- B. Recreation Planning
The requirements for meeting such needs, now and in the future, shall be planned for by governmental agencies having responsibility for recreation areas, facilities and opportunities: (1) in coordination with private enterprise; (2) in appropriate proportions; and (3) in such quality, quantity and locations as is consistent with the availability of the resources to meet such requirements. State and federal agency recreation plans shall be coordinated with local and regional recreational needs and plans.
- a. Recreation Planning Policies
1. That park and recreation improvements will be provided in all areas where demand exists, sites can be obtained, financing is feasible, and improvements can be made compatible with surrounding development.
 2. The State Comprehensive Outdoor Recreation Plan (SCORP), the State Park Systems Plan, and other relevant parks and recreation plans shall be utilized as guidelines for the plan implementation of the Recreational Needs element thereof.
 3. That private enterprise will be given priority for developing recreational resources providing resource protection can be assured and proposed uses are compatible with surrounding development.
 4. That the Plan will provide for diversification of outdoor recreation programs to more fully utilize existing facilities during all seasons.
 5. That uses in the Warner Canyon Ski Area vicinity will be managed so as to be compatible with ski area objectives.
 6. The need for park and recreation areas and facilities shall be considered in the review and approval of all particularly large developments and the provisions of such may be required as a condition of approval.
 7. That park rehabilitation, replacement, minor betterment repairs and improvements, and other similar construction activities which do not impact land uses will not require county approval.
- b. Recreation Planning Recommendations
1. That a Parks & Recreation Plan be prepared to include addressing hiking and related pedestrian and bicycle trail and other improvement needs; to

satisfy demands of all types of recreation not presently provided; and to recognize the development and rehabilitation proposals in the State Park Systems Plan. Such a plan should also take into account the need for handicapped, Elderly, low income, and minority recreation needs.

2. That local, State and Federal government agencies work together with local individuals and civic groups in developing those park and recreation projects including ORV use areas, bicycle and other trails, etc., identified in a County Parks & Recreation Plan.

C. Destination Resort Siting

The Lake County Comprehensive Plan may provide for the siting of destination resorts on rural lands subject to the provisions of state law, including ORS 197.435 to 197.467, Goal 8 and other Statewide Planning Goals, and without exception to Goals 3,4,11 or 14.

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Destination Resorts have become a popular feature in Oregon, providing overnight lodging, restaurants, meeting facilities and developed residential facilities, along with some full-time residences. The state has recognized the importance of destination resorts in encouraging tourism and contributing to the state's economic development, and has enacted provisions to allow resorts while still protecting high-value farmland and the most productive forest land. In order to tap this economic potential and provide additional recreational opportunities to visitors, the County has determined that destination resorts should be allowed in the county when consistent with all relevant policies in the acknowledged Lake County Comprehensive Plan, state statutes, Statewide Planning Goals and administrative rules.

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ORS 197.465 requires that a Comprehensive Plan that allows for siting of a destination resort include implementing measures which map areas where a resort is permitted, limited uses and activities to those permitted pursuant to ORS 197.455, and assure that developed recreational facilities and key facilities are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units.

The county must adopt a map consisting of lands that are eligible for siting a destination resort, based on reasonably available information. The adopted map is the sole basis for determining whether tracts of land are eligible for destination resort siting. Because a property is mapped as being eligible for a destination resort does not mean that a destination resort is permitted outright in that location. In order to be approved, a proposal for a resort must comply with standards and criteria contained in the Lake County Zoning Ordinance and Lake County Comprehensive Plan.

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A map showing the areas that are eligible for siting of destination resorts has been adopted as part of the Lake County Comprehensive Plan. Destination resort-eligible lands shall be limited to the areas shown on the "Lake County Destination

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Resort Map of Eligible Lands," which is adopted as part of the Comprehensive Plan. Destination resorts may only be sited in areas shown on the map and only after development approval.

a. Destination Resort Siting Policies

1. Destination resorts allowed under the provisions of this goal must be sited on lands mapped as eligible by the county. A map adopted by a county may not allow destination resorts approved under the provisions of this goal to be sited in any of the following areas:

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i. Areas prohibited by State Law:

(I) On a site with 50 or more contiguous acres of unique or prime farm land identified and mapped by the United States Natural Resources Conservation Service or its predecessor agency; or within three miles of a High Value Crop Area;

(II) Within three miles of a High Value Crop Area as defined at ORS 197.435(2);

(III) On predominantly Cubic Foot Site Class 1 or 2 forest lands, as determined by the State Forestry Department, that are not subject to an approved Goal exception;

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(IV) In an especially sensitive big game habitat as generally mapped by the Oregon Department of Fish and Wildlife in July 1984 and as further refined through development of comprehensive plans implementing this requirement.

(V) On high-value farmland as defined in OAR 660-033-0020.

ii. Areas prohibited by Lake County in addition to those areas prohibited by state law:

(I) On important wildlife habitat and/or winter range inventoried by Lake County under Statewide Planning Goal 5.

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(II) Within a critical groundwater area or a limited groundwater area designated by the Oregon Water

Resources Department or the Oregon Water Resources Commission.

(III) On other lands determined by Lake County to be poorly suited for Destination Resort Development due to a remote location, limited infrastructure and other support services, or the potential to have undue effects on an established community.

2. The map showing areas eligible for consideration of Destination Resort siting shall not be subject to revision or refinement after adoption except in conformance with ORS 197.455, and 197.610 to 197.625, but not more frequently than once every 30 months.

3. Any costs related to infrastructure improvements made necessary by the presence of a Destination Resort shall be paid for by the Destination Resort applicant.

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b. Destination Resort Planning Recommendations

1. Lake County shall develop local zoning ordinance provisions that implement the county's policy choice to consider Destination Resort proposals in certain areas of Lake County.

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2. Lake County shall develop local zoning ordinance criteria that assure protections for farming, ranching and forest uses and assists decision makers to determine if a proposal is likely to be a benefit to the county and its citizens and coordinate with Department of Land Conservation and Development, Oregon Department of Transportation, Oregon Department of Fish and Wildlife, Oregon Department of Forestry and Federal Resource Agency.

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3. Lake County shall establish local zoning ordinance provisions that are equivalent to the provisions of Section OAR 660-012-0060 of the Transportation Planning Rule to require consideration of traffic impacts and identify solutions to traffic impacts created by the presence of a proposed Destination Resort Development.

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4. Lake County shall develop a process for collecting and processing concurrently any and all map amendment requests made within the 30 month planning period.

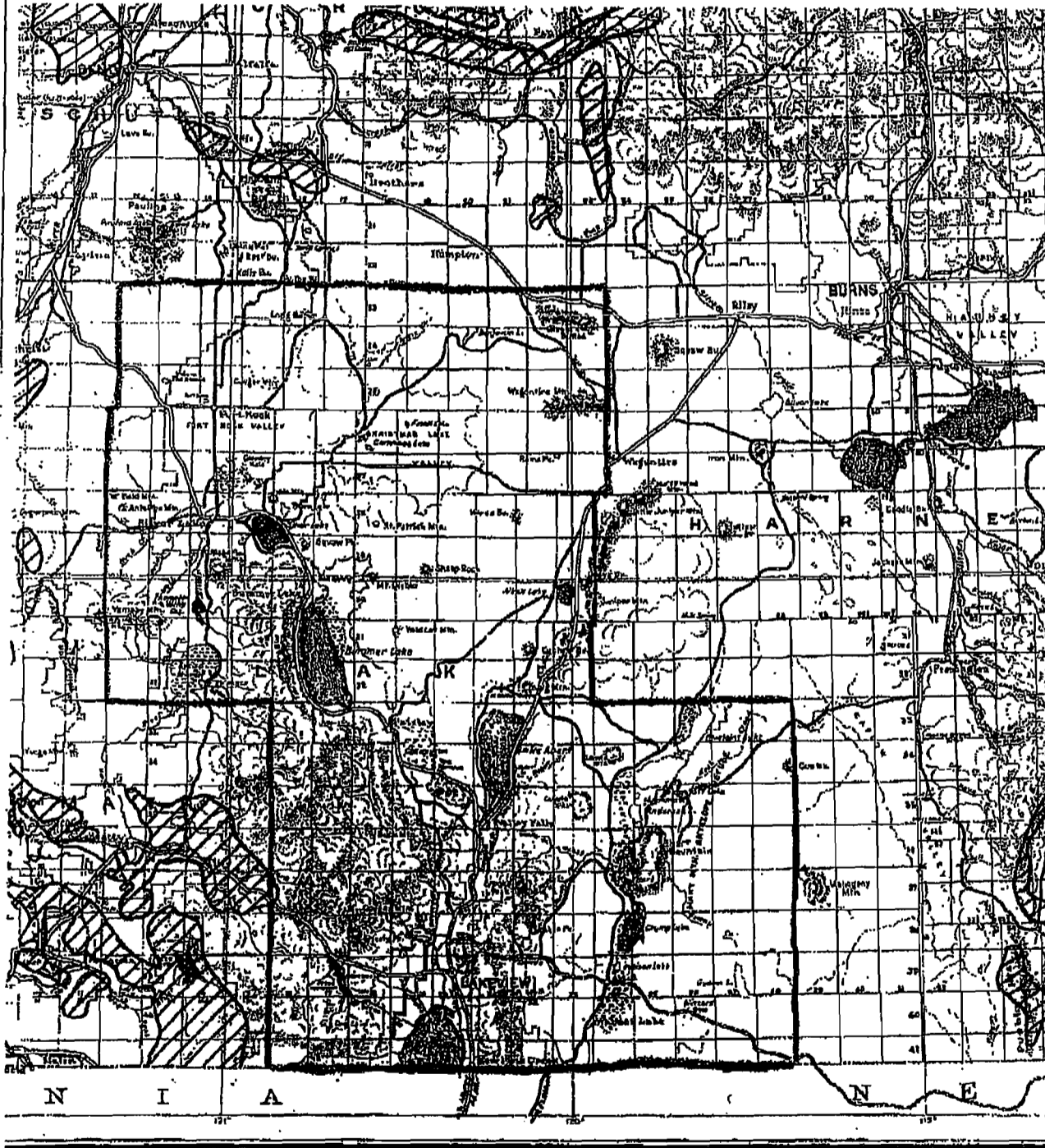
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MAP OF
STATE OF OREGON
SCALE

**AREAS EXCLUDED FROM THE
 GOAL 8 RESORT SITING PROCESS**

LEGEND

- LEGEND**
-  TO RILE BOUNDARY ADJACENT TO THE STATE
 -  ESPECIALLY SENSITIVE TO ENVIRONMENT
 -  STATE FOREST CLASS 1 & 2 FOREST LAND





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www.perkinscoie.com

Michael C. Robinson
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FAX: (503) 346-2264
EMAIL: MRobinson@perkinscoie.com

December 1, 2009

VIA E-MAIL

Mr. Ken Gerschler
Community Development Director & Planning Manager
Lake County, Oregon
513 Center St.
Lakeview, OR 97360

Re: My Client, JWTR; Application for Legislative Amendment to Lake County Comprehensive Plan and Land Use Regulations to Map Only Those Lands Owned by JWTR that are Eligible for Destination Resorts, to Adopt Comprehensive Plan Statement Regarding Destination Resorts and to Adopt Implementing Language in the Lake County Zoning Ordinance

Dear Ken:

This office represents JWTR, the applicant for this legislative amendment. I am writing to describe the status of this matter, the applicant's amended proposal that was considered by the Lake County Planning Commission at its public hearing on October 17, 2009, a response to testimony and evidence received at that Planning Commission hearing and a proposed revision to the application to amend the Lake County Comprehensive Plan and Lake County Zoning Ordinance text and maps.

1. Proposal before the Board of County Commissioners (the "Board").

JWTR requests that the Board adopt four (4) amendments to its acknowledged Comprehensive Plan and land use regulations as follows:

A. An amendment to the Lake County Comprehensive Plan text to include a policy regarding designation resorts.

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ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · LOS ANGELES · MENLO PARK
OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

Perkins Coie LP and Affiliates

Mr. Ken Gerschler
December 1, 2009
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B. An amendment to the acknowledged Lake County Zoning Ordinance to implement destination resorts pursuant to ORS 197.435-.470.

C. An amendment to the Lake County Comprehensive Plan map and to the Lake County zoning map to map lands owned by JWTR that are eligible for Destination Resort designation pursuant to ORS 197.435-.470.

JWTR has no present plans to develop a destination resort but wants to map its lands that are eligible for Destination Resort designation.

2. Status of Application.

The Planning Commission first heard this application at its July, 2009 public hearing. The Planning Commission continued the hearing until October 17, 2009. At the conclusion of the hearing on the application, the Planning Commission failed to reach a majority opinion on a recommendation to the Board. Two (2) Commissioners voted in favor of a motion to recommend approval of the application, Burt Young and Jack Butler, while two (2) Commissioners voted in opposition to the motion, Don Parker and Ken Hambleton. Subsequent to the Planning Commission's recommendation, you have asked the County Manager to schedule a January, 2010 hearing on this application before the Board of County Commissioners (the "Board").

3. Applicant's Amended Proposal.

The applicant amended its proposal in an October 12, 2009 letter to the Planning Commission in response to public testimony. (**Exhibit 1**). At the July, 2009 Planning Commission hearing, the Planning Commission expressed a concern that the eligible destination resort lands be mapped. As you know, the applicant originally proposed that only the Comprehensive Plan text and the Zoning Ordinance text be amended. The applicant originally proposed to defer mapping areas eligible for destination resorts in Lake County until a later time. In consideration of the public testimony, the applicant subsequently amended the application to request that its lands which are eligible for destination resort mapping be mapped as eligible for destination resorts.¹ This narrows the scope of destination resort mapping and fulfills the applicant's reason for initiating this application.

¹ A new notice of the proposal to DLCD of the amended application is not required. ORS 197.610.

4. Response to Issues Discussed at the July and October Hearings.

A. The application included findings on applicable approval criteria. The applicant submitted a July 16, 2009 letter responding to some of the argument raised in letters submitted to the Planning Commission. **(Exhibit 2).**

B. Staff raised the issue of whether future review of a destination resort development application should be through a site review application with notice to surrounding property owners or a conditional use permit application heard and decided by the Planning Commission in a public hearing. The applicant agrees with staff that because the County is most comfortable with the conditional use permit process, destination resort development applications should follow that process. Consequently, the revised Zoning Ordinance text deletes the site review process and substitutes the conditional use process. **(Exhibit 3).**

C. ORS 197.465(2) requires an implementing ordinance for destination resorts. This means the County's acknowledged Zoning Ordinance must include a provision implementing destination resorts. However, no destination resort will be allowed until the County has received an application and the application has been approved under the conditional use criteria and procedures following at least one (1) public hearing before the Planning Commission. Because a destination resort application would be a quasi-judicial application, all property owners within 500 feet of the perimeter of the area to be developed would receive a notice of the public hearing.

D. The applicant does not propose that all eligible lands within Lake County be designated for destination resorts; it only requests that the lands the applicant owns that are eligible for destination resorts be mapped.

E. The staff asked how compatibility between a destination resort and adjacent lands would be assured. ORS 197.460 requires that destination resorts be compatible with adjacent land uses and requires counties to provide measures to assure compatibility. Subsection (1) requires that: **"Important natural features, including habitat of threatened or endangered species, streams, rivers and significant wetlands shall be retained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands shall be retained. Alteration of important natural features, including placement of structures which maintain the overall values of the feature may be allowed."**

Mr. Ken Gerschler
December 1, 2009
Page 4

ORS 197.460(2) requires that destination resort improvements and activities "shall" be located and designed to avoid or minimize affects of the resort on surrounding lands with particular attention to protection of intensive farming operations. The measures to achieve this requirement include, but are not limited to, establishment of buffers and establishment of setbacks or structures and other improvements from adjacent lands. These measures can all be achieved in a future development application. The proposed Comprehensive Plan and Zoning Ordinance text implement these provisions to protect adjacent lands.

Moreover, ORS 197.467 provides that Goal 5 resources are to be preserved by a conservation easement sufficient to protect the resource values of the resource site as set forth in ORS 271.715 - 271.795. This is sufficient to protect such mapped Goal 5 resources and can be implemented at the development stage.

a. Comments by Oregon Department of Land Conservation and Development ("DLCD").

Mr. Jinings of DLCD told the Planning Commission that the applicant was working with DLCD and he was comfortable with the application going to the Board.

After the hearing, Mr. Jinings provided the applicant with the draft language for the Comprehensive Plan statement. The applicant reviewed the language and found it to be acceptable, with a few minor changes. This letter includes the proposed language as **Exhibit 4**. JWTR respectfully requests that the Board adopt this amended language.

b. Comments by Oregon Department of Forestry ("DOF").

Mr. Foster of DOF indicated that his agency was primarily concerned about protecting Lake County Comprehensive Plan-designated resources. Under ORS 197.460, it is clear that any subsequent destination resort application must do so. Moreover, the proposed Lake County Zoning Ordinance amendment and Plan text amendment require the protection of designated comprehensive plan resources. ORS 197.455(1)(e) prohibits a destination resort in an especially sensitive big game habitat area as contained either in the State Department of Fish and Wildlife July, 1984 determination or as designated in an acknowledged comprehensive plan. **Exhibit 5** shows that none of these protected areas are located in the area of Lake County proposed to be mapped as eligible for destination resorts. Further, based on available information, there are no designated Goal 5 resources in the area proposed to be mapped. Nevertheless, as noted above, ORS 197.460 requires

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certain protections. These protections will be implemented in a future development application.

c. **Comments by Oregon Department of Transportation, Region 4 ("ODOT").**

Mr. Hearing of ODOT suggested that the focus should be on the proposed mapping. This is not entirely the case because ORS 197.465(2) requires that an acknowledged comprehensive plan that allows for siting of a destination resort shall include implementing measures which "limit uses and activities but those defined by ORS 197.435 and allowed by ORS 197.455." The proposed amendments to the Lake County Zoning Ordinance do precisely this. Additionally, the applicant has made this application because its lands are eligible for destination resort mapping. ORS 197.435-467 provide for the mapping of eligible properties. Given the designated protections of resources and adjacent lands, there is no reason not to map the eligible properties.

6. Additional Findings Supporting the Application.

The original application submitted to the County included findings on applicable Goals, administrative rules and Plan policies. An additional finding on the Transportation Planning Rule is needed.

OAR 660-012-0060(1) requires the County to determine if the amendment to the County's Plan and Zoning Ordinance will not have a "significant affect" on transportation facilities. If there is a significant affect, the County must approve this application with one of the mitigation measures in OAR 660-012-0060(2).

This application will likely have a significant affect on affected roads without mitigation of the impacts. Therefore, the applicant requests that the Board impose the following condition of approval pursuant to OAR 660-012-0060(2)(e): **"No destination resort development permit approval shall occur without a traffic impact study that analyzes the proposal's impact on affected roads and requires that the applicant shall be responsible for maintaining required levels of service on such roads by mitigating the impact of destination resort traffic on these roads."** OAR 660-012-0060(2)(e) allows the County to provide measures through a condition of approval and the condition must specify when the measures would be provided. The proposed condition is consistent with OAR 660-012-0060(2)(e).

Mr. Ken Gerschler
December 1, 2009
Page 6

7. Conclusion.

The applicant respectfully requests that the Board of County Commissioners approve the amended comprehensive plan text, the amended zoning ordinance text and the proposed mapping. The applicant will provide subsequent findings justifying these actions.

Very truly yours,



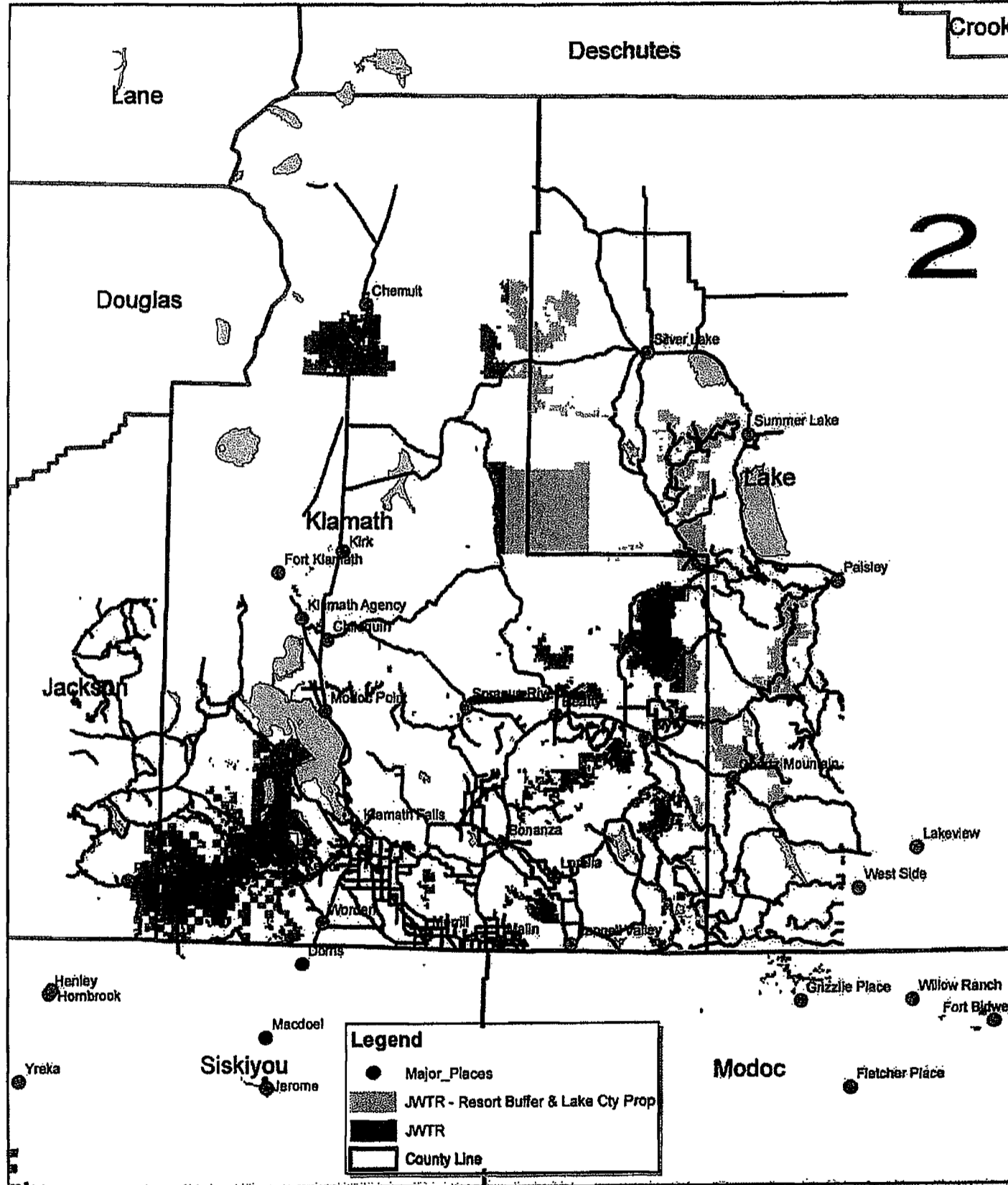
Michael C. Robinson

MCR:cfr

Enclosures

cc: Mr. Tom Ludlow (w/encls.) (via email)
Mr. Tony West (w/encls.) (via email)
Mr. Jon Jinings (w/encls.) (via email)
Mr. Craig Foster (w/encls.) (via email)
Mr. Devin Hearing (w/encls.) (via email)

JWTR Property in Klamath and Lake County



2

Legend

- Major_Places
- ▨ JWTR - Resort Buffer & Lake Cty Prop
- JWTR
- County Line

0 5 10 20 Miles

November 5, 2008
EXHIBIT 1



October 23, 2009

To: Lake County Board of Commissioners
Re: Lake County Planning Application # 1213-CP/ZTA
From: Planning Commissioner K. Hamlington

Commissioners;

The above application # 1213CP/ZTA is asking the planning board to include an amendment to the comprehensive plan map which would position a Destination Resort overlay on properties owned by the applicant. This would hereby set the standard that Lake County is open to Destination Resorts and this would not just pertain to the applicant.

I do not feel it would be appropriate to approve this application, hence my vote of "No" on October 20, 2009, reflected in the minutes of that planning commission meeting.

The heritage of Lake County is rich in agriculture, timber and natural resources for industry and tourism. Upon review of the applicant's mapping of land holdings in Lake County, almost all of the properties will affect that heritage. If I may also add, has the potential to change that heritage to one more suited for an urban atmosphere?

I have spoken with numerous citizens for input on their thoughts and must submit it was negative in regards to this application.

The planning commissions vote on October 20, 2009 was two {2} Yes and two {2} No, with three board members absent. Approvals of this application were not obtained and request that the commissioners uphold that vote.

Thank you for your time on this matter,

Regards;

Ken Hamlington

A handwritten signature in black ink, appearing to read "Ken Hamlington", is written below the typed name.



LAKE COUNTY PLANNING COMMISSION Agenda Date: 9/15/2009
STAFF REPORT Item Number: 2

Lake County Planning Commission Staff Reports are considered part of the record and may be utilized for decision making purposes.

TITLE: ZONE TEXT and COMPREHENSIVE PLAN
AMENDMENT APPLICATION NO. 1213

APPLICANT(S): Perkins Coie, on behalf of their Client JWTR, LLC-Applicant
1120 N.W. Couch Street, Tenth Floor, Portland, OR 97209-4128

PROPERTY OWNERS(S): County Inclusive (All properties within Lake County, Oregon)

AGENT: Perkins Coie
1120 N.W. Couch Street, Tenth Floor, Portland, OR 97209-4128

SUMMARY: The applicant has proposed changes to portions of the Comprehensive Plan and Zone Text documents aimed at bringing Lake County regulations into compliance with the Oregon Revised Statutes. The proposed changes relate exclusively to Destination Resorts. Note that this item was continued by the Planning Commission at the July 2009 meeting and again for the August 2009 at the request of the applicant.

REPORT BY: Ken Gerschler, Planning Director

LEGAL NOTICE REQUIREMENTS: By publication twice prior to this meeting, Lake County Examiner, Desert Whisperer July 2009. Individual notice by mail on July 2009.

ADDITIONAL NOTICING: Application materials posted to Oregon Department of Fish & Wildlife, United States Forest Service, United States Bureau of Land Management, Oregon Department of Transportation. Proper notification to Oregon Department of Land Conservation and Development was provided 45 days prior to this first evidentiary meeting. Staff report provided to the Lake County Road Department.

GENERAL DISCUSSION:

Cities and Counties in Oregon possess certain land use documents that guide and regulate development and these are:

The Comprehensive Plan.

While the Comprehensive Plan is a land use document containing text, photographs and maps, it has been designed to identify the history, current conditions and the future aspirations of the County. For the proposed amendments to be discussed at this meeting, the applicant has requested that the County change *text* portions of the Comprehensive Plan in a manner as the proposed changes could better encourage increased economic development opportunities.

If the text changes were adopted by the County, a future amendment application would need to be reviewed and adopted to address changes to the Comprehensive Plan *Map*. Amendments to the *Map* would depict specific areas where Destination Resorts could be placed.

The Zone Ordinance and/or Lane Development Ordinance.

The Zone Ordinance and Land Development Ordinance are specific regulatory documents that specifically identify what types of land use activities can occur on properties and specifically how the development is to be constructed. The Zone Ordinance and Land Development Ordinance are *text* documents that correspond to a *Zone Map*. A *Zone Map* is associated with the Zone Ordinance and the *Zone Map* shows property ownership boundaries overlaid by a specific Zone and Comprehensive Plan designation.

The application as presented, seeks to amend *text* within the Zone Ordinance but will not change the *Zone Map*.

What is the Planning Commission's task on this application?

The Planning Commission is tasked with making a recommendation to approve or deny the proposed amendments to the Lake County Board of Commissioners based upon the application materials, submittals from agencies, professionals and testimony from the public.

The Lake County Board of Commissioners will take the recommendations of the Planning Commission into account at a separate meeting, which will further evaluate the application materials, submittals and testimony from the public. There is a possibility of the Lake County Board of Commissioners remanding part or all of the amendment application back to the Planning Commission for further consideration and recommendation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Lake County Zone Ordinance Section 29.04 identifies the source of findings as:

- A. Comprehensive Plan, Supplemental Atlas, and other ordinances and plan supplements.**

-
- B. Information presented at hearings or other public discussions of related issues.**
 - C. Findings presented by the applicants.**
 - D. Various sources of physical, social, legal, economic, environmental or other applicable information.**

Response: Perkins Coie has submitted text in support of the Comprehensive Plan Amendment outlining the relevant sections of the Comprehensive Plan with a response. The text forms part of the attachments in this report.

OREGON STATEWIDE PLANNING GOALS

Response: The applicable Planning Goals have been identified on the DLCD “Green Sheet” which is enclosed within the attachments of this report.

LAKE COUNTY ZONING ORDINANCE

Response: Perkins Coie has submitted text in support of the Zone Text Amendment as a draft Ordinance. The draft is included as part of the attachments in this report.

ATTACHMENTS & EXHIBITS:

Attachment “A” Application materials submitted by Perkins Coie.
Attachment “B” Letter from Jon Jinnings of the Oregon DLCD.
Attachment “C” Legal notice
Attachment “D” Letter from 1000 Friends of Oregon..
Attachment “E” Letter from ODFW.
Attachment “F” Letter from ODF.

STAFF RECOMMENDED DISCUSSION:

The Lake County Planning Department identifies the following items that the Planning Commission might discuss before forming a recommendation to the Lake County Board of Commissioners:

Item 1- The proposed text amendment in the Zone Ordinance would change the current decision process undertaken by Lake County.

At present, Destination Resorts are reviewed as Type II Conditional Use Permits whereas the proposed amendment would review these matters as Site Plan Review.

As the Planning Commission is aware, the Conditional Use Permit is a discretionary decision, which means that each proposal is decided upon its individual merits. With the Conditional Use Permit, the County evaluates each proposal against the criteria outlined in the Zone Ordinance and ultimately can decide if the use is appropriate for the property.

With the Conditional Use Permit, the applicant is not assured that the County will approve the development.

If Lake County were to evaluate Destination Resorts under Site Plan review, the County would compare each proposal to specific criteria. If the criteria were met (as a “tick the box” type scenario), the application could be approved with a lessened degree of discretion.

It is noteworthy that potential developers prefer Site Plan Review because the outcome is usually more assured when compared to the discretion of the Conditional Use Permit. The Site Plan Review process does not necessarily result in the placement of Destination Resorts being forced upon the County because the criteria from the State of Oregon are restrictive.

Please provide written comments here:

Item 2- The proposed amendment makes reference to the descriptive terms “less productive forest lands”.

Lake County’s current regulations identify that Destination Resorts can be considered in the A-1, Exclusive Farm Use and A-2, Agricultural Use zone designations. In the proposed regulations, Destination Resorts could be considered in other designations such as the F-1, Forest zone designation, provided of course that the proposed development could meet the specific restrictive criteria imposed by the State.

At issue is the issue of what constitutes “less productive forest lands” as determined by the Oregon Department of Forestry. “Less productive forest lands” are presumed to be those lands that do not have the capability of providing a minimal yield of timber or the conditions to grow a minimal yield of timber. Since “less productive forest lands” are identified by the Oregon Department of Forestry, there is the possibility that State timber classifications are tied to a Statewide set of criteria that are more complementary to forests on the west side of the Cascade range where precipitation and timber re-growth rates would be higher.

Please provide written comments here:

Item 3- The proposed amendment makes reference to criteria that consider big game animal habitat but has no provision for consideration of smaller species of fauna.

Lake County is naturally isolated from the balance of the State’s human population, most of whom reside west of the Cascade mountain range. Accordingly long standing natural corridors have enabled wild animals have been able to travel in a relatively undisturbed environment County-wide. Intermittent timber harvesting in the forest ecosystem and crop production in other areas have not inhibited this but the introduction of permanent residential activities could have adverse ramifications. The adversities could include human contact with the native fauna, the introduction of invasive flora or the introduction of domestic pets; each of which could present a debilitating effect upon the natural environment.

In discussing this issue, the Planning Commission may examine the possibility of Lake County creating specific regulations in addition to the State criteria for Destination Resorts. This might include conservation easements for the preservation of non-big game animals.

Please provide written comments here:

PLANNING COMMISSION RECOMMENDATION:

Following a review of all relevant information, the Planning Commission requests that the Lake County Board of Commissioners _____ the Zone Text and

Comprehensive Plan Amendments based upon the application materials, submitted correspondence, testimony and the comments and/or minutes associated with this meeting.

PLANNING COMMISSION VOTE RESULT:

PLANNING COMMISSIONER	MOTION	YES	NO	ABSTAIN
Tom Burkholder				
Donald Parker				
John Flynn				
Ken Hamlington				
Bert Young				
Jack Butler				
Ronne Lindsay				

SIGNATURE:

Upon the vote of quorum at the Planning Commission, the recommendation is forwarded to the Lake County Board of Commissioners this 15th day of September 2009

Planning Commission Chair

APPEAL PROCEDURE:

Any party aggrieved by the recommendation of the Lake County Planning Commission may exercise the right to appeal if they provided input or evidence into the record concerning this land use application. Please refer to Section 30.01 of the Lake County Zoning Ordinance for details.



1120 N.W. Couch Street, Tenth Floor
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PHONE: 503.727.2000
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Corinne S. Celko
PHONE: (503) 727-2177
FAX: (503) 346-2177
EMAIL: CCelko@perkinscoie.com

July 16, 2009

VIA E-MAIL AND FIRST-CLASS MAIL

Ken Gerschler
Community Development Director & Planning Manager
Lake County
513 Center Street
Lakeview, OR 97630

Re: Lake County File No. 1213-CP/ZTA; Response to Comment by DLCDC

Dear Ken:

As you know, this office represents the applicant in the above-referenced post-acknowledgment plan amendment application to allow siting of destination resorts in Lake County. The purpose of this letter is to respond to comments from DLCDC made in its letter dated July 6, 2009.

DLCDC confirms that a local planning program for consideration of a destination resort proposal must be established consistent with the statutory provisions of ORS 197.435 through 197.467. Accordingly, the draft amendments to the Lake County Comprehensive Plan regarding the proposed Destination Resort Overlay replicate such statutory requirements and state as follows:

"ORS 197.465 requires that a Comprehensive Plan that allows for siting of a destination resort include implementing measures which map areas where a resort is permitted, limit uses and activities to those permitted pursuant to ORS 197.455, and assure that developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots of units."

69661-0002/LEGAL16515194.1

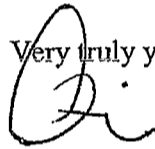
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Perkins Coie LLP and Affiliates

Ken Gerschler
Lake County
July 16, 2009
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Additionally, the draft amendments to the Lake County Zoning Ordinance to regulate the Destination Resort Overlay Zone encompass similar definitions, destination resort criteria, siting standards and compatibility standards as is required by ORS 197.435 through 197.467.

For these reasons, the Planning Commission can find that the proposed planning program for implementation of a Destination Resort Overlay Zone will appropriately be established consistent with the statutory provisions of ORS 197.435 through 197.467. If you have any questions or would like to discuss the issues raised in this letter further, please contact us at any time.

Very truly yours,



Corinne S. Celko

CSC:cr1

cc: Client
Michael C. Robinson



1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
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Michael C. Robinson
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FAX: (503) 346-2264
EMAIL: MRobinson@perkinscoie.com

August 13, 2009

VIA E-MAIL PLANNING@CO.LAKE.OR.US

Mr. Ken Gerschler
Community Development Director & Planning Manager
Lake County, OR
513 Center St.
Lakeview, OR 97360

Re: JWTR Application

Dear Ken:

I am writing to confirm our discussion on Monday, August 10.

First, on behalf of JWTR, I requested that the Planning Commission hearing now scheduled for August 18 be continued until September 15. As I mentioned, I need to reschedule the hearing because of family obligations. You said that this would not be a problem. Accordingly, please place this letter before the Planning Commission so they can see the request and continue the hearing to a date certain of September 15.

Second, we are going to provide additional information to the Planning Commission at the continued hearing to give them an option on mapping. Should the Planning Commission choose to recommend to the Board of County Commissioners that the proposed text be adopted, we would suggest that they have two alternatives as to mapping destination resort areas. The first alternative is mapping all possible destination resort areas in Lake County. If, however, they believe this is too extensive, then JWTR would be comfortable with them mapping only the JWTR-owned lands near the Klamath County line.

Finally, we understand that staff is comfortable with this matter proceeding and does not believe it should be delayed until the larger Lake County land use regulation rewrite.

69661-0002/LEGAL16735579.1

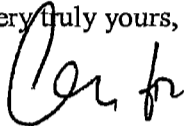
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Perkins Coie LLP and Affiliates

Mr. Ken Gerschler
Lake County Community Development Director & Planning Manager
August 13, 2009
Page 2

Please feel free to call me if you have any questions.

Very truly yours,



Michael C. Robinson

MCR:lt

cc: Mr. Tony West via email [athomas@co.lake.or.us]
Mr. Tom Ludlow via email [tludlow@jw-tr.com]
Corinne Celko

1 DLCD Notice of Proposed Amendment

THIS FORM MUST BE RECEIVED BY DLCD AT LEAST
45 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING
 PER ORS 197.610, OAR CHAPTER 660, DIVISION 18

in person electronic mailed

TELEPHONE

For DLCD Use Only

Jurisdiction: **Lake County** Date of First Evidentiary Hearing: **July 21, 2009**
 Local File Number: **1213-CP/ZTA** Date of Final Hearing: **Undetermined**
 Is this a **REVISION** to a previously submitted proposal? Yes No Date submitted: **June 1, 2009**
 Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation Urban Growth Boundary Amendment
 Transportation System Plan Amendment Other:

Briefly Summarize Proposal. Do not use technical terms. Do not write "See Attached" (limit 500 characters):
The proposal amends the Comprehensive Plan and creates a new Destination Resort Overlay Zone. The post-acknowledgment text amendments are to implement the provisions of ORS 197.435 - 197.467 to allow siting of destination resorts. Map amendments showing the new overlay zone will occur following subsequent meetings.

Has sufficient information been included to advise DLCD of the effect of proposal? Yes, Text is included
 For Map Changes: Include 8 1/2"x11" maps of Current and Proposed designation Yes, Maps included
 Plan map changed from: To:
 Zone map changed from: To:
 Location of property (do not use Tax Lot): **County Inclusive**
 Previous density: New density: Acres involved:

Applicable statewide planning goals:

<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 3	<input checked="" type="checkbox"/> 4	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> 6	<input type="checkbox"/> 7	<input checked="" type="checkbox"/> 8	<input type="checkbox"/> 9	<input type="checkbox"/> 10	<input type="checkbox"/> 11	<input checked="" type="checkbox"/> 12	<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15	<input type="checkbox"/> 16	<input type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19	<input type="checkbox"/>
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Is an exception to a statewide planning goal proposed? YES NO Goals:
 Affected state or federal agencies, local governments, or special districts (It is jurisdiction's responsibility to notify these agencies. DLCD only records this information):

Local Contact: **Ken Gerschler** Phone: **541.947.6032** Extension:
United States Forest Service, Bureau of Land Management, Oregon Department of Fish and Wildlife, Oregon Department of Transportation

Address: **513 Center Street** City: **Lakeview** Zip: **97630**
 Fax Number: **541.947.2144** E-mail Address: **kgerschler@co.lake.or.us**
kgerschler@optusnet.com.au

DLCD file No. _____

**Application for a Comprehensive Plan Map/Text and
Zoning Map/Text Amendment to Allow
Siting of Destination Resorts**

I. Overview of Application.

This narrative is submitted in support of an application by JWTR, LLC (the "Applicant") for amendments to the Lake County Comprehensive Plan and Zoning Ordinance maps and texts to allow siting of destination resorts and establish a Destination Resort Overlay zone.

Destination resorts have become a popular feature in Oregon, providing overnight lodging, restaurants, meeting facilities and developed recreational facilities, along with some full-time residences. The state has recognized the importance of destination resorts in encouraging tourism and contributing to the state's economic development, and has enacted provisions to allow resorts while still protecting high-value farmland and the most productive forest land. In order to tap this economic potential and provide additional recreational opportunities to visitors, the Applicant requests that the County allow destination resorts when consistent with Statewide Planning Goals and Administrative Rules.

II. Requested Map and Text Amendments.

To allow the siting of destination resorts in the County, the Applicant requests an amendment to the text of the Lake County Comprehensive Plan (LCCP) and Lake County Zoning Ordinance (LCZO) to establish a Destination Resort Overlay Zone and to adopt a map of lands eligible for siting of destination resorts. Proposed amendments to the Lake County Comprehensive Plan are attached as **Exhibit A**. Proposed "Destination Resort Overlay Zone: DRO" provisions are attached as **Exhibit B**.

Lake County has established a formal procedure for processing zoning amendments under Article 28 of the LCZO. Pursuant to Article 28, and as more fully described below, this application complies with the application requirements and applicable approval criteria.

III. Compliance with Lake County Comprehensive Plan.

1. Citizen Participation Plan Policies.

1. *That rural center advisory committee recommendations will be requested by the Planning Commission prior to making decisions having an effect upon the people in that area.*
2. *That citizens will have an opportunity to participate in all phases of the planning process.*
3. *That opportunities will be provided for the public to respond to preliminary planning documents prior to their finalization.*
4. *That committee assistance will be used as needed to make recommendations related to specific areas or concerns in order to provide additional citizen input into the planning process.*
5. *That citizens will be provided information as needed to be involved in planning decision-making, and interpretive assistance will be provided.*
6. *That broad participation in planning activities will be solicited to provide a cross-section of geographical and professional interests.*
7. *That notification of planning activities will be made by a variety of means to make residents aware of upcoming decisions which may affect them.*

Response: LCDC acknowledged the County's citizen involvement program for comprehensive plan amendments and zone changes. The County's approved process insures citizen participation and will be used during the decision-making process for this post-acknowledgement plan amendment application.

This application requests a change in the Comprehensive Plan and Zoning Ordinance and requires two public hearings in accordance with County land use policies. Public notice is required prior to hearings before the Planning Commission and then the Board of County Commissioners. Therefore, opportunities for citizen involvement are provided before and during the public hearings. The Commission can find that these Plan Policies have been met.

2. Planning Process Plan Policies.

1. *That the Lake County Atlas, Plan appendices and "Exhibits" will be recognized as the primary documents of factual information utilized as the basis for planning decisions.*
2. *That partitioning of Range-designated parcels into 160 acres or more, and Agriculture or Forest-designated parcels into 80 acres or more may be processed by administrative review, providing there is reasonable assurance that the parcel(s) will be used for those respective purposes. Partitioning of parcels into smaller acreages will require Planning Commission approval:*
3. *That at such time as conflicting uses are identified as competing for the same location, the County will resolve such conflicts by evaluating the suitability of such uses according to applicable goals and policies.*
4. *That uses designated as "possible future" uses will require a Plan change prior to such development being undertaken.*
- * * *
17. *That development will be encouraged, providing it does not unduly diminish agriculture or forestry resources of the area, nor unduly increase related public service costs or taxes.*
18. *That private property investments will be protected from incompatible development which might likely diminish property value or unduly increase taxes.*
19. *That all planning decisions will take into account comments of affected private property owners, and the plans of those local, State or Federal agencies that may have an effect upon, or be affected by the decision.*
20. *That as a condition of making Plan changes, it will be determined that community attitudes and/or physical, social, economic, or environmental changes have occurred in the area or related areas since Plan adoption and that a public need supports the change, or that the original Plan was incorrect.*
21. *That in considering Plan revisions, alternative sites for the proposed uses will be considered, and it will be determined that the area*

proposed to be changed is more appropriate than other areas which might be available for the uses proposed.

22. *That major Plan changes which necessitate revisions and possible reprinting will follow a process similar to that utilized in Plan preparation and that such changes will generally not be made more frequently than two year intervals.*
23. *That minor Plan changes such as corrections or boundary adjustments and realignments will be made by the governing body at a public hearing.*
24. *That a public meeting will be held every year to consider whether Plan revisions are warranted, and that the public may petition for Plan review and revision at more frequent intervals.*
25. *That the County may hold public hearings to establish specific alignments or make interpretive adjustments to classification boundaries, providing the intent Of the Plan is not altered, and that such action will not be considered a change to the Plan.*
26. *That as additional goal related/required inventory becomes available, it will be taken into account in planning decisions.*
27. *That the County shall review Goal V resources in accordance with applicable State review standards when additional Goal V related/required inventories become available. Resources specifically recognized for review when additional information is available include mineral and aggregate resources, potential natural areas and recreation trails.*
28. *That the current historic resource inventory shall be updated as deemed necessary and reviewed under the established State Goal V review procedures when updated for possible Plan amendments related thereto.*

Response: The Comprehensive Plan is consistent with the Statewide Planning Goals and has been acknowledged by LCDC. Notice and coordination with appropriate governmental agencies will take place according to the Comprehensive Plan and implementing ordinances and regulations. The establishment of a map of destination resort-eligible lands and of a Destination Resort Overlay zone will comply

with the statutory requirements for siting of destination resorts. The Commission can find that the County process and procedures policies can be met.

3. Agricultural Lands Plan Policies.

1. *That partitioning of Range-designated parcels into 160 acres or more, and Agriculture or Forest-designated parcels into 80 acres or more may be processed by administrative review, providing there is reasonable assurance that the parcel(s) will be used for those respective purposes. Partitioning of parcels into smaller acreages will require Planning Commission approval. Implementing ordinance provisions governing such partitionings shall be in compliance with the applicable provisions of LCDC OAR 660-05-000.*
2. *That farm use shall mean the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. Farm use also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS 321, except for cultured Christmas trees. Current employment of land for farm use includes: (A) Farmland, the operation or use of which is subject to any farm-related government program; (B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (C) Land planted in orchards or other perennials, other than land specified in (D) hereinafter, prior to maturity; (D) Land not in an EFU zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been in orchards, cultured Christmas trees or vineyards for at least three years; (E) Wasteland, in an EFU zone, dry or covered with water, neither economically tillable or grazeable, lying in or adjacent to and in common ownership for any economic farm use; (F) Land under buildings supporting accepted farming practices; (G) Water impoundments lying in or adjacent to and in common ownership with farm use land; and (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use. Accepted farming practice*

means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

3. *That areas designated as Range will be recognized as being equally appropriate for farming (cultivated agriculture), if it is determined that such areas are suitable to be farmed.*
4. *That no new subdivisions will be authorized in the Christmas Valley area except in A-3 zoned area or except as permitted by ORS 215 for non-farm related dwellings.*
5. *That no new partitions will be authorized in Agriculture or Range-designated areas for the purpose of allowing either seasonal or permanent residences, except as permitted by ORS Chapter 215 and meeting the following criteria:*
 - a. *Is compatible with farm uses . . . ;*
 - b. *Does not interfere seriously with accepted farming practices . . . on vicinity lands, nor disrupt the integrity thereof;*
 - c. *Does not materially alter the stability of the overall land use pattern of the area;*
 - d. *Does not adversely affect critical wildlife habitat;*
 - e. *If situated upon land generally unsuitable for the production of farm crops and livestock, considering the terrain, soil or land conditions, drainage and flooding, vegetation, location and size of tract;*
 - f. *Complies with such other conditions as the governing body . . . considers necessary; e.g. that approval of a non-farm dwelling site will not result in the separation of water developments from related farmland; and*
 - g. *Is a suitable location for a homesite, taking into account access, services, fire protection, and other locational factors as described below.*
6. *That except as provided by ORS 215 for non-farm related dwelling uses, the minimum size of any new parcel created in an area designated*

Agriculture or Forest will be a "management unit," which is that minimum acreage necessary to operate, lease or otherwise maintain such land for agriculture or forestry.

7. *That in areas designated Agriculture or Range, two residences in the same ownership may be separated (partitioned), in whatever manner results in removing the least amount of land from production.*
8. *That the area between the present townsite of Plush and the rim to the west will be recognized for possible future development.*
9. *That housing for farm related uses may be constructed in conjunction and on the same ownership as an agricultural operation.*
10. *That compatible multiple uses, e.g. grazing, hunting, recreating, etc., are encouraged by the County on all publicly owned land.*
11. *That lands designated Urban, Rural/Recreation Center, Rural Residential or Farm Residential on the Plan map will be exempted from compliance with State Goal No. 3.*
12. *That services, such as water and sewage disposal, which extend into or pass through areas designated Agriculture on Plan maps will be appropriate only for the needs of agriculture, farm use and non-farm uses authorized under ORS 215.*
13. *That urban uses will be separated from agricultural activities by a transition area where roads, topographical change, vegetation, deeper lots, lower densities, or other physical conditions assure that development will be compatible with both urban and agricultural uses.*

Response: In accordance with ORS 197.455, the siting of destination resorts will not be allowed on high-value farmland. Therefore, high-value agricultural lands will be protected.

Additionally, in accordance with ORS 197.450, a Comprehensive Plan may provide for the siting of destination resorts or rural lands without taking an exception to statewide planning goals relating to agricultural lands. Therefore, the Commission can find that these Plan Policies will be met.

4. Forest Lands Plan Policies.

- 1. That partitioning of Range-designated parcels into parcels 160 acres or more, and Agriculture or Forest-designated parcels into 80 acres or more may be processed by administrative review, providing there is reasonable assurance that the parcel(s) will be used for those respective purposes. Partitioning of parcels into smaller acreages will require Planning Commission approval.*
- 2. That each parcel created by partitioning or subdividing in Forest-designated areas for either seasonal or permanent residential use shall meet the following criteria:*
 - a. That the use is compatible with forest uses.*
 - b. That the use will not interfere with accepted forest practices on vicinity lands nor disrupt the integrity thereof.*
 - c. That the use will not alter the stability of the overall land use pattern of the area.*
 - d. That the use will not adversely affect critical wildlife habitat.*
 - e. That the use is situated upon land generally unsuitable for production of commercial timber, and that loss of productive forest lands is minimized.*
 - f. That the location is a suitable site taking into account access, services and utilities, fire protection, and other factors.*
 - g. That the use can comply with such other conditions as the governing body determines necessary to insure compatibility.*
- 3. That optimum multiple uses, e.g. timber production, harvest, and reforestation, watershed management, grazing, fish and wildlife, recreation, etc., of forest areas will be encouraged.*
- 4. That forest or grazing lands may include parks, natural areas, archeological, geological, biological or botanical sites, critical big game habitat or habitat for threatened species, or other areas of significant nature, providing such land is not generally removed from commercial timber production or grazing unless the consequences of such have been made known to the County.*

5. *That non-forest related development will not limit or otherwise adversely affect timber production, harvest and reforestation, haulout, slash disposal, road construction, scarification, fertilization, pest or disease control or other timber management practices.*
6. *That residential development will be discouraged in productive forest and grazing lands and that fire breaks, transition or buffer areas will be provided by developers proposing conversion of timber or grazing land to residential uses.*
7. *That residential development will be prohibited in timberlands where there is virtually no fire protection or where residential development might likely increase fire hazards to timberlands.*
8. *That the number and width of forest roads will be established only to the extent necessary to accommodate anticipated traffic.*
9. *That before productive Forest designated land is classified for, or converted to other uses, it will be demonstrated that such alternative use is more beneficial to the County.*
10. *That transportation and utility corridors will be minimized.*
11. *That sustained timber yield will be encouraged, even by owners of small woodlots.*
12. *That the Oregon Forestry Department's "Fire Safety Consideration of Developments in Forestry Areas" will be recognized as a guideline for Plan implementation.*
13. *The County shall not, enact any regulations which are in conflict with the State Forest Practices Act or any cooperative management agreements entered into thereunder by the State Department of Forestry with other state agencies.*
14. *Implementing County regulations shall require compliance with the State Forest Practices Act for uses permitted on Forest lands.*

Response: In accordance with ORS 197.455, the siting of destination resorts will not be allowed on the most productive forest land. Therefore, highly productive forest lands will be protected.

Additionally, in accordance with ORS 197.450, a Comprehensive Plan may provide for the siting of destination resorts or rural lands without taking an exception to statewide planning goals relating to forest lands. Therefore, the Commission can find that these Plan Policies will be met.

5. Open Space, Scenic and Historic Areas and Natural Resources Plan Policies.

1. *Except in acknowledged exception areas such as Urban and Rural Residential areas, land partitionings and dwellings shall only be authorized in critical wildlife habitat areas as a Conditional Use and only approved in accordance with established standards designed and intended to provide for the maximum feasible protection of such resources.*
2. *That new uses within the Hart Mountain National Antelope Refuge Boundary will be limited to wildlife management, livestock grazing, and incidental recreation. No new residential, commercial or industrial uses will be allowed.*
3. *That the Oregon Department of Fish & Wildlife's "Fish & Wildlife Habitat Protection Plan for Lake County" will be recognized as a guideline for Plan implementation.*
4. *That the following concerns will be taken into account in protecting area visual attractiveness:*
 - a. *Maintaining vegetative cover wherever practical.*
 - b. *Using vegetation or other site obscuring methods of screening unsightly uses.*
 - c. *Minimizing the number and size of signs.*
 - d. *Siting developments to be compatible with surrounding area uses and to recognize the natural characteristics of the location.*
5. *That potential water resources, e.g., irrigation, geothermal and hydroelectric will be protected from encroachments which may limit development of those resources.*
6. *That the County will support maintaining minimum stream flows for all beneficial uses.*

7. *That parks, golf courses, campgrounds and similar private and public open space facilities will be developed only where demand exists and where land resources are not unduly diminished or damaged.*
8. *That sites or structures that have local, regional, statewide or national historical or cultural significance will be protected to the extent practical. The County's Inventory of Historic Resources shall be updated periodically as new information becomes available.*
9. *That quarried mineral and aggregate resources will be protected from encroaching incompatible uses that might likely limit development of those resources.*
10. *That appropriate buffer setbacks will be incorporated into river, stream, lake and reservoir developments.*
11. *That the value of riparian habitat will be recognized in considering proposals for land use changes along the banks of rivers, streams, lakes or reservoirs.*
12. *That watershed storage projects will be supported wherein the County determines that resulting beneficial uses outweigh potential adverse consequences.*
13. *That the County will determine support of habitat and nesting site preservation of endangered, threatened or vulnerable animal species only after consideration of economic and environmental consequences of both protection and non-protection.*
14. *That the County will consider the merits of proposals, and protect fish and wildlife habitat in Plan implementation decisions.*
15. *That the County will coordinate planning decisions with local, State and Federal agencies having water-quality management plans and programs.*
16. *Agriculture, grazing, forestry, parks and recreation uses shall be considered consistent with natural/scenic/open space values dependent on resource carrying capacities.*
17. *That the County will coordinate with State and Federal agencies and the general public in recreation trails planning.*

18. *Implementing regulations shall recognize all types of mining activities identified by ORS 517 (except as may be limited by ORS 215 in EFU zones), and shall be coordinated with the requirements administered by the State Department of Geology & Mineral Industries under ORS 517.750 to 517.990 and administrative rules administered by said state agency pursuant thereto. County regulations shall also recognize the limits applicable to county regulation of mining activities on federal lands, patented mining claims and on federal reserved mineral rights.*
19. *The County shall cooperate with the State Department of Fish & Wildlife in insuring the Nongame Wildlife Management Plan is implemented to the extent feasible within reasonable limits.*
20. *Implementing regulations shall include provisions for compliance with the provisions of ORS 377 in the matter of Scenic Highway areas as administered by the State Highway Division.*

Response: In accordance with ORS 197.455, the siting of destination resorts will not be allowed in an especially sensitive big game habitat as determined by the State Department of Fish and Wildlife. Additionally, in accordance with ORS 197.445, at least 50% of the site must be dedicated to open space. Therefore, the Commission can find that these Plan Policies will be met.

6. Air, Water and Land Resource Quality Plan Policies.

1. *County land use regulations shall require the compliance with all applicable State and Federal air, water, land quality, and noise regulations as a "condition of approval."*
2. *Compliance with noise standards administered by DEQ shall be a condition of approval, and the County shall maintain files of relevant permits by said agency as such information is provided thereby. The impacts of noise on adjoining and area land uses shall be considered in all land use decisions.*
3. *That planning decisions will recognize immediate and long-range effects on the quality of natural resources, and those uses which may likely have an adverse effect on resource quality may be prohibited.*
4. *That fish and wildlife habitats will be protected to the extent practical.*

5. *That conservation of water resources and protection of municipal watersheds will be encouraged.*
6. *That water quality will be protected by preventing encroachment into or filling of natural drainways or waterways and by prohibiting unneeded development in floodways.*
7. *That development in floodplains will meet Federal Insurance Administration requirements.*
8. *That the County's Solid Waste Management Plan will be recognized for its related technical data and used as a guideline for Plan implementation.*
9. *That alternatives to subsurface sewage disposal systems will be encouraged.*
10. *That development or land use(s) resulting in channeling, altering or filling streams will comply with State and Federal regulations.*
11. *That transportation and other sources of excessive levels of noise will be considered in evaluating the suitability of uses proposed in such an area as well as evaluating proposals for development that may create such noise levels.*
12. *Land use decisions shall take into account the need to promote and enhance the improvement of watershed conditions and facilities for all beneficial uses, particularly the needs for enhanced fish and wildlife habitat and recreational opportunities with an emphasis on riparian areas.*
13. *Limitations on developments relative to surface water "Withdrawals" set forth by the State Department of Water Resources shall be considered in the approval of all developments affected thereby.*
14. *The County shall cooperate with other local, state and federal agencies in programs designed to protect existing users of water from reductions in quantity or quality of supplies.*
15. *County planning programs shall function in such a manner as to encourage the involvement of county residents in decisions affecting water resources in the area.*

16. *Land use decisions by the County shall avoid creating additional conflicts over inadequate supplies of water from all resources, and shall, wherever possible, ensure the perpetual availability of water resources by protecting the resource from the demands of future uses where necessary.*
17. *The County shall promote the development and use of geothermal resources where development is accomplished in a manner consistent with conservation of the resource and without harming current water right holders.*

Response: The siting of destination resorts will be subject to provisions regulating air, water, and land resource quality. Therefore, the Commission can find that these Plan policies will be met.

7. Areas Subject to Natural Hazards and Disasters Plan Policies.

1. *That development in floodplains will meet Federal Insurance Administration requirements.*
2. *That development in areas designated on Plan maps as floodway, fringe areas will be limited to that which will minimize potential hazards and losses.*
3. *That structural development will be minimized in areas designated as floodways on zoning maps.*
4. *That flood-proof construction will be utilized in areas known to be subject to inundation.*
5. *That landslide, steep slopes, unstable soils, and other natural hazard potentials shall be recognized in all affected land use proposals within the limits of available information, and that development will not be permitted unless adequate provisions are assured to eliminate or mitigate the potential adverse impacts from such hazards. In areas such as known active landslide areas, development shall be prohibited.*
6. *That potential adverse effects of high groundwater will be considered before development in such areas is approved.*

7. *That land development will be provided safe and readily available access for fire and emergency equipment.*
8. *That subdividers will provide and adequate and realistic water supply (as determined by local fire departments), suitable for structural fire protection, and that additional fire safety provisions will be made when developing residences in forested areas.*
9. *That only waste materials generated in Lake County will be disposed within the County.*

Response: Lands mapped as eligible for destination resorts will not be located in floodplains or floodways; therefore, these Plan Policies are not applicable.

8. Recreation Needs Plan Policies.

1. *That park and recreation improvements will be provided in all areas where demand exists, sites can be obtained, financing is feasible, and improvements can be made compatible with surrounding development.*
2. *The State Comprehensive Outdoor Recreation Plan (SCORP), the State Park Systems Plan, and other relevant parks and recreation plans shall be utilized as guidelines for Plan implementation of the Recreation Needs element thereof.*
3. *That private enterprise will be given priority for developing recreational resources providing resource protection can be assured and proposed uses are compatible with surrounding development.*
4. *That the Plan will provide for diversification of outdoor recreation programs to more fully utilize existing facilities during all seasons.*
5. *That uses in the Warner Canyon Ski Area vicinity will be managed so as to be compatible with ski area objectives.*
6. *The need for park and recreation areas and facilities shall be considered in the review and approval of all developments likely to create a demand for such use, particularly large developments, and the provisions of such may be required as a condition of approval.*
7. *That park rehabilitation, replacements, minor betterment repairs and improvements, and other similar construction activities which do not impact land uses will not require County approval.*

Response: Destination resorts have been recognized by the state as important to providing diverse outdoor recreation facilities and to responding to the need for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. This application complies with the destination resort requirements of Statewide Planning Goal 8 and with ORS 197.435-467. Therefore, the Commission can find that these Plan Policies will be met.

9. Economic Development Plan Policies.

1. *That those employment opportunities will be accommodated that are compatible with existing and anticipated uses and will improve employment, providing desirable living conditions in the area are not diminished.*
2. *That the Lakeview Industrial Site Master Plan will be recognized as a supplement to the Land Use Plan.*
3. *The County's Overall Economic Development Plan (OEDP), Regional Economic Development Strategy Plan, and other relevant local, state and federal economic development plans and informational sources shall be utilized as guides in the implementation of the Plan's Economic Development Element.*
4. *That the Plan will attempt to accommodate employment opportunities near all communities.*
5. *That suitability of proposed industrial developments will be evaluated according to, but not limited to, the following factors: labor force, materials and market location; transportation, service and other community costs; relationship to the environment and present economic base, and similar considerations.*
6. *That the County will support the expansion of and increased productivity from existing industries and businesses as a means to further strengthen local and regional economic development.*
7. *That a moderate, orderly population growth will be encouraged.*
8. *Industries having few or no adverse effects on housing conditions, service costs, school and other public facility capacities and similar considerations will be encouraged.*

9. *The County shall maintain an ongoing up-to-date inventory of industrial and commercial lands within UGB areas in which the County has jurisdiction; such shall be maintained in compliance with OAR 660-09-000 as applicable.*
10. *Implementing regulations shall insure that there are adequate sites available to accommodate needed and desired commercial and industrial development, and, within the fiscal and other relevant resources, shall insure that necessary public facilities are available to serve such sites.*

Response: Destination resorts have been recognized by the state as important to contributing to the state's economic development and to encourage tourism as a valuable segment of our state's economy. The siting of destination resorts will provide employment opportunities and a variety of visitor-oriented recreational options that will stimulate growth in the county. Therefore, the Commission can find that these Plan Policies will be met.

10. Housing Plan Policies.

1. *That areas where housing is sound will be afforded sufficient protection to prevent encroaching incompatible land uses which may lead to the deterioration of such housing.*
2. *The Plan, and the implementing ordinances relative hereto, shall accommodate a range of housing prices and a variety of housing types and locations, particularly as related to those housing types identified as a need. Implementing ordinances shall be in compliance with state statutes and administrative rules governing such housing facilities as mobile home parks, housing for the elderly, the handicapped, and the infirm, and in regards to government assisted housing. Standards permitting "temporary" housing where warranted and in the best public interest for a variety of housing needs shall be enacted.*
3. *That an adequate housing supply will be encouraged through development of new housing units, maintenance or rehabilitation of existing units and removal of units unsuitable for habitation.*
4. *That housing will be encouraged in locations which complement existing development and make most efficient use of required facilities.*

5. *That cluster and similar developments will generally be encouraged (where access and services are capable of accommodating such), in order to minimize the amount of land utilized for non-production purposes.*
6. *That any housing development in the golf course vicinity other than partitions or subdivisions for single-family residences will be required to be submitted as a "planned development;" and that any development in the areas shall be required to provide a peripheral road, limited access, fencing, and/or deep lots, or make other provisions to minimize any adverse effects that development uses and agricultural activities in the area might have on one another.*
7. *Pursuant to the applicable provisions of OAR 660-08-000, applicable Plan policies and implementing ordinance provisions shall be so interpreted and implemented in such a manner as to assure the opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable lands within UGB's within which the County has jurisdiction, and to provide a greater certainty in the development process so as to reduce housing costs, both to existing and future residents.*

Response: Destination resorts provide opportunities for housing in rural areas otherwise ineligible for significant residential development. Therefore, the Commission can find that these Plan policies are met.

11. Public Services and Facilities Plan Policies.

1. *That development will be approved only where existing capacity or planned capability of public or private utilities and facilities can accommodate such, unless the development provides funding for the increased services which will be needed.*
2. *That public facilities and services will be designed and maintained so as to be visually attractive as possible.*
3. *That all public agencies will observe local ordinances regarding the development of new facilities and/or services.*
4. *That no services will be provided beyond the practical limitations of respective service systems.*

5. *That facility and service capabilities will be planned and constructed in accord with urban growth boundaries, and that service improvements will not be extended outside the boundaries, except as may be needed to provide service for industrial development as indicated on respective Plan maps.*
6. *That underground installation of utilities will be encouraged and that new utility improvements will be located in existing rights-of-way wherever possible.*
7. *The County recognizes the limitations of State and Federal funding programs for public services and facilities, but also recognizes the severe limitations of local resources to fully fund such needed services and facilities. Therefore, it shall be the policy of the County to endeavor, wherever possible, to insure that funding of such services and facilities be on a cost-sharing basis involving local resources, state and/or federal resources, and the benefiting private sector resources.*
8. *The County shall support and encourage legislative efforts to implement more equitable funding programs for all public services and facilities, including, but not limited to, the establishment of new tax bases for public entities, the reallocation of available public finances, the amendment of legislative limitations on the expenditure of certain public funds, the development of alternatives to the funding of certain public services and facilities, and similar efforts.*

Response: In accordance with ORS 197.450, a Comprehensive Plan may provide for the siting of destination resorts or rural lands without taking an exception to statewide planning goals relating to public facilities and services. Therefore, these Plan Policies are not applicable to this application.

12. Transportation Plan Policies.

1. *That the County Transportation Plan will be utilized as a guideline for Plan implementation.*
2. *That the Lake County/Lakeview Airport Master Plan and the Christmas Valley Airport Improvement Plan will be recognized as supplements to the Land Use Plan.*
3. *The publicly designated airports at Lakeview, Christmas Valley and Paisley shall be protected through the application of Airport Approach*

Zones as recommended and approved by the State Department of Aeronautics.

4. *That partitioning or subdividing will be authorized only where road improvements capable of meeting present or future access needs are provided for, or made available.*
5. *That physical, social and economic considerations will become an integral part of all transportation planning.*
6. *That roads created by partitioning and subdividing will be designated to tie into existing or anticipated road systems, and that roads (and adjacent curbs and sidewalks) proposed within a UGB may be required to be constructed to the standards required by that city within the urban growth area.*
7. *That subdivision and major partitioning activity will be approved only in those areas where roads meet minimum recommended standards and winter road maintenance can be provided for all-weather vehicular access.*
8. *That transportation improvements will avoid dividing existing economic farm units, unless no feasible alternative exists.*
9. *That air and rail facilities will be protected from encroaching incompatible uses that may have a limiting effect on their future use.*
10. *That the transportation facilities will be centralized to the extent practical.*
11. *That road or street rights-of-way and other public lands will generally not be vacated; but shall be considered for park, open space, utilities and all other possible public use should vacations be contemplated.*
12. *That development requiring access to arterials will be approved only after consideration is given to proposed land use(s) and traffic patterns in the area, not just the specific site. Area-wide needs supersede site-specific needs. Frontage roads and access collection points shall be provided wherever needed. Access control techniques will be used to coordinate traffic and land use patterns, and to help minimize possible negative impacts of growth.*

13. *That the number of access points to arterials will be kept to a minimum and cluster development of commercial and industrial activities encouraged.*
14. *That the cities and County support feasible programs to improve conditions for the transportation disadvantaged, and recognize potential pedestrian and bicycle demands in planning related decisions.'*
15. *The County shall coordinate and cooperate with the State Highway Division in the implementation of those projects applicable to the County in the periodic Six-Year Highway Improvement Plans. Implementing regulations shall be designed to accommodate highway improvement projects as much as possible.*
16. *The handbooks published by the State Department of Transportation entitle "Highway Compatibility Guidelines" and "Guidebook for Access Management" shall be utilized as guidelines in the implementation of relevant land use regulations.*

Response: The proposed amendments will not have a significant adverse impact on the County transportation plan nor will it prevent the County from meeting any of its citizens' transportation needs. Review and approval by the County traffic engineer at the time of construction can be made a condition of approval; therefore, these Plan Policies can be satisfied.

13. Energy Plan Policies.

General

1. *That residential and rural residential development will be encouraged to be located within or in close proximity to communities which can provide for shopping, employment, recreation, public transportation, education and other needs of such residents at the least expenditure of energy.*
2. *That high density residential, industrial and commercial development will be located along major transportation and utility routes to conserve energy.*

Public Involvement

3. *The Planning Department shall ensure that citizens, land owners, and lease holders are given ample opportunity to be involved in all phases of renewable energy planning and decision-making that occur under the County's jurisdiction. This involvement program shall provide for continuity of citizen participation, and information that enables citizens to identify and comprehend renewable energy issues.*
4. *Federal and state agencies exercising renewable energy responsibilities in the County shall be expected and encouraged to make use of the County's existing citizen involvement program whenever appropriate.*

Intergovernmental Coordination

5. *The County shall encourage the formulation of federal and state land and resource management policies which are consistent with the County's renewable energy policies. In this regard, the County shall endeavor to become an equal partner with the federal and state governments in determining the future of renewable energy in the County.*
6. *In view of the multiplicity of governmental jurisdiction over renewable energy resources, the County shall seek close coordination with all affected local, state and federal agencies. In this regard, the Planning Department shall maintain regular communications with federal and state agencies that are exercising renewable energy responsibilities in the County, and shall keep local officials informed of federal and state actions accordingly.*

Resource Assessment

7. *In order to identify and protect the undefined values of its renewable energy resources, the County will support continued resource assessment activities by the public and private sectors. In this regard, the Planning Department shall monitor such activities and collect additional resource data wherever possible for inclusion in the renewable energy resource inventory during updates or amendments.*
8. *In recognition of the public benefit derived from greater resource knowledge, the County may undertake its own resource assessment*

activities where such work is expected to ultimately benefit the local economy. The results of County-sponsored resource assessment will be given the widest possible dissemination in order to facilitate further renewable energy development consistent with County policies.

Resource Utilization

9. *The County supports utilization of renewable energy resources. However, such support is conditioned on a determination that the proposed use can be developed in a timely, orderly, and environmentally-sound manner, and that adequate protection of the resource is provided so as to ensure its continued availability and productivity over time.*
10. *When County facilities are to be renovated or newly constructed, consideration shall be given to the use of renewable energy resources in these facilities when such use is technically and economically advantageous. The County shall encourage other local entities to conduct similar renewable energy evaluations during their facility planning processes.*

Economic Development

11. *The County's support for renewable energy development shall be closely coordinated with its economic development program. The County believes that its resources may offer a significant comparative advantage to business and industry, and it shall support renewable energy projects that serve to retain or create employment opportunities in the County.*

Land Use

12. *For purposes of compliance with Statewide Planning Goal 5, the County believes that its renewable energy resources and the conflicting uses identified have equal merit. Implementation measures shall provide protection for conflicting uses by conditionally allowing renewable energy development, thereby balancing benefits to the County from both renewable energy resources and conflicting uses.*

Environmental Protection

13. *In all cases the County's support for renewable energy development shall be conditioned upon satisfactory evidence that sufficient environmental safeguards are provided. Environmental concerns of the County shall include, but not be limited to: air quality, water quality, noise, water consumption, fish and wildlife, vegetation, historic and cultural resources, visual and scenic qualities, and public safety and health.*

Public Facilities and Services

14. *In addition to Policy 13, in all cases the County's support for renewable energy development shall also be conditioned upon a lack of adverse impacts to public facilities and services. In this regard, the County's concerns shall include, but not be limited to: roads, drainage, schools, law enforcement, fire protection, water supply, sewage disposal, solid waste disposal, and general administrative services.*
15. *The Planning Department, in consultation with the Road Department, shall monitor renewable energy activities in order to forecast impacts to public facilities and services; and shall prepare capital improvement or related plans accordingly so as to support renewable energy development in a timely and orderly manner with a level of facilities and services appropriate to such development.*

Fiscal Responsibilities

16. *In recognition of the specialized demands that may be placed on the County by renewable energy developers, and the benefits that will accrue to such developers from County services and facilities, the County shall require said developers to defray County expenses associated with processing renewable energy permit requests, conducting related studies or monitoring programs, or providing services directly required by a renewable energy project. This policy shall also extend to any government agency engaged in renewable energy development.*

Response: Consolidation of a variety of land uses within a destination resort site maximizes energy conservation through efficient land use. Therefore, the Commission can find that these Plan policies are met.

14. Urbanization Plan Policies.

1. *That urban growth boundaries (UGB's) will be used as guidelines to plan services and consider suitability of annexation proposals.*
2. *That urban uses will be directed away from productive timber, grazing or agriculture areas in order to avoid the conversion of such areas to urban uses.*
3. *That establishment and change of the UGB be based upon the following:*
 - a. *Demonstrated need to accommodate long-range urban population growth requirements.*
 - b. *Need for housing, employment opportunities and/or commerce.*
 - c. *Orderly and economic provision of public facilities and services.*
 - d. *Maximum efficiency of land uses within and on the fringe of the existing urban area.*
 - e. *Environmental, energy, economic and social consequences.*
 - f. *Retention of productive agricultural land.*
 - g. *Compatibility of the proposed urban uses with nearby agricultural activities and vice versa.*
4. *That residential areas be located away from activities which generate high traffic counts and/or truck traffic and which might otherwise be hazardous or incompatible with residential uses.*
5. *That an orderly, efficient and economic transition will be made in converting rural lands to urban development, and that isolated or disconnected urban development will be prohibited.*
6. *That residential growth will be encouraged primarily around urban and rural community centers.*

7. *That additional growth will be encouraged by developing vacant areas within the cities before annexing additional land.*
8. *That commercial development will be concentrated so as to strengthen existing commercial activities.*
9. *That uses with undesirable noise, smoke, odor, visual and other objectionable characteristics, may be prohibited from locating in areas where such conditions are incompatible with surrounding area development.*
10. *That rural residential areas will be considered suitable for urban residential development if and when public water and/or sewerage services are made available.*
11. *That minimum acreage in the area designated Rural Residential in the Warner Junction vicinity will be 3 acres.*
12. *That subdividing of land designated on Plan maps as Rural or Recreation Center will be limited to land zoned A-3 or other more permissive zone classifications.*
13. *That subdividing or partitioning in rural centers will generally only be allowed abutting existing rural center uses except as may be approved according to the provisions of ORS 215.*
14. *County regulations applicable to land use and development within an urban growth boundary area shall be coordinated with and be as similar to the corresponding regulations of the affected city or town as possible to insure maximum coordination and facilitate uniform development throughout the subject urban area.*

Response: In accordance with ORS 197.450, a Comprehensive Plan may provide for the siting of destination resorts or rural lands without taking an exception to statewide planning goals relating to urbanization. Therefore, these Plan Policies are not applicable to this application.

IV. Compliance with Lake County Zoning Ordinance.

Article 28 of the Lake County Zoning Ordinance ("LCZO") governs zoning amendments.

LCZO 28.07. Under LCZO 28.07, an amendment to the text or map may be authorized provided that the applicant demonstrates compliance with the following criteria:

Compliance with Comprehensive Plan. In considering an amendment to an ordinance or map, the Planning Commission and Board of Commissioners shall seek to determine the following:

- A. *That there has been a substantial change in the character of the area since the zoning was adopted.*

Response: Since the zoning in Lake County was adopted, destination resorts have become a popular feature in Oregon, providing overnight lodging, restaurants, meeting facilities and developed recreational facilities, along with some full-time residences. The state has recognized the importance of destination resorts in encouraging tourism and contributing to the state's economic development, and has enacted provisions to allow resorts while still protecting high-value farmland and the most productive forest land. In order to implement the statutory provisions for siting of destination resorts, an amendment to the text of the Lake County Comprehensive Plan and Zoning Ordinance, as well as adoption of a map of destination resort-eligible lands, is necessary.

- B. *That the level of development in the other locations has reached the point whereby additional land is needed for the proposed use(s), and that the area of the proposed change can best facilitate such needs.*

Response: Lake County has never mapped the areas eligible for destination resort siting. In order to implement the statutory provisions for siting of destination resorts, an amendment to the text of the Lake County Comprehensive Plan and Zoning Ordinance, as well as adoption of a map of destination resort-eligible lands, is necessary.

- C. *That the zoning adopted for the area is in error.*

Response: Lake County has never established a Destination Resort Overlay Zone for the areas eligible for destination resort siting. In order to implement the statutory provisions for siting of destination resorts, an amendment to the text of the Lake County Comprehensive Plan and Zoning Ordinance, as well as adoption of a map of destination resort-eligible lands, is necessary.

V. Compliance with Statewide Planning Goals.

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Response: Goal 1 requires local governments to adopt and administer programs to ensure citizen involvement in the land use planning process. LCDC acknowledged the County's citizen involvement program for comprehensive plan amendments and zone changes. The County's approved process insures citizen participation and will be used during the decision-making process for this PAPA application.

This application requests a change in the County Plan and requires two public hearings in accordance with County land use policies. Therefore, opportunities for citizen involvement are provided before and during the public hearings. The Commission can find that the requirements of Goal 1 have been met.

Goal 2: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Response: Goal 2 requires that the County establish a factual basis for its decisions and assure that such decisions are coordinated with the appropriate governmental agencies. The County Plan is consistent with the Statewide Planning Goals and has been acknowledged by LCDC. Notice and coordination with appropriate governmental agencies will take place according to the County Plan and implementing ordinances and regulations. The Commission can find that the County process and procedures comply with Goal 2.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

Response: In accordance with ORS 197.455, destination resorts shall not be sited on high-value agricultural land. Additionally, ORS 197.450 allows for the siting of a destination resort on rural lands without taking an exception to Goal 3. Therefore, Goal 3 is satisfied.

Goal 4: Forest Lands.

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Response: In accordance with ORS 197.455, destination resorts shall not be sited on highly productive forest land. Additionally, ORS 197.450 allows for the siting of a destination resort on rural lands without taking an exception to Goal 4. Therefore, Goal 4 is satisfied.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

Response: The amendments are consistent with Goal 5 because Goal 8 and ORS 197.467 require the preservation of designated Goal 5 resources located on any tract used for a destination resort through conservation easements. The proposed "Destination Overlay Zone: DRO" provisions replicate this requirement.

A Goal 5 analysis is not required because there are no inventoried Goal 5 resources within the newly mapped destination resort areas, nor are there inventoried Goal 5 resources that otherwise "could be" affected by proposed destination resort uses. *See Johnson v. Jefferson County*, 221 Or App 156, 189 P3d 30 (2008). The *Johnson* case does not require any new analysis beyond what is expressly stated in the applicable DLCD rules regarding Goal 5. Rather, the case merely applies OAR 660-023-0250(3), which provides that local governments "are not required to apply Goal 5 to a plan amendment unless the plan amendment affects a Goal 5 resource." The rule goes on to explain that a plan amendment "affects a Goal 5 resource" only if it either: (a) creates or amends a Goal 5 resource list or other local code regarding Goal 5, or (b) allows new uses that "could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list." In *Johnson*, LUBA applied this rule and held that the county failed to adequately consider whether a road to the proposed destination resort that would cross inventoried big game habitat "could be" a conflicting use with that resource. LUBA and the Court of Appeals both rejected petitioners' arguments that the resorts "could be" conflicting uses with the Metolius River, which is two to three miles away from the mapped destination resort areas.

In summary, the *Johnson* case does not require any additional analysis beyond what is required in the Goal 5 rule, which does not require application of Goal 5 in mapping a destination resort unless the new destination resort use could be a conflicting use with an inventoried Goal 5 resource.

Therefore, Goal 5 is satisfied.

Goal 6: Air, Water and Land Resources Quality.

To maintain and improve the quality of the air, water and land resources of the state.

Response: The amendments are consistent with Goal 6 because the proposed "Destination Resort Overlay Zone: DRO" provisions impose siting standards requiring the maintenance of important natural features, including streams, rivers, and significant wetlands. It also regulates uses and development within the 100 year floodplain and on slopes exceeding 25% as specified in Goal 8 to minimize the adverse environmental impacts of the resort on the site and the surrounding area.

Goal 7: Areas Subject to Natural Hazards.

To protect people and property from natural hazards.

Response: The amendments are consistent with Goal 7 because the proposed "Destination Resort Overlay Zone: DRO" provisions impose siting standards that regulate uses and development within the 100 year floodplain and on slopes exceeding 25% as specified in Goal 8, in order to minimize the adverse environmental impacts of the resort on the site and the surrounding area, particularly in areas subject to natural hazards.

Goal 8: Recreational Needs.

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Response: Goal 8 sets forth two steps for counties seeking to implement the Goal's destination resort siting program. First, the county must adopt a map identifying areas eligible for destination resort siting. For the following reasons, the proposed map meets all of the relevant requirements of ORS 197.455 for designating destination resort-eligible lands. Specifically, the map excludes:

A. Areas within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential sites are limited to those necessary for the staff and management of the resort.

B. On a site with 50 or more contiguous acres of unique or prime farmland identified and mapped by the United States Natural Resources Conservation Service, or its predecessor agency.

C. On a site within three miles of a high value crop area unless the resort complies with the requirements of ORS 197.455(6) in which case the resort may not be closer to a high value crop area than one-half mile for each 25 units of overnight lodging or fraction thereof.

D. On predominantly Cubic Foot Site Class 1 or 2 forestlands as determined by the State Forestry Department, which are not subject to an approved goal exception.

E. In an especially sensitive big game habitat area as determined by the State Department of Fish and Wildlife in July 1984 or as designated in an acknowledged comprehensive plan.

Second, the county must adopt regulations to ensure that destination resorts are compatible with the site and with adjacent land uses through certain measures. The proposed Lake County Zoning Ordinance, entitled "Destination Resort Overlay Zone: DRO," and attached as **Exhibit B**, meets step two of Goal 8's requirements for the following reasons:

- The Goal 8 requirement that uses and development in destination resorts be limited to those that are consistent with the goal is satisfied by provisions which limits the uses allowed in destination resorts to those allowed by Goal 8.
- The requirement that important natural features be maintained is satisfied by provisions which include language duplicating that found in Goal 8.
- The requirement that designated Goal 5 resources be protected during destination resort development by use of a conservation easement is satisfied by inclusion of provisions requiring conservation easements.
- The requirement that buffers and setbacks be required to avoid or minimize adverse effects on land uses on surrounding lands, particularly intensive farming operations, is satisfied by the setback requirements.

That section duplicates the relevant section of Goal 8 by requiring the county to determine that all buffers and setbacks proposed to separate a resort from surrounding lands be of adequate size to minimize impacts on those lands.

- The requirement that prohibits the use or operation in conjunction with the resort of a portion of a tract that is not part of the proposed destination resort site is satisfied by provisions that allow such portion only if it is on the boundary of the tract and constitutes less than 30% of the total tract.
- The requirement that a mechanism be included to assure that developed recreational facilities, visitor oriented accommodations, and key facilities intended to serve the entire development are physically provided or guaranteed is satisfied by provisions, which duplicate the Goal 8 provision and allows the county to require security through surety bonding or substantially equivalent financial assurances.
- The requirement for measures regulating uses and alterations within the 100 year floodplain and on slopes exceeding 25% is satisfied by development standards in other sections of the Lake County Zoning Ordinance.

Goal 9: Economic Development.

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Response: The intent of Goal 9 is to ensure that the local comprehensive plan and policies contribute to the stable and healthy economy of all regions of the state. The proposed amendments will provide employment opportunities and a variety of visitor-oriented recreational options to encourage tourism and will stimulate growth in the county, as acknowledged by ORS 197.440.

Goal 10: Housing.

To provide for the housing needs of citizens of the state.

Response: The proposed amendments are consistent with Goal 10 because destination resorts provide opportunities for housing in rural areas otherwise ineligible for significant residential development.

Goal 11: Public Facilities and Services.

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Response: The proposed "Destination Resort Overlay Zone: DRO" language requires developers to provide sewer and water facilities at the resort. Goal 8 allows counties to provide for the siting of destination resorts on rural lands without taking an exception to Goal 11. Therefore, Goal 11 is met.

Goal 12: Transportation.

To provide and encourage a safe, convenient and economic transportation system.

Response: The proposed map amendments will not have a significant adverse impact on the County transportation plan nor will it prevent the County from meeting any of its citizens' transportation needs. Review and approval by the County traffic engineer at the time of construction can be made a condition of approval. There were no Goal 12 or TPR issues raised or addressed either at LUBA or at the Court of Appeals in the *Johnson* case. *Johnson*, 221 Or App 156. Therefore, the requirements of this Goal can be satisfied.

Goal 13: Energy Conservation.

To conserve energy.

Response: The proposed amendments are consistent with Goal 13 because consolidation of a variety of land uses within a destination resort site maximizes energy conservation through efficient land use.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use.

Response: ORS 197.450 allows for the siting of a destination resort on rural lands without taking an exception to Goal 14. Urban-level development associated with destination resorts will be confined to the resort boundaries and subject to the siting regulations set forth in the proposed "Destination Resort Overlay Zone: DRO" provisions. Therefore, this Goal is met.

VI. Conclusion.

For the above-stated reasons, the application is in compliance with applicable criteria, and should be approved by the Planning Commission.

XIII. DESTINATION RESORT OVERLAY - Destination resorts have become a popular feature in Oregon, providing overnight lodging, restaurants, meeting facilities and developed recreational facilities, along with some full-time residences. The state has recognized the importance of destination resorts in encouraging tourism and contributing to the state's economic development, and has enacted provisions to allow resorts while still protecting high-value farmland and the most productive forest land. In order to tap this economic potential and provide additional recreational opportunities to visitors, the County has determined that destination resorts should be allowed in the county when consistent with Statewide Planning Goals and Administrative Rules.

ORS 197.465 requires that a Comprehensive Plan that allows for siting of a destination resort include implementing measures which map areas where a resort is permitted, limit uses and activities to those permitted pursuant to ORS 197.455, and assure that developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units.

The county must adopt a map consisting of lands that are eligible for siting a destination resort, based on reasonably available information. The adopted map is the sole basis for determining whether tracts of land are eligible for destination resort siting. However, just because a property is mapped as being eligible does not mean that a destination resort is permitted outright in that location. In order to be approved, a proposal for a resort must comply with standards and criteria contained in the Zoning Ordinance.

A final map showing the areas that are eligible for siting of destination resorts was prepared. Destination resort-eligible lands shall be limited to the areas shown on the "Lake County Destination Resort Map of Eligible Lands," which is adopted as part of the Comprehensive Plan. Destination resorts may only be sited in areas shown on the map.

ARTICLE ___: DESTINATION RESORT OVERLAY ZONE: DRO

Section __.01: Destination Resort Overlay Zone. The purpose of the Destination Resort Overlay zone is to provide a process for the siting of destination resorts on rural lands that have been mapped by the County as eligible for this purpose. The Destination Resort Overlay is intended to provide for properly designed destination resort facilities which enhance and diversify the recreational opportunities and economy of Lake County. The Destination Resort Overlay will ensure resort development that complements the physical attractiveness of an area without significant adverse effect on commercial farming and forestry operations or the significant natural and cultural features which contribute to the setting.

Section __.02: Applicability. The provisions of this Article shall apply solely to development which meets the standards set forth in Sections __.04 and __.05 [Standards/Standards for Small Destination Resorts]. Other provisions of this Code shall remain in full force and effect, except as otherwise specified herein.

- A. Development which meets the standards in Section __.04 [Standards] shall be referred to hereafter as destination resorts, and development which meets the standards in Section __.05 [Standards for Small Destination Resorts] shall be referred to hereafter as small destination resorts. Where special standards or criteria are not specifically called out for small destination resorts, the standards for destination resorts shall apply.
- B. For a destination resort application, the standards and procedures of this Article shall govern in cases where they conflict with the standards or procedures of the underlying zone.
- C. Destination resorts shall be allowed only on tracts mapped by the County as eligible for destination resort siting and designated as such in the Comprehensive Plan.

Section __.03: Definitions. The following definitions are applicable to this Article ___ [Destination Resort Overlay Zone]:

- A. "Developed recreational facilities" means improvements constructed for the purpose of recreation and may include but are not limited to golf courses, tennis courts, playing fields, interpretive centers, wildlife observation shelters, nature trails, swimming pools, marinas, ski trails, snowmobile trails, bicycle paths, and indoor and outdoor sport facilities.
- B. "Open space" means any land that is retained in a substantially natural condition, or is improved for outdoor recreational uses such as golf courses, playing fields, hiking or nature trails or equestrian or bicycle paths, or is specifically required to be protected by a conservation easement. Open spaces may include ponds, lands protected as important natural features, lands preserved for farm or forest use, required landscaped areas and lands used as buffers. Open space does not include residential lots or yards, streets or parking areas.

- C. "Overnight lodgings" means permanent, separately rentable accommodations which are not available for residential use. Overnight lodgings include hotel rooms, lodges, cabins and time-share units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation system. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.
- D. "Self-contained development" means a development for which community sewer and water facilities are provided onsite and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A "self-contained development" shall have developed recreational facilities provided onsite.
- E. "Tract" means a lot or parcel or more than one contiguous lot or parcel in a single ownership. A tract on which a destination resort is sited may include property that is not included in the destination resort if the property to be excluded is on the boundary of the tract and constitutes less than 30 percent of the total tract.
- F. "Visitor-oriented accommodations" means overnight lodging, restaurants and meeting facilities which are designed to provide mainly for the needs of visitors rather than area residents.

Section __.04: Standards. A destination resort is a self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. A destination resort shall meet the following standards:

- A. Development shall be located on a tract that contains a site of at least 160 acres.
- B. Development shall include meeting rooms, restaurants with seating for at least 100 persons, and a minimum of 150 separate rentable units for overnight lodging, oriented toward the needs of visitors rather than area residents. However, the rentable units may be phased in as follows:
1. A total of 150 units of overnight lodging shall be provided as follows:
 - a. At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units.
 - b. At least 50 units of the remaining 100 required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurances within 5 years of the initial lots sales.

- c. The remaining required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurance within 10 years of the initial lot sales.
 2. The number of units approved for residential sale shall not be more than 2 1/2 units for each unit of permanent overnight lodging provided under subparagraph (a) of this subsection.
 3. If the developer of a resort guarantees the overnight lodging units be required under subparagraphs (b) and (c) of this subsection through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurances.
- D. All required developed recreational facilities, key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or guaranteed through surety bonding or equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding.
- E. At least \$7 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.
- F. Commercial uses are limited to those types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.
- G. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.
- H. If the site includes a resource site designated for protection in Section ___ of the [Lake County Comprehensive Plan] pursuant to open spaces, scenic and historic areas and natural resource goals in Section ___ of the [Lake County Comprehensive Plan], that tract shall be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase of which the resource site is a part.
- I. Riparian vegetation within 100 feet of lakes, rivers, streams and designated significant ("IC") wetlands shall be retained.

- J. All destination resorts shall contain buffers and setbacks of sufficient size to separate the resort from surrounding lands and to minimize impact on those lands.

Section __.05: Standards for Small Destination Resorts. In lieu of the standards set forth in Section __.04 [Standards], the standards set forth in this section may be applied to a destination resort on land that is not defined as agricultural or forest land under any statewide planning goal, on land where there has been an exception to any statewide planning goal with respect to agricultural lands, forestlands, public facilities and services and urbanization, or on secondary lands as the Land Conservation and Development Commission deems appropriate.

Developments which meet the following standards shall be considered small destination resorts:

- A. The resort shall be located on a tract that contains a site of at least 20 acres.
- B. The resort must provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing stream.
- C. At least 25 units, but not more than 75 units, of overnight lodging shall be provided. A restaurant and meeting room with at least one seat for each unit of overnight housing shall be provided.
- D. At least \$2 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.
- E. Residential uses shall be limited to those necessary for the staff and management of the resort.
- F. The resort shall be constructed and located so that it is not designed to attract highway traffic. Resorts shall not use any manner of outdoor advertising signing except:
 1. Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and
 2. Onsite identification and directional signs.
- G. Commercial uses are limited to those types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.
- H. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.

- I. If the site includes a resource site designated for protection in Section __. __ of the [Lake County Comprehensive Plan] pursuant to open spaces, scenic and historic areas and natural resource goals in Section __. __ of the [Lake County Comprehensive Plan], that tract shall be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase of which the resource site is a part.
- J. All destination resorts shall contain buffers and setbacks of sufficient size to separate the resort from surrounding lands and to minimize impact on those lands.

Section __. __: Permitted Uses.

- A. The uses permitted in this zone are those allowed by Goal 8 and ORS 197.435 to ORS 197.467.

Section __.06: Application Procedures and Contents. Destination Resort Development shall be governed by Article 23, Site Plan Review Procedures.



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Web Address: <http://www.oregon.gov/LCD>



July 6, 2009

Kenneth Gerschler
Lake County Planning Office
513 Center Street
Lakeview, OR 97360

RE: Local File 1213-CP/ZTA – Proposal to amend the Lake County
Comprehensive Plan and create a new Destination Resort Overlay Zone.

Dear Mr. Gerschler:

The department would like to thank Lake County for the opportunity to review and comment on the land use proposal referenced above. The applicant in this case is requesting the county adopt comprehensive plan language and an implementing overlay zone to provide for consideration of destination resort proposals. A map of Lake County showing lands eligible for resort siting will also be necessary as the third element of a local destination resort planning program. It is our understanding that the applicant has not provided the county with a map and intends to do so at a later date.

Consideration of a destination resort proposal can be a complicated land use exercise. The local planning program must be established consistent with the statutory provisions at ORS 197.435 thru 197.467. Other provisions of Statewide Planning Goals 5 and 8 may apply also, as well as administrative rule provisions such as those located at OAR 660-033-0120 excluding destination resorts from high-value farmland and OAR 660-012-0060, which requires transportation issues to be addressed.

I have included a copy of the Goal 8 map showing areas excluded from the Goal 8 siting process. Rather than show the entire state I have included the portion that contains Lake County. Hopefully the county will find this helpful.

Thank you for this opportunity to comment. We request that this letter be entered into the record of these proceedings and that we receive a copy of the decision. If additional information is provided at the hearing, we ask that the hearing be continued, pursuant to ORS 197.763(4)(b), to allow us time to review the new information and respond if necessary. If you have any questions please feel free to contact me at (541) 318-2890.

Respectfully,



Jon Jinings
Regional Representative

attachment

Cc: Corinne S. Celko, Esq.
Doug White, DLCD
Patty Snow, ODFW
Devon Hearing, ODOT




MAP OF
STATE OF OREGON
SHOWING

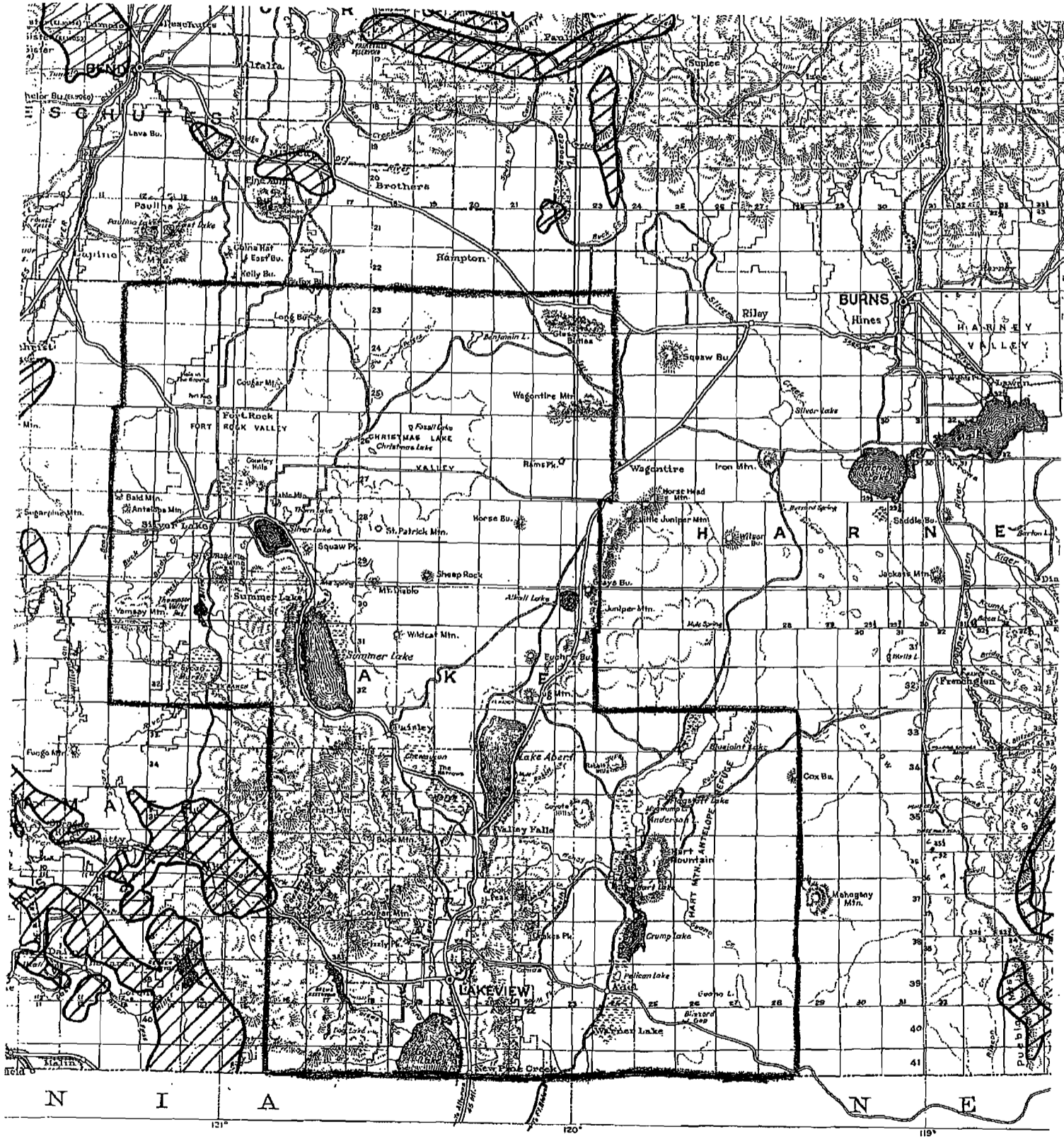
AREAS EXCLUDED FROM THE
GOAL 8 RESORT SITING PROCESS

DECEMBER 1984

(NOTE: THIS MAP IS GENERALIZED AND IS TO BE REFINED BY COUNTIES.
OTHER AREAS ARE ALSO EXCLUDED. SEE TEXT OF GOAL 8.)

LEGEND

-  30 MILE BOUNDARY AROUND MAJOR METROPOLITAN
-  ESPECIALLY SENSITIVE BIG GAME HABITAT
-  CUBIC FOOT SITE CLASS 1 & 2 FOREST LAND



NOTICE IS HEREBY given that the Lake County Planning Commission will hold a public hearing on Tuesday, July 21, 2009, at 6:00 P.M., at the Board of Commissioners Meeting Room, 513 Center Street, Lakeview Oregon, to receive public comment and testimony on application 1213-CP/ZTA which seeks to amend portions of the Lake County Zoning Ordinance and Comprehensive Plan. The proposed amendments would change wording of the current review procedures and site selection criteria for Destination Resorts. The relevant sections of regulation relating to the application are Article 28 of the Lake County Zoning Ordinance, the Lake County Comprehensive Plan, Oregon's Planning Goals and O.R.S. 197.435 through 197.465. Copies of the application can be obtained from the Lake County Courthouse for a nominal fee or for no cost if provided electronically over the Internet. For obtain a copy of the application, visit the Lake County Courthouse at 513 Center Street, Lakeview, Oregon. Alternatively, telephone (541) 947-6032 or E-mail planning@co.lake.or.us

At the meeting, the Planning Commission will review the proposal before making a recommendation to the Lake County Board of Commissioners. If parties have needs requiring special arrangements, please call 947-6032 at least 24 hours prior to the meeting.

Published twice July 2009, Ken Gerschler, Planning Director, Lake County



534 SW Third Avenue, Suite 300, Portland, OR 97204 • 503-497-1000 • fax 503-223-0073 • www.friends.org

Southern Oregon Office • PO Box 2442 • Grants Pass, OR 97528 • 541-474-1155 • fax 541-474-9389

Willamette Valley Office • 189 Liberty Street NE, Suite 307A • Salem, OR 97301 • 503-371-7261 • fax 503-371-7596

Central Oregon Office • PO Box 242 • Bend, OR 97709 • 541-382-7557 • fax 541-317-9129

July 20, 2009

Lake County Planning Commission
513 Center Street
Lakeview, Oregon 97630
Delivered via facsimile and email

re: **File No.: 1213-CP/ZTA**
Post-Acknowledgement Plan Amendment(PAPA) to Allow Siting of Destination Resorts

Dear Planning Commissioners,

On behalf of 1000 Friends of Oregon, thank you for the opportunity to comment on the above-referenced text amendment. 1000 Friends of Oregon is a nonprofit, charitable organization founded in 1975 by Governor Tom McCall and Henry Richmond, that works with Oregonians to enhance our quality of life by building livable urban and rural communities, protecting family farms and forests, and conserving natural and scenic areas.

We respectfully urge the Planning Commission to recommend significant revision or denial of the proposed amendment for the reasons outlined below.

1. ***Goal 5 Compliance (OAR 660-023-0250(3)); Compliance with Lake County Comprehensive Plan Policies (LCCP) to Protect Open Space, Scenic and Historic Areas and Natural Resources***

The proposal does not adequately address compliance with Goal 5 and therefore appears to violate OAR 660-023-0250(3) which requires the amendment to demonstrate compliance with Goal 5 if it:

“creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5; [or]

“allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list”.

A Goal 5 analysis of destination resort impacts must be completed before the Planning Commission can find that no conflict with the County’s Goal 5 resources will occur because the PAPA “allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list”.

The Lake County Comprehensive Plan (LCCP) is acknowledged by the Land Conservation and Development Commission as in compliance with Statewide Planning Goal 5. That acknowledgement is based in part on numerous LCCP natural resource protection policies.

The PAPA fails to address several significant policies of the acknowledged LCCP, including policies to protect water resources, fish and wildlife habitat, agricultural and forest carrying capacity, threatened or vulnerable species, and a requirement to develop golf courses and similar private and public open space facilities “only where demand exists and where land resources are not unduly diminished or damaged”.

1000 Friends of Oregon
Lake County File 1213-CP/ZTA
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Page 2

We echo the recommendations of the Oregon Department of Wildlife in its July 21, 2009 letter to the Lake County Planning Department on the proposed text amendment.¹

We particularly recommend that the County:

- adopt a requirement for no net loss of fish and wildlife habitat quality and quantity;
- update its Goal 5 resource inventories and complete the Goal 5 review process including updates for sage grouse leks, bald eagle nests, mule deer migration corridors, and wetland and riparian protection;
- withdraw all Goal 5 resources from the destination resort overlay.

2. *Sites from Which Destination Resorts Must be Excluded (ORS 197.455)*

The proposed amendment does not describe those sites from which destination resorts will be excluded in Lake County. The list of such sites must at a minimum meet the siting requirements of ORS 197.455, which prohibits destination resorts from, among other places, any site within 3 miles of a high value crop area.

Sites that are ineligible for destination resorts must be mapped as such – this includes areas of high value crop land within and on the borders of the county.^{2,3,4}

3. *Compliance with Goal 4; LCCP Forest Lands Policies; Wildfire Risk; Demonstration that Alternative Use is More Beneficial to the County*

The PAPA fails to adequately address several significant Forest Lands policies of the acknowledged LCCP. Particular examples are described below.

a. The LCCP imposes strict protections to reduce wildfire risk:

“residential development will be prohibited in timberlands where there is virtually no fire protection or where residential development might likely increase fire hazards to timberlands”.

The placement of permanent or seasonal residential areas in forests increases the costs of wildland fire protection by changing or restricting the tactics that are used to fight a wildfire and by redirecting fire-fighting efforts away from protecting forest resources. The Oregon Department of Forestry has found that the cost of suppressing large wildfires increases significantly when dwellings are threatened. On average, fires that threaten dwellings are 48.3% more expensive to suppress than similar large fires without dwellings.⁵

When the wildland-urban interface is extended into the forest, fire-fighting resources can be diverted to the protection of homes and their residents while millions of dollars worth of timber burn and forest aesthetic, wildlife and watershed resources are destroyed.

¹ ODFW, 2009. Letter from Craig Foster, ODFW District Wildlife Biologist, Lakeview Field Station, to Kenneth Gerschler, Lake County Planning Department. re File No. 1213-CP/ZTA. July 21, 2009. 2 pp.

² *Boyer v. Baker County*, 35 Or LUBA 223 (1998).

³ *Id.*

⁴ *Alliance for Responsible Land Use in Deschutes County v. Deschutes County*, 115 Or.App. 621, 626, 839 P.2d 746, 748 (Or.App., 1992).

⁵ ODF, 1993. *Wildfire prevention and control in areas of residential forest land development: An analysis of fire data*. Oregon Department of Forestry, Salem OR.

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Lake County File 1213-CP/ZTA
July 20, 2009
Page 3

Fire suppression efforts and costs are driven by forest health (insect and disease damage) and weather (drought and lightning storms) and cannot be predicted with certainty. Over 7.5 million acres of forestland in eastern and southern Oregon are suffering from poor forest health and remain untreated.

We strongly recommend that the PAPA be revised to prevent placement of destination resorts in areas of the county that are at high risk for wildfire as determined by the Oregon Department of Forestry.

b. The LCCP provides:

“before productive Forest designated land is classified for, or converted to other uses, it will be demonstrated that such alternative use is more beneficial to the County”.

We recommend that the PAPA be revised to clarify that this policy must be addressed when resorts are considered in Forest designated land.

4. *Water Resource Impacts; LCCP Open Space, Scenic and Historic Areas and Natural Resources Plan Policies; LCCP Air, Water, and Land Resource Quality Plan Policies*

A single destination resort can have the same or greater impact on water resources as a medium-sized city. For example, the developers of the proposed Thornburgh resort in Deschutes County estimate its daily water usage at 6.43 million gallons of water per day. This is equivalent to the water usage of the entire city of Bend on a winter's day.

The LCCP requires that

“potential water resources, e.g. irrigation, geothermal and hydroelectric will be protected from encroachments which may limit development of those resources.”

and

“land use decisions by the County shall avoid creating additional conflicts over inadequate supplies of water from all resources, and shall, wherever possible, ensure the perpetual availability of water resources by protecting the resource from the demands of future uses when necessary.”

We recommend that the PAPA be revised so that it adequately addresses these acknowledged LCCP policies.

5. *Resorts Should Remain a Type II Conditional Use in Lake County; LCCP critical wildlife habitat protection policy*

We recommend that destination resorts remain a conditional use in Lake County. This provides the County with the option of maximizing the benefits of any given resort while minimizing its potential adverse impacts on the surrounding area.

Because of the magnitude of the potential impacts of destination resorts on neighboring farms, ranches, forest lands, roads, fish and wildlife habitat, and water resources, it is preferable for the County to retain destination resorts as a conditional use so that the County will have the flexibility to ensure that each resort is the best possible fit for any given location.

1000 Friends of Oregon
Lake County File 1213-CP/ZTA
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The LCCP provides:

"Except in acknowledged exception areas such as Urban and Rural Residential areas, land partitioning and dwellings shall only be authorized in critical habitat areas as a Conditional Use and only approved in accordance with established standards designed and intended to provide for the maximum feasible protection of such resources."

We recommend that the PAPA be revised to establish standards that implement this policy.

6. *Upper Limits on the Size of Resorts*

The PAPA does not provide an upper limit on the number of dwelling units in any one resort. The Planning Commission may wish to consider what type and size of destination resort development the County wishes to pursue, perhaps by considering the sizes of various destination resorts found elsewhere in Oregon.

For comparison, Black Butte Ranch in Deschutes County has 1280 homesites, Brasada Ranch in Crook County is approved for 750 homesites, and Pronghorn in Deschutes County is approved for 400 homesites.

7. *Proximity*

The proposed text does not consider the proximity of resorts to one another. The Planning Commission should consider introducing some limitation on the distance between resorts, as a way of minimizing potential adverse impacts that a concentration of resorts in any one area might have on the carrying capacity of groundwater and surface water resources, transportation facilities, agricultural lands, forest lands, and wildlife habitat.

8. *Compliance with Goal 12; OAR 660-12-0060; LCCP Transportation Policies*

The PAPA fails to adequately address Goal 12, the Goal 12 rule, and relevant LCCP transportation policies. The Goal 12 transportation planning rule (TPR), OAR 660-012-0060, requires analysis of whether a proposal will "significantly affect" transportation facilities. If it identifies significant effects, "the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility."

9. *Compliance with ORS 197.445; Section 04, Standards; "must" v. "shall"; "visitor-oriented accommodations"; overnight lodging accounting*

a. We encourage the Planning Commission to consider reducing the allowable ratio of residential homes to overnight lodging in Lake County destination resorts.

Destination resorts in Oregon were designed in the early 1980's based on the recommendations of a special Joint Subcommittee designated by Governor Vic Atiyeh. The Joint Subcommittee's recommendations were outlined in a "Report and Recommendations on Destination Resort Siting" dated April 15, 1983.

Oregon resorts are intended to provide expanded tourism and economic development opportunities by bringing visitors for extended vacations to rural areas of Oregon like Lake County. Unlike second homes, overnight lodgings at destination resorts create jobs by attracting vacationers who spend money on lodging, dining, and recreation - not just groceries.

1000 Friends of Oregon
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As noted by the 1983 Joint Subcommittee:

"Destination resorts that evolve into full time communities, cities or retirement centers will not result in the desired economic benefits associated with tourism. In fact, a growing number of full-time residents will create demands for government expenditures for schools and health care facilities. A large resident population also demands development of a private infrastructure to service the full-time community including a range of commercial and professional services. These costs might offset the economic benefits created by continuing tourist and visitor use of the remaining portion of the development. Also, such evolution would be inconsistent with Statewide Planning Goals which provide for residential development within urban growth boundaries and on built and committed lands in rural areas".⁶

Reducing the allowable ratio of residential homes to overnight lodgings will help ensure that destination resorts in Lake County will provide the desired economic benefits of tourism.

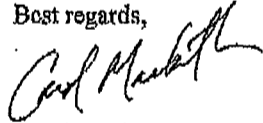
b. We recommend that the PAPA be revised to clarify that resort meeting rooms, restaurants, and overnight lodgings will "provide for the needs of visitors rather than year-round residents". The PAPA should use the same definition of "visitor oriented accommodations" as appears in ORS 197.435. We recommend that Sections 2, 3 and 4 be revised so that they mirror ORS 197.445 in this respect and with respect to usage of the word "must" rather than "shall". Though close in meaning, the word "must" that is used in ORS 197.445 is generally defined as "is required to" and carries a more imperative connotation than "shall".

c. The PAPA lacks a requirement for resorts to annually document that overnight lodging standards are being complied with. The PAPA should be revised to include such a provision.

Conclusion

We urge you to recommend significant revision of the PAPA for the reasons outlined above. Thank you for your attention to these views. Please consider this a formal request under ORS 197.615(2) for written notification of any decision in this matter.

Best regards,



Carol Macbeth
Central Oregon Advocate
1000 Friends of Oregon

cc: Greg Holmes, 1000 Friends of Oregon
Jon Jinings, DLCD
Craig Foster, ODFW

⁶ Report and Recommendations on Destination Resort Siting, Joint Subcommittee of the Economic Development Commission and the Land Conservation and Development Commission (April 15, 1983).



Oregon

Theodore R. Kulongoski, Governor



Department of Fish and Wildlife
Lakeview Field Station
Klamath Watershed District
101 N "D" Street
PO Box 1214
Lakeview, OR 97630
(541) 947-2950
FAX (541) 947-4632

July 21, 2009

Kenneth Gerschler
Lake County Planning Department
513 Center Street
Lakeview, OR 97360

RE: File No. 1213 –CP/ZTA – Proposal to amend the Lake County Comprehensive Plan to Create a new Destination Resort Overlay Zone

Dear Mr. Gerschler:

The purpose of this letter is to provide Oregon Department of Fish and Wildlife (Department) comments on the proposed plan amendment to adopt a destination resort overlay into Lake County's zoning ordinance.

The Department's main concern is protection of fish and wildlife populations and their habitat that may be adversely affected by proposed destination resorts. Our concern is based on the recognition that when a county approves a destination resort it is essentially permitting the establishment of a new city in a rural area, which has the potential to negatively impact Goal 5 resources.

Issues to Address

The Department's specific concerns with the application include:

- The language provided in Exhibits A & B reference a map showing areas eligible for destination resort development. Prior to adoption of any language the Department recommends the county develop this map.
- Language presented in the exhibits was developed by the applicant. The Department recommends Lake County consult with DLCD and other eastern Oregon counties with an adopted destination resort overlay to identify issues and develop language which should be included in the zoning ordinance. Specific language which should be developed to protect significant fish and wildlife resources includes:
 - Required mitigation for loss of habitat and open space
 - Language to minimize impacts to riparian areas and wetlands
 - Withdrawal of all Goal 5 resources from the destination resort overlay.

Kenneth Gerschler
July 21, 2009
Page 2

Examples from Other Counties

To protect important fish and wildlife habitat, Jefferson and Crook Counties have adopted rules which exclude all identified Goal 5 resources from destination resort consideration. If Goal 5 resources are not excluded from destination resort consideration, the Department recommends the plan amendment address

destination resorts as a new conflicting use because destination resorts were not anticipated in the County's original Goal 5 analysis.

If Goal 5 resources are not excluded from destination resort siting, the Department recommends the plan amendment address protection of Goal 5 resources through conservation easements as required by Goal 8 and destination resort statutory language (ORS 197.467).

In another example, Deschutes County included specific mitigation requirements for destination resorts. The Department strongly recommends that Lake County adopt a requirement for no net loss of habitat quality and quantity for destination resorts.

Update of Goal 5 Resources

While the comprehensive plan and zoning ordinance is open for consideration of a destination resort overlay, the Department requests the county review and update some Goal 5 resource inventories and completes the Goal 5 review process. These would include updates for sage grouse leks and bald eagle nests; recognition of mule deer migration corridors; and review of wetland and riparian protection language. Department biologists would be available to assist the county in this process.

Thank you for the opportunity to provide input on the proposed plan amendment for destination resorts. Please include our comments in the record of the plan amendment. Please contact me at (541) 947-2950 or Patty Snow in our Salem office at (503) 947-6089 if you have any questions regarding our comments.

Sincerely,

Craig L. Foster
District Wildlife Biologist

c Patty Snow, Salem
Jon Germond, Salem
Bob Hooton, Bend
Joe Misek, ODF



Oregon

Theodore R. Kulongoski, Governor
August 3, 2009

Department of Forestry
Klamath-Lake District
Lake Unit
2290 North 4th Street
Lakeview, OR 97630
Phone: (541) 947-3311
FAX: (541) 947-3078



"STEWARDSHIP IN FORESTRY"

Kenneth Gerschler
Lake County Planning Department
513 Center Street
Lakeview, OR 97360

RE: File No. 1213 -CP/ZTA - Proposal to amend the Lake County
Comprehensive Plan to Create a new Destination Resort Overlay Zone

Dear Mr. Gerschler:

The purpose of this letter is to provide Oregon Department of Forestry's comments on the proposed plan amendment to adopt a destination resort overlay into Lake County's zoning ordinance.

The Oregon Department of Forestry has two main concerns with the development of destination resorts.

1. The conversion of Industrial Forestland into non-working forests.
2. The creation of Wildland-Urban Interface.

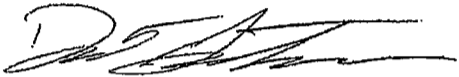
The timber resources of Oregon are important to the viability of this state and luckily through land-use planning, Oregon has been able to minimize the loss of forestland through development as compared to other states. Dependant upon the location of destination resorts in Lake County, Industrial Forestland could be significantly impacted by the development of such resorts and remove those acres from primary forest uses.

Development on forestland creates Wildland-Urban Interface (WUI) areas. These WUI areas increase the cost of fighting wildland fires due to the desire to aggressively suppress the fire prior to it reaching the development areas where life and property would be at risk. These areas also increase the risk to firefighting resources again due to the strong desire to prevent the fire from spreading through the developed area and these WUI areas increase the exposure of firefighting resources to hazardous materials which are commonly found throughout developments. With the strong desire to prevent the fire from entering the WUI area or spreading throughout it, the firefighting resources are typically focused within this area of a fire rather than suppressing the fire in the forestland. Also, WUI areas have a higher concentration of people which can lead to an increased risk of wildfires being ignited by human causes.

Thank you for the opportunity to provide input on the proposed plan amendment for destination resorts. Please include these comments in the record of the plan

amendment. If the County wishes to proceed in the creation of a Destination Resort Overlay Zone, the Department of Forestry would like to be a part of the process so that maybe together we could find ways to mitigate both of the Department's concerns. Please contact me at 541-947-3311 if you have any questions regarding these comments and to keep us apprised of any developments in regards to this proposal.

Sincerely,



Dustin Gustaveson
Protection Unit Forester
Oregon Department of Forestry

Cc: Greg Pittman-Klamath Falls
Joe Misek-Salem
Anne Maloney-Klamath Falls

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