



CENTRAL OREGON LANDWATCH

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*Protecting Central Oregon's natural environment
and working for sustainable communities.*

Date: September 28, 2007

To: County Commissioner Dennis Luke
1300 NW Wall Street
Bend, OR 97701

Re: Reconsideration of 38 week standard - TA-04-4

Dear Commissioner Luke:

I am writing to ask that you reconsider your stance on allowing resorts to go to a 38-week standard and simultaneously permitting resorts to allow homeowners to list their rental properties through private property managers. Although these changes may seem benign, there are reasons to believe that they may have profound implications, not yet explored.

Before addressing our concerns, I'd like to ask that you hold off on making a decision on this matter until such a time as the implications of these decisions can be more adequately analyzed. Deschutes County is about to undertake a comprehensive plan update process, which is the perfect time to address questions such as these. Although you have held extensive deliberations on several of the issues raised in TA-04-4, those deliberations have been focused mostly on ensuring that county laws are followed, not on the benefits or impacts that these changes might bring to Deschutes County and its residents. The residents of this county, whose future depends on deeply-informed decision-making on complex matters such as these, deserve a more detailed consideration than that which has occurred on this issue thus far.

As for our concerns, they are based principally on the following argument, which we've entered into the record before, but which does not seem to have commanded much attention. The average owner of a private resort residence – we're told – visits the resort for about 12 weeks a year. A 38-week standard for overnight units allows a resident to visit the resort during any 14 weeks of his/her choosing if it's available the rest of the time for renters. If such a person could visit all they wanted, when they wanted, reap tax benefits from the ownership of a deed-limited structure, and rent out their units while they're not there, it's entirely believable that a large percentage of residents would be willing to do so, far more than would be interested in doing so under a 45-week standard.

If a mere one of three privately-owned residences could be recorded as overnight units, it would allow an *unlimited potential* for residential units without any need to build dedicated overnight structures – aside from the first 50 units, via the Thornburgh decision – and come in at the 2:1 threshold. In fact, if a mere third of the owners found the overnight designation amenable, it wouldn't matter if the maximum ratio was 2:1, 2.5:1, or even 5:1 because it would be easily satisfied. For this reason, the 38-week standard will very likely render the ratio meaningless.

Why is this a concern? Primarily, a 38-week standard will have the effect of un-tethering resorts from the market for overnight visitors – which is the market they have always been premised on. Resorts are only required to make their overnight units *available*, they have no obligation to actually see them rented.

When it's their units that aren't being rented, it hurts them. When it's a private residence, it doesn't. Under the proposed rules, resorts can avoid any responsibility if residences aren't rented, and avoid any costs associated with renting or managing dedicated overnights aside from providing some basic accounting data to the county. This may lead to at least three separate outcomes:

1. **It may usher in a flood of new applications for resorts.** Overnight units are financial losers at this point, we know that. Now that resorts can avoid those financial losses, it's reasonable to expect new applications to increase, and to expect that the cumulative impacts of resorts on traffic, water, farms, forests, rural communities, nearby cities, and the environment to be exacerbated.
2. **It will create the possibility for even larger resorts than we've seen so far** because all those houses won't have to be accompanied by dedicated overnight structures and the financial drain they create. The only limits on the size of resorts will be how much land is available – remember this when we're going through the remapping process – and how many interested buyers are out there.
3. **It will create an opportunity for existing resorts to apply for revisions to their master plans.** I've talked to several Deschutes County planners who don't seem to see any reason why an existing resort couldn't adopt the new standards established by TA-04-4. This could conceivably allow additional residential expansion of these resorts and also the removal of existing dedicated overnight structures. A resort like Thornburgh, for example, assuming its legal matters clear up, would be allowed to expand – in a purely residential fashion – even further onto what is now BLM land, or DSL in-lieu-of land, should that land become available in the future, as may very well happen. And a resort like Pronghorn could come in and apply for a new plan that had no hotel, or anything but the 50 dedicated overnight units required by law, assuming that enough of its private-ownership were willing to adopt a 38-week standard. I'm not aware of anything in state or county law that would prevent this from happening if a resort desired to go this route. It's also worth noting that if the 38-week standard is passed, all the time the commission has spent wrangling over the phasing of the first 150 units will likely prove to have been a waste of time.

Allowing private residences to use private rental agencies would compound these concerns. Why? Among those people who will only be there 12 weeks of the year at times of their choosing, there will invariably be some who will see an opportunity for a tax-break and for reduced property-tax payments by making their units theoretically available through a somewhat obscure property manager, and ensuring that their unit will barely get rented. True, this probably isn't likely to happen all that often, but under new law it will be allowed to happen, and as a result, it will entice more people to allow their units to be counted as overnight structures. Although this is not as big a concern as the shift to the 38-week standard itself – and would not be as much of a concern with a 45-week standard – this acts to magnify our concerns regarding the 38-week standard.

On the other hand, a highly visible, centralized system, seems to be a more effective model for resorts interested in renting out their units. It works for Sunriver, which is of course not a Goal 8 resort, but which presents a valid model nonetheless. Furthermore, such a system does create some accountability for ensuring that overnight units are rented. By simply making it more hands-off for the resort owners, you are further washing their hands of their overnight obligations and freeing up their pursuit of residential opportunity with all its impacts.



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To summarize, these changes will likely lead to additional resort applications, larger resort applications, applications with perhaps only 50 dedicated overnight units, the potential redevelopment of existing resorts along the same lines, and ultimately a glut of poorly performing overnight units providing very little in the way of room tax revenue.

All of this raises a far more daunting question as well, one of long-term sustainability and a growing dependence on a revenue source – resort-based property tax – that no one is managing towards long-term success.

The current resort boom is an artifact of a short window in time where retiring baby boomers with solid retirement funds, Social Security, Medicare, and tremendous appreciated capital from recent real estate success have an interest in purchasing retreat-ish units in destination resorts. As a result of weak laws, developers have rushed to fill *today's* demand for homes in resorts with few limitations.

But what will happen to demand for these units in the future? This should be a serious topic of debate before any new policy is set – or frankly before any more applications are submitted. For starters, even if there was no baby boomer generation, there's no guarantee that resorts will even be able to sell as many units as they have approval for. Eventually – perhaps soon – supply will exceed demand, prices will drop and so will appraised value. What does that mean for county governments? It means a dwindling revenue source, *one that cannot be made up for by selling more units*. If resorts keep getting approved with no concern over supply limitations (present or future), this scenario is inevitable, and the more resorts that get approved, the sooner we'll have to deal with these impacts.

And then there's the demographic perspective. Baby boomers are called baby boomers for a reason – there's a lot of them. The subsequent wave of retirees will be far smaller in number. And we all know that retirees, or soon-to-be retirees, are a huge portion of the resort market. As a result of the anticipated crunch in Social Security, Medicare, weaker pensions, and the fact that the post-boomers probably won't have near the same level of real-estate profit as today's retirees, this population won't have the spending power of their predecessors. Will they want to buy a resort-style home? Will they even be able to? At some point, baby boomers – or their children – are going to have to sell. Who will be there to buy them?

It stands to reason that far fewer of the post-boomers will be able to afford second homes, and so there's a potential for these communities to – fairly rapidly perhaps – become increasingly owner-occupied. So the future may hold not just substantially decreased property tax revenue from resorts, but *all the impacts of a full-time community*, and a fairly rapid transition to boot. That's not how resorts are being sold politically today, and if the future does unfold in this sort of fashion it will present enormous financial burdens for the county, burdens never considered when permits were being granted.

It's difficult to see that unless resorts are prevented from building beyond sustainable numbers – if we're not already well past that – that this scenario won't unfold in some manner in the not-too-distant future. This scenario will be all the more problematic as oil prices continue to rise – we're probably already past that particular tipping point with peak oil and with China and India and the rest of the developing world competing with us for a diminishing supply – because it will be increasingly expensive to fly or drive to resorts, and once there to drive back and forth to cities for dinner, groceries, or any other needs. It will be more difficult for workers to commute to and from cities to resorts. It will become more expensive to provide fire, police, and hospital services to resorts. All of which creates additional disincentives for living in or visiting a destination resort.



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Who is going to pay for increased services and impacts the future is likely to bring? Certainly county and city taxpayers won't want to subsidize these services with bonds paid for out of their own pockets, or see funds that once provided their services diverted to address growing problems associated with resorts. Resort owners and developers may not have to pay either, especially if they're able to successfully turn the resorts over to homeowners groups before the crunch. Who will take care of the golf courses and the aging structures? Who will see the allure in living in a resort without impeccable landscaping, with deteriorating roads, and entrance signs that aren't quite so squeaky clean? It's hard to imagine that a major disinvestment in resorts is not that far in the future. And this is a potential scenario that no one seems to have given much thought to.

By way of comparison, consider the future of retirement and assisted living complexes. These are two other largely baby boomer-driven phenomena that will someday face a supply shortage. But they are built within existing cities and can be redeveloped or adaptively re-used, for example, as affordable housing. It's very difficult to see how a destination resort, on the other hand, can be adapted to function as anything else given the lack of diversity and remote locations.

If we were merely talking about Black Butte Ranch, Sunriver, Eagle Crest, then it seems likely that these communities could sustain themselves well into the future, perhaps without any problems at all. But the glut of resorts hitting market presents major problems, problems that haven't been anticipated, and that perhaps at this point aren't even be avoidable. As a result, these resorts which many believe have helped put Central Oregon on the map will drag the entire region down.

Are these scenarios far-fetched? It really is hard to predict the future of any real estate market. And with a highly variable market like that for second-homes, retirement homes, or investor homes, it's even harder. And with such highly specialized and isolated market like destination resorts, it's probably more difficult still. But the fundamental forces at work here and lack of policy-based constraints don't bode well for the future of this industry and of the region. If you want to start heading things back in the right direction, reject the 38 week standard. If you want to rule with an eye towards long-term fiscal stewardship of this region, reject the 38 week standard. If you're not prepared to do that, if you think this deserves more study, at the very least put your decision off until it can be more thoroughly addressed in a periodic review-type process.

If more information comes to light, we'd be more than wiling to re-evaluate our level of concern. For now, however, give our role in the community, the concerns of the community, and our concern over long-term resort impacts to the community, we would be remiss in not bringing these concerns to your attention prior to your actually setting policy.

Thank you for your time and consideration. As always, I am available for further questions or discussion.

Sincerely,

Erik Kancler



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