

(Sent October 25th, 1:47pm)

Dear Deschutes County Commissioners:

I'm writing to request the matter of TA-04-4 either be afforded another public hearing before proceeding to a vote or – more appropriately – that further deliberations (over the issues of 38 weeks and private property management) be put off until they can be first be raised in the larger policy context of the comp plan amendment scheduled for next year (which will no doubt lead to further amendments in the zoning code). There is no necessity to the applicants request, there has been no determination of any need on the county's part, and there has been no true assessment of the impact of these changes despite strong concerns voiced by members of the public and your own planning commission. Furthermore, there are three significant changes that have occurred since your last hearing has been held that deserve additional attention.

I realize the written record on this matter is closed, and this e-mail won't be entered as testimony, but seeing as this is a legislative matter, not a quasi-judicial one, there's no reason for me not to write.

Commissioner Daly: During this Monday's worksession, you stated that this application needs to be approved so that resorts "don't go broke." But you've offered no explanation whatsoever for why you think a denial of TA-04-4, particularly of the requested 38 week standard, would pose even a remote risk of such a possibility. Frankly, this seems to be a wildly speculative claim. I've heard no other rational for why you are going forward on this matter other than your stated general fondness of the resort industry.

Commissioner Luke: Likewise, I've not heard any substantiation from you as to the necessity of a 38 week standard or of why you also believe, as you asserted on Monday, that you need to pass this so that resorts don't go broke. Likewise, you've offered no additional rationale that I'm aware of for why these amendments need to be passed. Furthermore, you posed three general questions: Is this a magic bullet for resorts? Is this going to lead to negative impacts? Or will the impacts of this be negligible? In each case, the answer you provided to your own questions was "I don't know."

Frankly, it's startling to see such disregard for the potential impacts of an important decision like this. It is true that you've deliberated many times over how to draft these new rules so that they'll be adhered to, but you've shown no consideration for the impacts these new rules might have on the county, its residents, and the public interest.

Only Commissioner Baney seems to have given this matter proper consideration as evidenced by her question during Monday's worksession, "What do we know now that they didn't know then" referring to the Planning Commission's 4-1 vote against the 38 week standard. The reality, as evidenced by the five seconds of silence that followed her question, seems to be that you don't know anything they didn't know, yet refuse to heed their advice or the concern that has been continually by members of the public. If you recall, over twenty parties testified in opposition to the proposed changes during the planning commission's hearing last December, while only the applicants testified in support. Many more letters have been submitted since.

As for the three significant changes I referred to at the top of this letter, they are:

1. I've been told that Eagle Crest has finally provided the county with much sought-after data regarding overnight accommodations there. This data is quite relevant to this matter and should be made publicly available and receive proper scrutiny and deliberation before continuing any further along this path. This is practically the only data you have on this matter, and you seem intent on proceeding without giving anyone a chance to see it.

2. It is my understanding that the additional language regarding homeowners association responsibilities for providing overnight data to the county was included following the last hearing. This language adds an entirely new layer of complexity to providing the county with overnight data and has received at most cursory mention in previous deliberations, at least that I'm aware of. This is a huge responsibility, especially in light of the fact that resorts will eventually be handing over management responsibilities to homeowners associations. Eagle Crest alone has at least thirteen associations. Will they be equipped to handle this responsibility? What risks does this pose? What do the homeowners associations think? None of these issues seem to have been addressed.
3. Planning staff has previously surmised that should an existing resort apply for an amendment to its master plan, it would have to do so under ALL the new requirements adopted as part of TA-04-4. Only recently was I informed, upon further insistence that an answer be provided, that the resorts can cherry-pick from the new laws and apply for an amendment using whichever combination of current and past rules is most favorable to them. They could choose the 38 week standard without having to apply any of the other provisions, for example. This matter hasn't received ANY deliberation or seen the light of day in a hearing or in any other fashion that I'm aware of. Once you pass this, I fully expect to see amendments to master plans from existing and approved resorts seeking the benefits of these new codes without the burdens.

Commissioner Luke has stated that if these amendments result in problems, we can go back and change the law. That is true, but before we know if there are problems – and there's many reasons to expect that there might well be significant problems as LandWatch has raised in earlier testimony – they will be set in stone. However, the appropriate time to address the potential for negative impacts – in hopes of actually avoiding them – is before laws are passed not after.

We're going to be stuck with impacts of these decisions for a long time. They deserve proper consideration. Please heed our concerns, the public's concerns, your planning commissioner's concerns, and that which seems to have been raised also by your planning staff and legal counsel during previous worksessions and hearings on this and related matters.

Most Sincerely,

Erik Kancler
Executive Director