

BEFORE THE PLANNING COMMISSION
OF KLAMATH COUNTY, OREGON

In the Matter of the Preliminary)
Development Plan Application of) Order
JELD-WEN, Inc.: DRO 1-94)
_____)

1. NATURE OF APPLICATION: The Applicant, JELD-WEN, Inc., is requesting approval of a Preliminary Development Plan for a destination resort on a tract of approximately 3,525 acres lying between Upper Klamath Lake and Lake Shore Drive/Highway 140.

2. NAMES OF THOSE INVOLVED:

Applicant: JELD-WEN, Inc.

Representatives: Richard H. Allan
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Planning Department: Carl Shuck, Director

Hearings Body: Klamath County Planning Commission

Participants: Written comments were received from the Oregon Department of Land Conservation and Development, Oregon Department of Transportation, and Klamath County Fire District No. 1. Written comments were also received from the public. Testimony was received at public hearings on February 28 and March 14, 1995.

3. LEGAL DESCRIPTION: Parcel 1 of LP 60-94, located in Sections 28, 29, 31, 32 and 33, T37S, R8E, W.M., and Sections 3, 4, 5, 6, 8, 9, 10, 15, 16, and 22, T38S, R8E, W.M.

4. FINDINGS:

A. Description of Proposal

JELD-WEN, Inc. proposes to develop a destination resort on a tract of approximately 3,525 acres lying between Upper Klamath Lake and Lake Shore Drive/Highway 140. The resort, to be called the Running Y Ranch Resort, will take advantage of the site's excellent natural amenities and historic use as a working ranch.

Because of its location on Upper Klamath Lake and within the Klamath Basin, the site provides outstanding opportunities for visitors to view and learn about wildlife. Approximately 70 to 80 percent of the waterfowl in the Pacific Flyway pass through the Klamath Basin. JELD-WEN proposes to enhance this experience by restoring approximately 1,400 acres of marsh in the Caledonia Marsh portion of the site, adjoining Upper Klamath Lake. An interpretive center and wildlife observation shelters will provide visitors with unique opportunities to learn about the wildlife, natural, and cultural resources of the Klamath Basin.

At full buildout, the resort is expected to include approximately 900 single family residential units, 600 units of overnight lodgings (including a 250-room hotel), two 18-hole golf courses and a pro shop; a restaurant; and commercial uses to serve the needs of visitors to the resort. In addition to the wildlife opportunities and golf courses, recreational amenities would include equestrian facilities and trails; bike and pedestrian trails; tennis courts; swimming pools; a fitness center; and canoeing/boating facilities.

Primary access to the resort would be on Highway 140, at or near the location of the existing entry road to the property. An entrance sign, screened views of the lodge and condominiums, and possibly golf course fairways, would be the only resort elements seen from the highway. The first quarter mile of the entry road would follow the working ranch theme, with cattle and pasture land on the south side of the entry road. Most of the resort core will not come into view until visitors reach the top of a ridge, approximately 1/4 mile inside the ranch. The applicant anticipates that the architectural style of the structures within the resort core would reflect the theme of the working ranch.

B. Applicable Standards

Article 88 of the Klamath County Land Development Code (LDC) sets forth the applicable approval criteria for a destination resort. Specifically, the approval criteria are contained in Section 88.060. The development standards for destination resorts vary somewhat, depending on whether the destination resort is intended to be a "small destination resort." The Running Y Resort is proposed as a full-scale destination resort

rather than a small destination resort. Thus, the standards of Section 88.030 apply to the proposed resort.

Several goals and policies of the Comprehensive plan are applicable to the review of the Preliminary Development Plan. Those goals and policies are discussed below.

Klamath County's comprehensive plan and land use regulations have been acknowledged by the Land Conservation and Development Commission (LCDC). In addition, Klamath County Ordinance No. 44-41, adopted by the Board of County Commissioners on November 9, 1994, amended the Comprehensive Plan and Land Development Code to allow siting of destination resorts in Klamath County and to establish the criteria and procedures for approval of destination resorts. Ordinance No. 44-41 was not appealed to the Land Use Board of Appeals within 21 days of adoption. Therefore, it is acknowledged (ORS 197.625), and the Statewide Planning Goals do not apply directly to the applicant's specific development proposal.

C. Approval Criteria - Section 88.060

1. "The tract where the development is proposed is eligible for destination resort siting, as depicted on the acknowledged Destination Resort Overlay map."

The tract is shown as eligible on the Destination Resort Overlay map adopted by the Board of County Commissioners on November 9, 1994. The tract therefore is designated "DRO" under the Comprehensive Plan, in addition to the underlying zones.

2. "The development meets the criteria established in section 88.030 or 88.035, qualifying as a destination resort or a small destination resort, respectively."

The proposal is for a destination resort rather than a small destination resort. Therefore, the proposal must satisfy the standards in Section 88.030. The standards of Section 88.030 will be met by the Running Y Ranch Resort as follows:

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

The proposed site of the destination resort consists of approximately 3,525 acres, as shown on Exhibit 1 (references herein to numbered exhibits are to exhibits submitted by the applicant). LDC Section 88.030 defines "tract" as:

"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."

The entire site is part of a single tract, as defined by LDC Section 88.030, owned by JELD-WEN, Inc. The entire tract is proposed as the site. Therefore, this criterion is satisfied.

"The site must have direct access onto a state or county roadway, as designated by the County or the Oregon Department of Transportation. Standards shall be in accordance with Article 71 of this Code."

The site has direct access onto Highway 140, approximately one mile north of the intersection of Lake Shore Drive and Highway 140, as shown on Exhibit 1. The primary access to the resort will be located at or near the same place as an existing access to the subject tract. As a condition of this approval, the applicant will be required to obtain an approach road permit from the Oregon Department of Transportation prior to development of the proposed highway access, as required by LDC Sections 71.020(C) and 71.160(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 75 units of overnight lodging, not including any individually owned homes, lots or units, shall be constructed or guaranteed pursuant to Article 15 through surety bonding or equivalent financial assurance prior to the closure of sale of individual lots or units.
 - b. The remainder shall be provided as individually owned lots or units subject to deed restrictions that limit their use to use as overnight lodging units. The deed restrictions may be rescinded when the resort has constructed 150 units of permanent overnight lodging as required by this subsection.
2. The number of units approved for residential sale shall not be more than two units for each unit of permanent overnight lodging provided under paragraph (1)(a) of this subsection.

3. The development approval shall provide for the construction of other required overnight lodging units within five years of the initial lot sales."

The applicant proposes to develop a conference center and a restaurant, each with seating for at least 100 persons. As shown on Exhibit 10 (Residential and Overnight Units), the Preliminary Development Plan, at full buildout, would include 592 units of overnight lodging (250 hotel rooms and 342 units of multi-family housing available for overnight rental) and 908 units of single family residential development. This satisfies the required ratio of at least one unit of overnight lodging for every two units of residential development.

The applicant stated that the development would occur in multiple phases over 15-20 years. A Preliminary Phasing Plan was included with the application as Exhibit 8. Because the market demand for resort residences and rentals can be expected to change considerably over the development period for the resort, the applicant emphasized that the proposed types and mix of residential and overnight housing depicted on the Preliminary Development Plan and the Preliminary Phasing Plan are not an exact representation of what will be built. Under any future development scenario, the applicant will as a condition of approval have to provide the required overnight housing and maintain the required ratio of overnight units to residential units at each phase of the development.

"All required developed recreational facilities, key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or guaranteed pursuant to Article 15 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. Nothing in this subsection shall be interpreted to require the construction of all approved phases of a destination resort, provided that the destination resort as developed complies with the standards of this section."

Section 15.030(C) of the Land Development Code lists the forms of security that are acceptable to the County. To the extent that required developed recreational facilities, key facilities, and visitor-oriented accommodations will not be physically provided prior to closure of sale of individual lots or units, the applicant will be required as a condition of approval to ensure the development of those facilities by entering into a performance agreement with the County, including one of the forms of security listed in Section 15.030(C).

"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."

Proposed onsite recreational facilities for the Running Y Ranch Resort are listed on Exhibit 5. As shown on Exhibit 9, "Expected Expenditures -- Developed Recreational Facilities and Visitor-Oriented Accommodations," the cost of onsite developed recreational facilities and visitor-oriented accommodations is expected to greatly exceed \$7 million in 1993 dollars. The Consumer Price Index adjustment for 1993 dollars to 1994 dollars is a factor of approximately 1.03, requiring expenditures in 1994 dollars of approximately \$7,210,000. Two golf courses, an indoor sports facility, and an interpretive center are estimated to cost approximately \$13 million in 1994 dollars. The hotel, restaurant and conference center are estimated to cost approximately \$11.8 million in 1994 dollars. These cost figures (which exclude costs for land, onsite and offsite infrastructure, and utilities) do not include all of the developed recreational facilities and visitor-oriented accommodations that are proposed for the resort. The estimates are, therefore, conservative. The applicant's Preliminary Development Plan complies with this standard.

"Commercial uses are limited to those listed in Section 88.045(H). Such uses must be internal to the resort, and are limited to types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted."

A list of the proposed uses for the destination resort is contained in Exhibit 5, Proposed Uses for Running Y Ranch Resort. No industrial uses are proposed. Commercial uses not among those listed as permitted uses are limited to those listed as accessory uses under Section 88.045(H).

All commercial uses will be internal to the resort. As shown on the Preliminary Development Plan, Exhibit 1, the resort core will be separated from Highway 140 by a large area of open space, including a portion of the site that will continue to be used for ranching. Because of the topography of the site, the commercial development in the resort will be only partially visible, if at all, from Highway 140.

The location of commercial uses will help to ensure that commercial uses will be limited to types and levels of uses

necessary to serve visitors to the resort: There will be no reason to develop commercial uses for area residents or highway travelers because the resort is not convenient to any other substantial population of residents and the commercial development will not be visible to drivers on the highway.

"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."

The destination resort site consists of approximately 3,525 acres. Proposed open space areas are shown on the Preliminary Development Plan (Exhibit 1). Open space calculations are shown on Exhibit 6. The total open space area is 2,715 acres, or approximately 77 percent of the total site area. Much of the open space is in two portions of the site that will remain undeveloped: the Caledonia Marsh (1,440 acres), which will be restored to marsh; and the Skillet Handle (335 acres), the rock "peninsula" that lies immediately east of Caledonia Marsh. If only the remainder of the destination resort site is considered (i.e., without Caledonia Marsh and the Skillet Handle), the remaining area of 1,750 acres still contains 940 acres of open space, or about 54 percent. The applicant has demonstrated the ability to maintain at least 50 percent of the site of as permanent open space.

A condition of approval will require that at least 50 percent of the destination resort site shall be maintained as open space in perpetuity through restrictive covenants that will be recorded prior to development of the phase of which open space is a part. A possible restrictive covenant is set forth by the applicant in the Open Space Management Plan, Exhibit 7. The proposed restrictive covenant, or one substantially similar, is adequate to ensure that areas designated on final plats as open space will be maintained as open space in perpetuity.

"If the site includes a resource site designated on the County's Goal 5 inventories as significant ("1C"), the resource site shall be protected in accordance with the adopted Goal 5 management plan for the site. "3A" sites shall also 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."

The site does not include any resource sites designated as significant on the County's Goal 5 inventories.

"Riparian vegetation within 100 feet of lakes, rivers, streams and designated significant ("1C") wetlands shall be retained."

There are no wetlands on or within 100 feet of the site designated as significant on the County's Goal 5 inventories. There are no rivers on or within 100 feet of the site. As shown on Exhibit 2, the only lake within 100 feet of the site is Upper Klamath Lake, which borders the site on the east. The applicant does not propose any development that would require removal of riparian vegetation within 100 feet of Upper Klamath Lake or any stream.

"The standards of Chapter 60 apply to destination resorts, except as limited or clarified as follows:

1. For purposes of applying the standards of Chapter 60, development under this Article shall be treated as if it were zoned CR (Recreational Commercial).
2. All destination resorts, whether located inside or outside the UGB, shall comply with the landscaping standards of Article 65 for all visitor-oriented accommodations and accessory uses (other than temporary uses).
3. The Planning Commission may alter any of the standards of Chapter 60 (except standards relating to signs) applicable to a destination resort if it determines that the standards as altered are consistent with public safety, preservation of open space, efficient provision of public facilities and services, and will not result in an adverse effect on adjacent land uses."

Chapter 60 of the LDC establishes standards with respect to: Lot Size and Shape (Article 61); Heights and Setbacks (Article 62); Fences, Walls and Screening (Article 64); Landscaping (Article 65); Signs (Article 66); Off-Street Parking and Loading (Article 68); and Rural/Wildland Fire Safety (Article 69).

The development standards of Chapter 60 are objective standards, and final determination of compliance with those standards will occur in connection with review of the platting or development proposals.

The requirement for a preliminary development plan is to submit "preliminary" or "conceptual" plans indicating that the development standards of Chapter 60 can be satisfied. In addition, the applicant can request that the Planning Commission adjust particular standards. The applicant's Preliminary Development Plan (Exhibit 1) and Conceptual Commercial Development Plan (Exhibit 3) show that there is adequate development area on the site to satisfy lot size and shape, setback, landscaping, parking and loading, and fire safety standards. Other applicable standards such as height limits and

sign standards need not be addressed in the preliminary development plan; the applicant will be required to comply with these objective requirements at the time of development approval or platting for each phase of the development.

The applicant has requested that the Planning Commission alter two of the standards of Chapter 60.

Fence Standard

The applicant requested that the Planning Commission not require "a sight obscuring fence or wall at least 8 feet in height . . . within side or rear property lines." Under LDC Section 64.060(A), such a fence or wall is required where "[a] commercial or industrial zone abuts property not commercially or industrially zoned." Because Section 88.030(J)(1) provides that destination resort development is treated as if it were zone CR (Resort Commercial) for purposes of applying the standards of Chapter 60, it would be possible to interpret Section 64.060(A) to require an 8-foot tall, sight-obscuring fence around the entire destination resort site, which abuts property not commercially or industrially zoned.

The Planning Commission interprets this requirement as inapplicable to the proposed destination resort because the setbacks applicable to the development under Section 88.030(K) require that accessory commercial uses be at least 250 feet from exterior property lines and that visitor-oriented accommodations be at least 150 feet from exterior property lines. In other words, the intent of Article 88 is clearly to provide buffering between commercial uses and adjoining properties through substantial setbacks, rather than fencing.

In the alternative, the Planning Commission finds that, pursuant to Section 88.030(J)(3), the standards of Article 64 can be altered to eliminate the requirement for a site-obscuring fence at the Running Y Ranch Resort. Eliminating that standard for the Running Y Ranch Resort is "consistent with public safety, preservation of open space, efficient provision of public facilities and services, and will not result in an adverse effect on adjacent land uses." As discussed above, adjacent land uses are protected by substantial separation between resort development and adjoining properties. As shown on the Preliminary Development Plan (Exhibit 1), commercial development (which is the target of Section 64.060(A)(2)), will not be located near adjoining properties. An 8-foot tall, sight-obscuring fence or wall would detract substantially from preservation of open space by creating a "walled city" environment and by inhibiting the movement of wildlife. In summary, the destination resort will have less visual impact, and will be more compatible with open space and rural resource values if the fence is not required.

Lot Size Standard

Section 61.010(C) provides: "Each lot shall have a minimum area as required by the zone unless otherwise specified by this code." Article 88 does not establish requirements for minimum lot areas, and applying the minimum lot area requirements of the underlying rural zones would make destination resort development on the site impossible. The Preliminary Development Plan anticipates residential lots of 1/4 and 1/2 acre; however, the applicant has requested a minimum lot size of 4,000 square feet in order to maintain flexibility if, for example, market demand shifts toward smaller, attached single-family (townhouse) development. The proposed minimum lot size would allow for denser clusters of housing, increasing the amount of open space and the efficiency of providing utilities and services. The Planning Commission finds that a minimum lot size of 4,000 square feet satisfies the standards of section 88.030(J)(3).

The Planning Commission notes that the Preliminary Development Plan does not include lots smaller than 1/4 acre. Under Section 88.070, the Planning Director must require that the applicant submit an amended preliminary development plan for review if a proposed final development plan is materially different from the approved preliminary development plan. Thus, the approval of a 4,000 square foot minimum lot size does not give the applicant unlimited leeway to increase the overall density of development without amending the approved preliminary development plan.

"Except where more restrictive minimum setbacks are called for, the minimum setback from exterior property lines for all development (including structures and site-obscuring fences of over three feet in height but excepting existing buildings and uses) shall be as follows:

1. 250 feet for commercial development listed in Section 88.045, including all associated parking areas;
2. 150 feet for visitor-oriented accommodations other than single-family residences, including all associated parking areas;
3. 50 feet for above-grade development other than that listed in subsections (1) and (2);
4. 25 feet for internal roads;
5. 50 feet for golf courses and playing fields;
6. 25 feet for jogging trails, nature trails and bike paths where they abut private developed lots and no

setback for where they abut public roads and public lands;

7. The setbacks of this section shall not apply to entry roadways, landscaping, utilities and signs."

The Preliminary Development Plan, Exhibit 1, demonstrates that these setbacks from exterior property lines can be met for the proposed destination resort development. The existing ranch improvements located on the site adjacent to Highway 140 and south of the proposed entrance road are not subject to these setbacks because they are existing buildings and uses.

The setback standards are objective, and compliance for final development plans or plats can be determined at the time those plans are submitted to the County for review pursuant to Section 88.070 and Article 41.

3. "The uses included in the destination resort are either permitted uses listed in Section 88.040, or accessory uses listed in Section 88.045 that are ancillary to the destination resort and consistent with the purposes of this Article."

The proposed uses are listed in Exhibit 5. The applicant has stated that not all of the uses proposed would actually be developed; a wide range of potential recreational facilities and accessory uses are listed in order to provide flexibility to meet market demands and visitor needs as the Running Y Ranch Resort is developed. As discussed below in response to comments from the Department of Land Conservation and Development, accessory uses shown on the preliminary development plan will be scaled and used in a manner ancillary to the destination resort. Several of the proposed accessory uses (housekeeping facility; recycling and garbage collection facilities; maintenance shops and facilities; and utility facilities) are directly related to and necessary for the use, protection and maintenance of the resort. A sales/administration building is necessary for carrying on resort business, including sales of lots and residential units, handling reservations for overnight accommodations, and carrying out related business functions.

Another category of accessory uses will provide goods and services commonly needed by resort visitors, because there are no other commercial areas readily accessible from the resort site. These uses include: Retail shops and service; food/grocery/convenience store; hair/facial salon; gas station; and child care facility. These uses, if developed, will be located within the "town center" area of the resort, as shown on the preliminary development plan. The location of accessory commercial uses out of sight of Highway 140 will help ensure that these uses primarily serve resort visitors; the commercial uses

will not be conveniently located for persons driving by on the highway and, in any event, will not be visible from the highway. Some professional offices may be provided as a service to resort visitors or residents who need convenient office space while staying at the resort. The golf pro shop is a use that is typically accessory to a quality golf resort.

Dormitories, if developed, would be intended to accommodate groups, such as high school and college students, who visit the resort for several days or weeks both to enjoy the recreational opportunities and to study the natural and cultural resources of the Klamath Basin. No dormitories are currently shown on the preliminary development plan. Any dormitory rooms developed by the applicant would not count as overnight housing units; they are specifically excluded from the definition of "overnight lodgings" under LDC Section 88.020(C).

A performing arts center would provide for live musical and theatrical performances, lectures, and similar events. The performing arts center would provide a link between the arts and the natural and cultural history of the Klamath Basin.

4. "The development will be compatible with surrounding land uses, particularly farming and forestry operations. A destination resort must not cause a significant change in farm or forest practices on surrounding lands or significantly increase the cost of accepted farm or forest practices."

Surrounding land uses are depicted on Exhibit 2. Surrounding lands are zoned FR (Forest/Range), EFU-C/G (Exclusive Farm Use - Cropland/Grazing), NR (Non-resource), and R-1 (Rural - 1 acre minimum).

a. Forestry

The destination resort will not affect forestry operations on surrounding lands. None of the lands adjoining the destination resort site are in current forest management use. Weyerhaeuser forestlands are located across Highway 140, bordering on Wocus Marsh. However, there are no known silvicultural or harvest activities on those properties with which the destination resort could interfere in any material respect, given the distance between the destination resort site and the forestlands.

b. Farming

Farming operations on surrounding lands include cultivation of grains and other crops on the Caledonia Ranch, which borders the northwest portion of the destination resort site, and on the remainder of the Running Y Ranch, including the Parcel 2 land

(surrounded by the resort site) and the property located immediately west of the destination resort site, across Highway 140 and Lake Shore Drive. As indicated on the Preliminary Development Plan, residential, commercial and other developed uses of the destination resort will be separated from these agricultural uses by extensive undeveloped open space areas. The nearest proposed residence would be over one-third of a mile from the existing farm fields on the Caledonia Ranch. The Running Y Ranch will be buffered from resort development both by distance and by topography. Noise, chemical application, dust, or other farming activities will not have a significant effect on the resort, and the resort will not interfere with farming practices, which are expected to continue as they have in the past.

Similarly, Parcel 2 lands are surrounded on essentially three sides by open space or other outside farming operations. Parcel 2 has historically been utilized for livestock grazing. The parcel is expected to be fenced and farming/grazing practices are expected to continue as they have in the past.

Adjacent properties at the southeast corner of the resort site are forested, vacant, and zoned EFU-C/G. Natural conditions at the southeast corner of the resort include forested uplands on a ridge top. Residential units and a golf course are the proposed resort uses in this area. The setbacks required by LDC Section 88.030(K) will ensure that residences and the golf course are at least 50 feet from the property line. This setback is adequate to separate and protect any proposed uses on the adjacent properties.

Marsh restoration in the Caledonia Marsh would result in increased surface water levels, which could tend to increase the subsurface water table on the adjacent Caledonia Ranch property. However, marsh restoration is expected to include construction of a new dike near the property boundary. The dike can be constructed to include curtain drains, an earth fill core, impermeable liner, or other standard measures to control subsurface water. Another approach, probably in conjunction with some of the above measures, would be to increase pumping to maintain existing levels of subsurface water. The Planning Commission finds that the applicant has adequately demonstrated that the marsh restoration can be done without significantly affecting farming practices on the Caledonia Ranch. The applicant will be required as a condition of approval to implement measures, including if necessary the construction of a dike, to prevent infiltration of water from the restored marsh to the Caledonia Ranch in amounts that would interfere with agricultural activities on the Caledonia Ranch.

5. "The development will not have a significant adverse impact on fish and wildlife, taking into account mitigation measures."

The resort site includes important areas for wildlife such as agricultural fields, forested upland areas, rocky outcroppings, wet areas, and shoreline habitat along Upper Klamath Lake. The site supports large numbers of migratory waterfowl, shorebirds, and birds of prey during the spring and fall migration.

The agricultural fields at Caledonia Marsh are important feeding grounds for several species of resident and migrating birds. During the winter and sometimes in the fall, the fields are flooded (pre-irrigated) to saturate the soil. This process attracts migratory waterfowl, which feed on new plants, and several birds of prey, especially bald eagles (Haliaeetus leucocephalus), which prey upon the rodents displaced by the flooding. Up to 200 eagle sightings have been recorded in a two week period on the Running Y Ranch (including property west of Highway 140) in the winter. There are potential bald eagle roost sites on the ranch. There are several bald eagle nests on adjacent lands owned by Weyerhaeuser Timber Company.

Peregrine falcons (Falco peregrinus anatum), an endangered species, may inhabit the ranch and use the ranch for foraging. Shorebirds, wading birds, surface and diving ducks, geese and swans are all common in the spring. Some species identified on or near the ranch are rough-legged hawks, harriers, red-tailed hawks, Canada geese, tundra swans, mallards, cinnamon teal, herons, and grebes.

The forested areas on the resort site consist of some areas of shrub-steppe and sagebrush, oak woodlands, and ponderosa pine associations in the upland areas of the property. These forests may provide forage, cover, and nesting habitat for many wildlife species. Deer have been seen on the property, and there is secondary winter range for deer upland to the west of the site on Weyerhaeuser land.

In addition to the bald eagle and peregrine falcon, several candidate species of birds, mammals, reptiles and amphibians, and invertebrates may inhabit the ranch. Most of these are listed as Category 2 species, which means that existing information may warrant listing, but substantial biological information to support a proposed rule is lacking.

A key feature of the applicant's proposal is the restoration of marsh in the 1,440 acre Caledonia Marsh, which is currently in farm use. Although restoration of the marsh may eliminate some of the foraging opportunities associated with pre-irrigation of farmland, the restoration will create habitat similar to what

existed before European settlement of the Klamath Basin altered the use of the land. The marsh will also act as a filter, improving water quality in Upper Klamath Lake and thereby improving habitat for fish species and other wildlife dependent on the lake.

The applicant has also proposed a wide range of other mitigation measures listed in the Open Space Management Plan (Exhibit 7). The Planning Commission finds, based on the evidence presented, that the applicant can avoid any significant adverse impact on fish and wildlife by implementing mitigation measures of the kind proposed in Exhibit 7. as a condition of approval, the applicant will be required to: (1) refine the possible mitigation measures through application of Habitat Evaluation Procedures; (2) determine the compensation goal (in-kind, out-of-kind equal, or out-of-kind relative) through consultation with the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service; and (3) implement a combination of mitigation measures sufficient to eliminate any significant adverse impact on fish and wildlife.

6. "The development complies with other applicable standards of the Land Development Code."

As discussed above, the standards of Section 88.030(J) require that the Running Y Ranch Resort comply with development standards in LDC Chapter 60. Compliance with those standards, which are objective, will be determined at the time of final review of development proposals or plats, pursuant to Section 88.070 and Article 41.

Other applicable standards of the Land Development Code include the Public Works Department Development Standards (Chapter 70): Basic Provisions (Article 70); Vehicular Access and Circulation (Article 71); Street Names, Numbers and Signs (Article 72); Site Drainage (Article 73); Rural Area Water and Sewer Service (Article 75); Utilities (Article 76) and Solid Waste (Article 77). Section 70.030 (Improvement Procedures) requires that plans, profiles and specifications under Chapter 70 "shall be submitted to the County Engineer prior to final development approval." Thus, it is not the intent of the Land Development Code to require a demonstration of compliance with these standards at the time of preliminary development plan review for a destination resort. A destination resort application must include: "proposed methods of access to the development, identifying the main vehicular circulation system with the resort and an indication of whether streets will be public or private"; "a conceptual water and sewer facilities plan for the site"; and "a conceptual site drainage plan." The purpose of these plans is to show generally how the applicant intends to satisfy public works development standards. The

Preliminary Development Plan (Exhibit 1) and the Preliminary Utility, Sewer, Water, and Site Drainage Plan (Exhibit 4) show how the public works development standards can be satisfied.

D. Comprehensive Plan Considerations

Klamath County Ordinance No. 44-41 adopted new comprehensive plan provisions addressing the siting and development of destination resorts. "Destination resort" is defined by the Comprehensive Plan as:

"a self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. A destination resort must meet the minimum standards of development established by statute."

The proposed Running Y Ranch Resort, as described in this application, will provide visitor-oriented accommodations and developed recreational facilities in an exceptional natural setting.

Ordinance No. 44-41 also adopted a new Policy 12 under Goal 8 (Recreation Needs):

"Encourage the development of destination resorts on private lands in Klamath County, by mapping sites that are eligible and providing approval standards for destination resorts, consistent with statutory requirements."

Policy 12 is implemented by the adopted Destination Resort Overlay map and by Article 88 of the Land Development Code.

The proposed destination resort site has been mapped as eligible for destination resort development on the Destination Resort Overlay (DRO) map adopted as part of the Comprehensive Plan by Klamath County Ordinance No. 44-41.

Goal 1 - Notice of Public Involvement:

"To encourage an effective citizen participation process that meaningfully involve citizens in all phases of the County Comprehensive Planning Process."

Policy 1: "The County shall provide for continued citizen involvement opportunities after plan acknowledgment."

This policy expresses a procedural requirement binding on the County, not an approval standard for the applicant's proposal. The applicant's request for Planning Commission

approval of the Preliminary Development Plan for the Running Y Ranch Resort was subject to a public hearings on February 28 and March 14, 1995 before the Planning Commission. Notice of the February 28 public hearing was provided in accordance with the public notice requirements of Article 32 of the Land Development Code. The February 28 hearing was continued to a time certain. Notice and public hearing encourages effective citizen participation, as required by Goal 1.

A letter from the Northwest Environmental Defense Center (NEDC), dated February 27, 1995, and a revised letter dated February 28, 1995, argues that the public notice for the hearing was inadequate. The Planning Commission finds that notice was sent to those entitled by statute and the LDC to receive it, and that notice was timely. The notice adequately describes the proposed use as "development of a destination resort on a tract of approximately 3,525 acres." The notice correctly identifies Article 88 of the Land Development Code as containing the applicable standards of approval. There is no provision either in Oregon statutes or in the Land Development Code that requires that the public notice list other state and federal permits an applicant may need prior to development.

NEDC also objects to the timeliness and contents of the staff report. However, the Planning Commission finds that the staff report was available at least 7 days prior to the February 28 hearing at the Planning Department in Klamath Falls. There is no provision in Oregon statutes or the Land Development Code requiring that the staff report be made available -- by fax, mail or otherwise -- to persons outside the Klamath Falls area. Nonetheless, the Planning Department provided NEDC with a copy of the staff report four days prior to the hearing. Finally, nothing in Oregon statutes or the LDC prescribes the contents of a staff report or specifically requires that a staff report be prepared. The staff report is not a decision or order, and cannot be appealed on the basis of inadequate findings or other legal or factual shortcomings.

Goal 5 - Policy 19 - Open Space:

"The County shall encourage the identification and preservation of unique open space areas for the enjoyment of present and future generations."

Although this policy relates to preservation of open space, it is generally implemented through the Open Space and Conservation zone and is not an approval standard for the destination resort application. However, the development of a destination resort on the property will include restoration of the Caledonia Marsh. In addition, over 50 percent of the remainder of the Running Y Ranch Resort will be maintained as open space in perpetuity. Thus, the

approval of the preliminary development plan is consistent with the intent of this policy.

Goal 6 - Policies 4 and 5 - Air/Water/Land Resources:

Policy 4: "Urban and rural residential use shall be designated only when approved sewage disposal alternatives have been identified."

Policy 5: "Minimum lot sizes and/or maximum residential densities shall be established that will determine the need for a sewage disposal system. Site location criteria and standards for septic tanks shall also be established."

Article 75 of the Land Development Code establishes standards for sewage disposal services for rural residential development. Under Article 88, approval of the Preliminary Development Plan for the Running Y Ranch Resort will not give the applicant the right to develop the property; development approval is obtained through approval of the Final Development Plan and subsequent final plats. The applicant will be required to comply with Article 75 by demonstrating, prior to final plat approval for any phase of the resort development, that a sanitary sewerage system adequate to support the proposed development has been reviewed and approved by the Oregon Department of Environmental Quality.

Goal 9 - Policies 10 and 11 - Economics and Tourism:

Policy 10: "The County shall support efforts to develop tourist and economic development promotional programs."

Policy 11: "The County shall encourage (in appropriate locations and in accordance with the plan) the development of resort and summer homes, and other needed accommodations, attractions, activities, and facilities that will encourage tourists to make Klamath County a destination point rather than a pass-through point."

These policies are phrased in terms of county initiative, not as approval standards for the applicant's proposed use. Thus, the Planning Commission finds that they are not approval standards. Pursuant to ORS 197.435 through 197.467, Klamath County has mapped sites that are eligible for siting of destination resorts and established standards for the development of destination resorts. The proposed site for the Running Y Ranch Resort is mapped with the Destination Resort Overlay on the Comprehensive Plan map, meaning that the County has determined the tract to be eligible for destination resort siting.

The Running Y Ranch Resort will provide resort residences and rentals, exceptional recreational opportunities, and a development that is sensitive to both the natural setting and the historic use of the site.

Goal 11 - Policy 12 - Public Facilities and Service:

"Development proposals shall not be approved unless the types and levels of public facilities and services required are available or are to be provided concurrently with defined levels of development within urban and rural areas."

The Comprehensive Plan lists two implementation measures under Policy 12. First, "required urban and rural levels of services defined in Article 73 and Article 74 of the Land Development Code." This appears to be an error: Article 73 addresses site drainage rather than public facilities and services. Article 75 in fact implements Policy 12 with respect to rural lands by defining the requirements for rural area water and sewer service.

Water and Sewer

The Public Works Development Standards in Chapter 70 of the Land Development Code are intended to be applied by the County Engineer prior to approval of actual development. The approval of the Preliminary Development Plan for the Running Y Ranch Resort does not give the applicant authority for any actual development. As a condition of this approval, the applicant will have to demonstrate compliance with the Chapter 70 standards prior to approval of the final plat.

Applicant's Exhibit 4 (Preliminary Utility Plan) shows how the applicant proposes providing water and sewer services. Both water and sewer would be provided through onsite systems. Water (either from a groundwater or surface water source) for consumption, residential lawn irrigation, fire protection, construction, and similar uses will be delivered in a common distribution system. Golf course irrigation will be provided by an independent water distribution system. The domestic water supply system must be reviewed and approved by the Oregon Health Division prior to construction. Additional inspection and testing is required by state rules prior to actually supplying water.

The sanitary sewerage system is expected to include a low pressure or standard gravity collection system to deliver sewage to a community treatment facility. The community treatment facility may include a biological package plant, subsurface disposal system, or a combination of these systems. The sanitary sewerage collection and disposal system must be reviewed,

approved and permitted by the Oregon Department of Environmental Quality prior to construction.

Both the sanitary sewerage and domestic water supply systems will be owned, operated, and maintained by the applicant under the rules and regulations of the State of Oregon.

The second implementation measure states:

"In addition, prior to the proposed development's approval, it must be shown that all other existing public facilities (schools, police, roads, etc.) in the area could adequately accommodate the proposed development with little or no impacts on the level of service in the area. All other applicable goals shall be addressed as well."

As discussed above, the approval of a preliminary development plan for the Running Y Ranch Resort will not authorize any actual development. Rather, the purpose of the preliminary development plan is to present the overall concept for the maximum level of development at the resort. The scope and timing of actual development will depend on market conditions, adequacy of facilities and services, and other factors. Prior to approval of any specific phase of the development, the applicant will be required to demonstrate that adequate schools, roads, and police, fire and other emergency services are or will be available for the proposed development and for any other development that the applicant will be legally obligated to provide (for example, minimum levels of developed recreational facilities and overnight housing). The discussion that follows is therefore a preliminary assessment of services needed by the resort.

Schools

The Running Y Ranch Resort would have a negligible impact on schools because very few residents would have school age children who would be enrolled in local schools. Destination resort residences typically are either second homes (i.e., vacation residences used for several weeks or months out of the year by families with permanent homes elsewhere) or are principal residences of retirees or persons with grown children.

The low impact on schools is empirically supported by information from other destination resorts. A 1994 report prepared by Hobson & Associates for Eagle Crest Partners, Ltd. surveyed the ratio of students per housing unit for existing destination resorts in Deschutes County. The results of that survey are summarized in Exhibit 11. The survey showed that destination resort homes result in enrollment of only 0.026 students per home on average. With approximately 900 single family residential units at full buildout, the Running Y Ranch

Resort would result in approximately 24 additional students attending Klamath County schools.

Police

Police protection within the area of the Running Y Ranch Resort is provided by the Klamath County Sheriff. In addition, the resort staff will be given training to handle security matters.

Fire Protection

Fire protection in the area of the Running Y Ranch Resort is provided by Fire District No. 1. The Resort will provide firefighting equipment that will be operated by resort staff. The applicant proposes providing water for fire protection in a common distribution system adequately sized to provide water for consumption, residential lawn irrigation, fire protection, construction, and similar uses.

Emergency Medical Services

The nearest hospital to the resort is Merl West Medical Center in Klamath Falls. The applicant proposes to include a facility (not to exceed 2,000 square feet) for providing emergency medical services. Appropriate staff would be trained to provide first aid and necessary assistance until an ambulance could arrive.

Roads

The Running Y Ranch Resort will have its primary access to Highway 140 at a point approximately one mile north of the intersection of Highway 140 and Lake Shore Drive. The applicant anticipates a secondary access at the south end of the resort. Because the accesses will be on a state highway, the applicant will be required to obtain approach road permits from the State Highway Division, and to comply with state standards for access to and from a state highway. The applicant will complete a transportation impact study prior to approval of any actual development at the Running Y Ranch Resort in order to ensure the adequacy of transportation facilities to support the proposed development.

E. Agency Comments

DLCD, in a letter to the Planning Director dated December 28, 1994, raised issues regarding the justification for accessory

uses proposed in the Preliminary Development Plan for the Running Y Ranch Resort.¹ DLCD stated:

"[I]nformation is not provided [in the application] that shows the contemplated commercial development is ancillary to the proposed resort."

"Uses like a gas station, retail shops and services, a food/grocery store, professional offices and a microbrewery are more appropriately located in an urban area such as Klamath Falls."

"[O]ne question to address is whether or not a 'retail core,' separate from the main lodge or conference center is more appropriate for the type and level of services necessary for resort visitors given the resort's close proximity to Klamath Falls. It should be easier to justify small-scale shops or administration buildings incorporated into the design of a main lodge facility than larger stand-alone buildings equally suited to serving permanent residents of the resort."

DLCD is correct that the scale of the shops is relevant to whether they are "ancillary" to the resort and intended to serve the needs of visitors to the resort. The applicant has submitted estimates of the square footage of the potential uses within the "Town Center." (Exhibit 12). The location of the Town Center is shown on the Preliminary Development Plan (Exhibit 1) and, in greater detail, on Exhibit 13. For example, the "General Store" would be approximately 4,000 square feet, far smaller than a new urban grocery store. Other commercial uses would also be small in scale, including a deli of approximately 1,000 feet and a Pub/Brewery of approximately 2,000 square feet. A gas station would occupy a site of approximately 10,000 square feet. The Planning Commission disagrees, however, with DLCD's implication that commercial uses should be located in the lodge. The commercial uses will be small in scale, will not be readily

¹DLCD also indicated that the Transportation Planning Rule (OAR Chapter 660, Division 12) would have to be addressed because "[a]mendments to acknowledged comprehensive plans trigger a local government's action to assure consistency" However, the application is for approval of a Preliminary Development Plan on property that has an acknowledged comprehensive designation of DRO (Destination Resort Overlay). The current application does not involve an amendment to the County Comprehensive Plan. As indicated in the applicant's discussion of applicable comprehensive plan policies, the applicant will evaluate the adequacy of transportation facilities prior to approval of any actual development.

visible or advertised from the highway, and will be located close to the lodge and to the proposed multifamily overnight rentals units.

It is of course not feasible to prohibit permanent residents and highway travelers from patronizing accessory commercial uses at the resort; the only feasible approach is to limit the uses by type, scale and location so that they are most likely to be patronized by visitors to the resort. For example, a family that rents a multifamily unit for a week will need some food and other supplies; it is unrealistic to expect such guests to eat all of their meals in restaurants. A general store of approximately 4,000 square feet would meet such needs in a manner convenient to resort visitors but would not provide the variety of perishable and nonperishable goods that would be supplied by larger stores in Klamath Falls. In other words, the applicant has proposed accessory commercial uses of a size, type and location that will permit visitors to enjoy their visit and avoid unnecessary interruptions, without providing the scale and variety of services that would allow permanent residents to rely on on-site stores for their day-to-day needs.

The commercial area of the Running Y Ranch Resort would also include a Sales/Administration office. Such a facility is necessary for several obvious reasons: (1) the Resort will include a large number of single-family lots for sale and development; (2) a substantial administrative staff is necessary to coordinate resort services such as security, maintenance, promotion, and ongoing development; (3) these sales and administrative functions cannot be adequately provided off-site.

The applicant proposes that the Lodge facility include a multi-purpose performance center, which is listed in Section 88.045(I) as an accessory use. The performance center would accommodate only about 200 persons and would occupy approximately 6,000 square feet. Again, this use is sized to the needs of the resort, enabling the Running Y Ranch Resort to host performances, lectures, and similar events that complement the natural and cultural history of the Klamath Basin and enrich the experience of visitors to the resort.

The Oregon Department of Transportation, Region 4, in a letter dated February 15, 1995, raised a concern about the potential impact of the resort on State transportation facilities, including (1) "the intersection of Highway 140 with Highway 66, as well as other operational and safety issues in the general vicinity of this intersection and Highway 97"; and (2) "the function, capacity, and safety of Highway 140 in the immediate vicinity of the resort, as well as the highway segment between the resort and Klamath Falls." ODOT requested that the applicant prepare a Traffic Impact Study prior to approval of the preliminary development plan. However, as noted above in the

findings regarding comprehensive plan policies, approval of the preliminary development plan does not approve any actual development. Prior to actual development, the applicant will be required to complete a traffic impact study demonstrating that transportation facilities can adequately accommodate the proposed development. In addition, the applicant will be required to obtain approach road permits from ODOT for development of the resort's proposed access onto Highway 140.

Klamath County Fire District No. 1, in a memorandum dated February 6, 1995, expressed support for the applicant's proposal, and raised concerns about accessibility, water, fire flow, and the possible desirability of an on-site fire station. The applicant has included a fire station as a possible accessory use at the resort; however, approval of this use as part of the overall destination resort project does not commit the applicant to build such a facility. The applicant has agreed to provide adequate fire flow through an onsite domestic water system, and to train staff to use on-site firefighting equipment. The adequacy of fire flows, access for emergency vehicles, and compliance with the fire safety standards of Article 69 of the Land Development Code will be determined at the time actual development is approved.

8. CONCLUSION AND ORDER

The Planning Commission finds that the applicant has satisfied the applicable review criteria set out in Article 88 of the Klamath County Land Development Code and the applicable goals and policies of the Comprehensive Plan. Public notice was given in compliance with Article 32 of the Land Development Code. The Planning Commission finds that the application for approval of a Preliminary Development Plan for the Running Y Ranch Resort should be granted.

THEREFORE, it is hereby ORDERED that the Preliminary Development Plan for a destination resort on the real property owned by JELD-WEN, Inc. and described herein is approved subject to the following conditions:

1. At least 150 units of overnight lodging shall be developed.
2. At least 75 units of overnight lodging, not including any individually owned homes, lots or units, shall be constructed or guaranteed pursuant to Article 15 through surety bonding or equivalent financial assurance prior to the closure of sale of individual lots or units. The remainder shall be provided as individually owned lots or units subject to deed restrictions that limit their use to use as overnight lodging units. Such deed restrictions must require that the units be available for overnight rental use by the general public for at least 45 weeks per calendar

year through a central reservation and check-in service. The deed restrictions may be rescinded when the resort has constructed 150 units of permanent overnight lodging as required by Section 88.030(C).

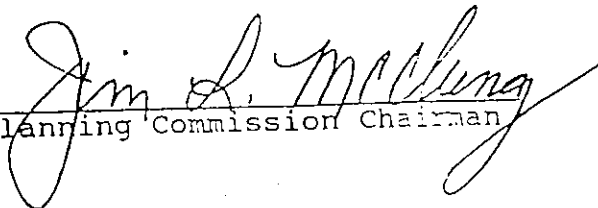
3. Other required overnight lodging units shall be constructed within five years of the initial lot sales.
4. The applicant shall maintain the required ratio of at least one overnight unit for every two residential units at each phase of the development.
5. The applicant shall provide meeting rooms and a restaurant or restaurants with seating for 100 persons as part of the first phase of development.
6. To the extent that required developed recreational facilities, key facilities, and visitor-oriented accommodations will not be physically provided prior to closure of sale of individual lots or units, the applicant will ensure the development of those facilities by entering into a performance agreement with the County, including one of the forms of security listed in Section 15.030(C) of the Land Development Code.
7. The applicant shall spend at least \$7 million in 1993 dollars 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. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.
8. All commercial uses shall be internal to the resort, and shall be limited to types and levels of use necessary to meet the needs of visitors to the resort.
9. 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 open space in perpetuity through restrictive covenants that will be recorded prior to development of the phase of which the open space is a part.
10. Riparian vegetation within 100 feet of Upper Klamath Lake and streams on the resort site shall be retained.
11. All development shall comply with the development standards of Chapter 60 of the Land Development Code.

12. All development shall comply with the setback standards of Section 88.030(K).
13. The minimum lot size shall be 4,000 square feet.
14. The applicant shall complete a transportation impact study prior to approval of any actual development at the Running Y Ranch Resort, and demonstrate that transportation facilities are or will be adequate to support the proposed development.
15. The applicant shall obtain an approach road permit from the Oregon Department of Transportation prior to development of any access to Highway 140, as required by LDC Sections 71.020(C) and 71.160(B).
16. Prior to approval of any specific phase of the development, the applicant shall demonstrate that adequate schools, roads, and police, fire and other emergency services are or will be available for the proposed development and for any other development that the applicant will be legally obligated to provide (for example, minimum levels of developed recreational facilities and overnight housing).
17. The domestic water supply system must be reviewed and approved by the Oregon Health Division prior to construction.
18. The applicant shall comply with Article 75 by demonstrating, prior to final plat approval for any phase of the resort development, that a sanitary sewerage system adequate to support the proposed development has been reviewed and approved by the Oregon Department of Environmental Quality.
19. The applicant shall comply with ORS 358.905 to 358.955, ORS 390.235 to 390.240, and ORS 97.740 to 97.760 in conducting any development on the property.
20. The applicant shall refine the possible mitigation measures listed in its Exhibit 7 through application of Habitat Evaluation Procedures. The compensation goal (in-kind, out-of-kind equal, or out-of-kind relative) shall be determined through consultation with the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service. The applicant shall implement a combination of mitigation measures sufficient to eliminate any significant adverse impact on fish and wildlife.
21. In conjunction with the restoration of the Caledonia Marsh, the applicant shall construct and maintain, at its sole expense, a system (the "Dike System") designed to minimize to the extent practicable the impact of the marsh restoration on agricultural activities on the Caledonia

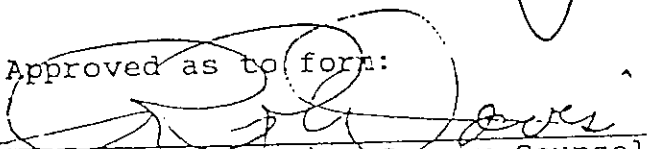
Ranch. The Dike System shall be located on the Running Y Ranch and shall include at a minimum: (a) a dike and related improvements to prevent water from the marsh from draining or percolating onto or under the Caledonia Ranch in a manner that materially interferes with agricultural activities on the Caledonia Ranch; and (b) a low fence to restrict passage of molting geese from the marsh to the Caledonia Ranch. The Dike System may not be removed or maintenance activities terminated except in accordance with a written agreement with the owner(s) of the Caledonia Ranch.

22. The approval of the preliminary development plan shall not be construed to require the development of all proposed facilities or residential lots, or all phases of the approved preliminary development plan, but the destination resort as developed must comply with all standards of Section 88.030.
23. This approval shall become void two years following the date on which the order becomes final and nonappealable, unless the applicant, within that two year period, submits a final development plan for the first phase of development.
24. Prior to submittal for a final development plan approval, the applicant shall, to the satisfaction of the ODOT Region Manager, identify the necessary highway improvements to be made by the applicant to meet ODOT roadway and level of service standards, to the extent that deficiencies are attributable to the proposed project. If the proposed project is to be developed in phases, the phasing schedule shall include the timing and threshold standards for providing the improvements.

DATED this 21st day of March, 1995


Planning Commission Chairman

Approved as to form:


Reginald R. Davis, County Counsel

THIS DECISION MAY BE APPEALED TO THE BOARD OF COUNTY COMMISSIONERS WITHIN 7 DAYS FOLLOWING THE MAILING OF THIS ORDER. FAILURE TO FILE A NOTICE OF APPEAL WITHIN THIS TIMEFRAME MAY AFFECT YOUR RIGHT OF APPEAL.

EXHIBIT 5
PROPOSED USES
RUNNING Y RANCH RESORT

PERMITTED USES -- Section 88.040

1. Visitor-Oriented Accommodations

Hotel

Restaurants: Deli/Coffee house/Snack
bar/Specialty/Microbrewery

Conference Center

2. Developed Recreational Facilities

Golf Courses

Driving Range

Interpretive Centers

Wildlife Observation Shelters

Canoeing/Boating/Marina facilities (Marina)

Swimming Pools

Tennis Courts

Indoor/Outdoor Athletic Complex: Pools, tennis,
bike/jogging paths, track and field, court sports

Equestrian Facilities and trails

Miniature Golf

Ice/roller skating rink

Playing Fields

3. Residential Accommodations

Single-family Dwellings

Townhouses/multi-family dwellings

Time share projects

4. Open Space

NECESSARY USES --- Section 88.045

Dormitories

Performing Arts Center

Retail shops and services

Food/grocery/convenience store

Child care facility for resort visitors

Gas Station

Pro Shop

Hair/facial salon

Housekeeping facility

Sales/Administration Building

Professional Offices

Recycling and Garbage Collection facilities

Maintenance shops and facilities

Fire Station

Utility facilities, including sewage treatment plant and well houses

Recreational Vehicle Parking

Video Arcade

Microbrewery

EXHIBIT 6

OPEN SPACE CALCULATIONS

Call Running Y Resort Acreage

Main resort area: 1,750 acres
Skillet Handle: 335 acres
Caledonia Marsh: 1,440 acres

Total Destination resort site: 3,525 acres

Open Space in Main Resort Area

Main resort open space: 1,158 acres
Main resort area: 1,750 acres

Percentage Open Space: 66 percent

Open Space in Total Destination Resort Site

Total open space: 2,933 acres*
Total resort area: 3,525 acres

Percentage Open Space: 83 percent

* Includes all of the Caledonia Marsh (1,440 acres) and all of the Skillet Handle (335 acres).

EXHIBIT 7

OPEN SPACE MANAGEMENT PLAN

Section 88.050(C)(2) of the Land Development Code describes the intended contents of the applicant's open space management

Proposed deed restrictions that will assure that designated open space areas are maintained as open space in perpetuity.

A restrictive covenant requiring the preservation of open space would be recorded as part of broader CCRs prior to development of the phase in which the open space is included. Protection of open space could be provided by a the following restrictive covenant:

Use of areas designated on the plat as "Open Space" shall be limited in perpetuity to those uses allowed under the following definition of open space, or any other open space uses permitted under Klamath County's standards for the Destination Resort Overlay zone:

"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 forest use, required landscaped areas and lands used as buffers. Open space does not include residential lots or yards, streets or parking areas.

2. Proposed conservation easements to protect Goal 5 "3A" sites, as required by Section 88.030(H) or Section 88.035(I), whichever is applicable.

There are no Goal 5 inventoried resources on the destination resort site. ←

3. For any Goal 5 "1C" resource sites on the destination resort site, an explanation of how the county's adopted management program will be implemented.

There are no Goal 5 inventoried resources on the destination resort site. ←

4. A description of measures intended to mitigate project impacts on fish and wildlife.

BIT 7 - OPEN SPACE MANAGEMENT PLAN CONT.

Wildlife mitigation measures to be used will be developed through application of Habitat Evaluation Procedures. The compensation goal (in-kind, out-of-kind equal, or out-of-kind alternative) will be determined through consultation with the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

Restoration of marsh habitat in the 1,440 acre Caledonia Marsh would represent a major improvement in habitat, with significant benefits for fish and wildlife, as well as for water quality in Upper Klamath Lake. A full range of other mitigation measures will be considered. These may include, but are not limited to:

- + Use of wildlife friendly fences and removal of unneeded fences.
- Retention of native vegetation, in open spaces.
- Retention of high value wildlife habitats.
- Creation of roost or perch opportunities for birds.
- Providing wildlife education opportunities to visitors and owners with information signing along roads, trails and waterways; programs at the visitor/education center; and wildlife specific brochures and information pamphlets to be distributed at strategic locations within the area.
- Facility designs will reflect wildlife considerations.
- Providing guzzlers or other appropriate water sources.
- Providing natural or artificial nesting structures.
- Using only pesticides, fertilizers, and other chemicals which may be determined to have effects acceptable to wildlife and humans.
- Using native plants for landscaping practices.
- Using native plant species to enhance existing habitat.
- Continue agricultural practices that are beneficial to wildlife (example: pre-irrigation in Wocus marsh area which attracts bald eagles and other prey species to the rodents which emerge because of the flooding.)

EXHIBIT 9

ESTIMATED EXPENDITURES
DEVELOPED RECREATIONAL FACILITIES
AND
VISITOR-ORIENTED ACCOMMODATIONS

The following estimates of expenditures for developed recreational facilities and visitor-oriented accommodations were prepared by Hobson Johnson & Associates of Portland. The estimates do not include the cost of land, on-site or off-site infrastructure, or utilities. The estimates are in 1994 dollars.

These estimates substantially understate the ultimate investment in developed recreational facilities and visitor-oriented accommodations because they do not include other possible recreational facilities (e.g., wildlife observation shelters, bike paths, tennis courts, swimming pools, and equestrian facilities), and multi-family housing units that will provide "overnight lodgings" as defined by Section 88.020(C) of the Land Development Code.

Developed Recreational Facilities

Two golf courses:	\$8,000,000
Indoor sports facility:	\$2,400,000
<u>Interpretive Center:</u>	<u>\$2,000,000</u>
Total:	\$12,400,000

Visitor-Oriented Accommodations

200 Room Hotel:	\$9,000,000
Conference Center:	\$1,500,000
<u>Restaurant:</u>	<u>\$ 700,000</u>
Total:	\$11,200,000

Total Estimated Investment

	\$12,400,000
	<u>\$11,200,000</u>
Total:	\$23,600,000

EXHIBIT 10

RESIDENTIAL AND OVERNIGHT UNITS

The Preliminary Development Plan includes a total of 1500 units of residential development and overnight lodgings at full buildout:

	Units	
1/4 acre lots:	344	
1/2 acre lots:	578	
Multi-family:	378	(63 6-unit structures)
<u>Hotel:</u>	<u>200</u>	
Total:	1500	

The multi-family units would be operated as overnight lodgings, as defined in Section 88.020(C) of the Land Development Code. It is possible that some owners of single-family dwellings would also choose to include their property in the pool of overnight lodgings by making their houses available for rental at least 45 weeks a year through a central reservation service.

The numbers and types of housing described above and shown on the preliminary development plan may change as the Running Y Resort is built out. Because the market for resort homes and rentals changes, the mix and configuration of housing types will evolve to meet market demands. The required 2-1 ratio of residential units to overnight lodging units will be maintained under any development scenario.