



May 9, 2023

Via US Mail and Email

Mr. Will VanVactor, Director
Crook County Community Development Department
Planning Division
300 NE 3rd Street, Room 12
Prineville, Or 97754

Re: Crook County File Numbers 217-23-000192 and 217-23-000193, Legislative Amendment by RMG Destinations, LLC (the "Applicant"); Correction of Error on March 8, 2023 Application at Page 3 of 8(the "Application")

Dear Mr. VanVactor,

This letter is submitted on behalf of the Applicant for the above-referenced legislative amendments to the Crook County Plan(the "Plan")and the Crook County Zoning Ordinance(the "CCZO").

I have attached the revised March 18, 2023 application submittal. Heading 4.b, "Proposed Amendments to the Plan and the CCZO," on page 3 of 8 incorrectly listed the relevant Plan page as 4. The correct Plan page is 70. Would you please place this letter and the corrected Application in the official Planning Division file for this Application and before the Crook County Court at its June 7, 2023 public hearing on the Application?

Very truly yours,

Michael C Robinson

Enclosure: March 18, 2023 Application Corrected Application

CC: Mr. Brent Bybee(via email)(w/ encl.)
Mr. Dennis Pahlisch(via email)(w/ encl.)
Mr. Josh Pahlisch(via email)(w/ encl.)
Mr. Jerry Jones(via email)(w/ encl.)

**BEFORE THE CROOK
COUNTY PLANNING COMMISSION
(the “Planning Commission”)
and THE CROOK COUNTY COURT
(the “County Court”)**

**APPLICATION NARRATIVE
DEMONSTRATING COMPLIANCE
WITH APPLICABLE APPROVAL
CRITERIA**

A Legislative Application(the “Application”)Submitted by RMG Destinations, LLC, a Crook County Property Owner(the “Applicant”) Pursuant to Crook County Zoning Ordinance(the “CCZO”)18.168.020(1) to Amend the Crook County Comprehensive Plan(the “Plan”)Chapter III, “Land Use” and CCZO 18.116.040(3)(a)(1) to Implement ORS 197.445(4)(b)(B) in Order to Allow 50 Per Phase Overnight Lodging Units Instead of 75 Per Phase Overnight Lodging Units in Destination Resorts

1. INTRODUCTION.

RMG Destinations, LLC, the Applicant, owns and is developing the Hidden Canyon destination resort(“Hidden Canyon”). Hidden Canyon is a fully-entitled destination resort with all land use, transportation and utility elements required by the then-applicable state of Oregon (“state”) and Crook County(the “County”)standards. Those standards include a requirement that seventy-five(75) overnight unit be established, for each phase.

Since Hidden Canyon’s approval, State law has changed to allow fifty(50)phased overnight units. However, the County has not amended the Plan and the CCZO to implement amended ORS 197.445(4)(b)(B). This Application requests that the Planning Commission recommend, and that the County Court adopt, the proposed amendments to the Plan and the CCZO so that the County’s land use standards for phased overnight lodging units in destination resorts are consistent with state law.

The only effect of the approval of the Application is to make the Plan and the CCZO conform with ORS 197.445(4)(b)(B). The Application will have no adverse effect on private or public services, including state and County transportation facilities, because the individual phase number of overnight lodging units will be reduced by 25 units from the current individual phase requirement. The Application, if approved, will apply to County destination resorts approved after the effective date of the approval of the Application, or those already approved destination resorts where the property owners which make an application to amend the approval to take advantage of these amendments provided by the Application.

The Applicant understands that if the County Court adopts the proposed amendments, it must submit a subsequent permit application after the amendments’ effective date in order to apply the amendments to Hidden Canyon.

2. Classification of the Application; Application Review Procedure.

A. Classification of the Application.

The Application is a legislative post-acknowledgement amendment to the County's acknowledged Plan and land use regulations, the CCZO. The Application is properly characterized as a legislative application because it adopts new law by amending a Plan provision and a CCZO regulation and also meets the definition of "legislative matters" in CCZO 18.168.010(2).

The Application is a post-acknowledgment amendment to the County's acknowledged Plan and land use regulations because it proposes to amend both of these standards that have been "acknowledged" as consistent with the Oregon Statewide Planning Goals(the "Goals").

B. Application Review Procedure.

The procedure for review of a legislative post-acknowledgement amendment is as follows:

- a. the County deems the Application complete for processing.
- b. the County determines the date of the Planning Commission hearing and gives notice to the Department of Land Conservation and Development("DLCD")thirty-five(35)days before the hearing date.
- c. the County also gives notice to the public of the hearing date by publication in the local newspaper of record.
- d. the Planning Commission holds the first public hearing and makes a recommendation on the Application to the County Court.
- e. the County Court holds the second and final public hearing and decides whether to approve the Application. If it decides to do so, the County Court adopts an ordinance amending the Plan and the CCZO. The County must give notice of its decision to adopt the amendments proposed in the Application to everyone who testified before the Planning Commission and the County Court and to DLCD within twenty(20)days of adoption of the decision. If no one who receives notice of the County Court's decision files an appeal with the Land Use Board of Appeals("LUBA") within 21 days of the date of mailing of the notice of decision, the amendments to the Plan and CCZO are deemed acknowledged as consistent with the Goals. An applicant may submit an application based on the amendments after the effective date of the County Court's ordinance enacting the Application.

3. Relevant Approval Criteria.

The Application is subject to the following approval standards. The Application is subject to the Goals and the OARs, in addition to the Plan and CCZO, because it is a post-acknowledgment amendment:

- 1) Applicable Goals.
- 2) Applicable Oregon Administrative Rules("OARs")implementing the respective Goals.
- 3) Applicable Plan goals and policies.
- 4) Applicable CCZO standards

4. ORS 197.445(4)(b)(B); Proposed Amendments to the Plan and CCZO.

A. **ORS 197.445(4)(b)(B).** This statute applies to destination resorts in Eastern Oregon, including Crook County. The statute previously required at least 75 units of overnight lodging per phase in a Crook County destination resort. The Oregon Legislature amended the statute in 2007 to reduce the requirement from 75 per phase overnight lodging units to the currently required 50 per phase overnight lodging units. However, as explained above, the Plan and CCZO still require 75 per phase overnight lodging units. This amendment will make the Plan and CCZO consistent with ORS 197.445(4)(b)(B).

The statute provides as follows:

“ORS 197.445(1) Visitor-oriented accommodations including meeting rooms, restaurants with seating for 100 persons and 150 separate rentable units for overnight lodging shall be provided. However, the rentable overnight lodging units may be phased in as follows:

“On lands in eastern Oregon, as defined in ORS 321.805 (Definitions for ORS 321.805 to 321.855):

(B)At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units.”

B. Proposed Amendments to the Plan and the CCZO.

a. CCCP Chapter III, “Land Use”, 4, “Destination Resort” at Plan Page 70.

The Plan standard regulating phased overnight lodging units currently provides:

“Rentable units may be phased in with at least 75 units of overnight lodging, not including any individually owned homes, lots, or units, constructed or guaranteed through surety bonding or equivalent financial assurances prior to the closure of sale of individual lots or units.”

This Application proposes to amend the Plan standard as follows:

“Rentable units may be phased in with at least 75 50 units of overnight lodging, not including any individually owned homes, lots, or units, constructed or guaranteed through surety bonding or equivalent financial assurances prior to the closure of sale of individual lots or units”

b. CCZO 18.116.040(3)(a)(1), “Destination Resort Overlay”.

The CCZO standard regulating phased overnight lodging units is consistent with the Plan and currently provides:

“(3) 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:

(a) A total of 150 units of overnight lodging shall be provided as follows:

(i) At least 75 units of overnight lodging, not including any individually owned homes, lots or units, shall be constructed or guaranteed prior to the closure of sale of individual lots or units through an agreement and security provided to the county in accordance with CCCP 17.40.080 and 17.40.090.”

The Application proposes to amend the CCZO standard as follows:

“(3) 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:

(a) A total of 150 units of overnight lodging shall be provided as follows:

(i) At least ~~75~~ 50 units of overnight lodging, not including any individually owned homes, lots or units, shall be constructed or guaranteed prior to the closure of sale of individual lots or units through an agreement and security provided to the county in accordance with CCCP 17.40.080 and 17.40.090.”

5. Demonstration that Applicable Approval Standards are Satisfied.

A. The Goals.

The Goals apply to post-acknowledgment amendments such as this Application. ORS 197.250 and 197.27; Plan at page 2.

a. The Applicable and Inapplicable Goals.

There are nineteen Goals. Not all of the Goals apply to this Application. This section addresses the following applicable Goals:

- 1) Goal 1, “Citizen Involvement”;
- 2) Goal 2, “Land Use Planning”; and
- 3) Goal 8, “Recreational Needs”

The County can find that Goal 3, “Agricultural Lands”, Goal 4, “Forest Lands”, Goal 5, “Natural Resources, Scenic and Historic Areas, and Open Spaces”, “Goal 6 “Air, Water and Land Resources Quality” and Goal 7 “Areas Subject to Natural Hazards”, do not apply to the Application because destination resorts in the County are mapped on the Plan for that use and the CCZO implements the Plan map designations through the Destination Resort Overlay Zone and because the Application does not affect any destination resort with Goals 5, 6 or 7 designations in addition to the Destination Resort map designation.

The County can also find that Goal 9, “Economic Development”, Goal 10, “Housing”, Goal 12, “Transportation”, Goal 13, “Urbanization”, and Goal 14, “Urbanization”, do not apply to the Application because it has no effect on the subject matter of these Goals. Goal 12, “Transportation” is not affected by the Application because the Application will result in fewer per phase vehicle trips from overnight lodging units on State and County transportation facilities.

Finally, the County can find that Goal 15, “Willamette River Greenway”, applies to lands bordering the Willamette River and Goals 16, “Estuarine Resources”, Goal 17, “Coastal Shorelands”, Goal 18, “Beaches and Dunes” and Goal 19 “Ocean Resources”, apply only to lands along the Oregon coast.

b. Satisfaction of Applicable Goals.

i. Goal 1, “Citizen Involvement”: “To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.”

FINDING: The County can find that this Application will satisfy Goal 1 because the County will follow its acknowledged citizen involvement procedures for a legislative amendment. These measures include publication of notice of the hearing date, time and location of the public hearing on the amendments in the local newspaper of record as required by CCZO 18.168.030(1) and 35-day pre initial hearing(the first Planning Commission hearing)notice to DLCD, as required by CCZO 18.168.030(3). Individual mailed notice to destination resort property owners is not required by CCZO 18.168.030(4) because the application does not “rezone” any property as that term is defined in ORS 215.503(9)(defined as either a change to the base zone of a property, or a reduction in the uses allowed before an amendment to the Plan or CCZO.)

ii. Goal 2, “Land Use Planning”: “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

FINDING: Goal 2 requires both an adequate factual base to support the Application and coordination, as defined in ORS 197.015(5), with affected State and County governmental entities about the impact of the Application on the entities’ areas of interest, such as the Oregon Department of Transportation(“ODOT”) concerning the Application’s impact on state highway. The County can find that the Application includes an adequate factual base to support approval of the Application, which is the explanation that the Application makes the Plan and CCZO consistent with current state law. The County can also find that prior to the two public hearings on the Application, the County will have coordinated with affected government entities by providing notice of the Application to the entities, considering their timely comment and incorporating their comments as much as is reasonable in the recommended final decision on the Application.

iii. Goal 8, “Recreational Needs”: “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.”

FINDING: Goal 8 concerns recreational needs meeting the needs of the state’s citizens and visitors, including destination resorts. In addition to the Goal 8 language above, Goal 8 provides with respect to destination resorts: “DESTINATION RESORT SITING. Comprehensive plans may provide for the siting of destination resorts on rural lands subject to the provisions of state law, including ORS 197.435 to 197.467, this and other Statewide Planning Goals, and without an exception to Goals 3, 4, 11, or 14.” This standard provides that destination resort development must be consistent with ORS 197.435 to 197.467, including ORS 197.455(4)(b)(B). The County can find that the Application is consistent with Goal 8 because it makes the Plan and the CCZO consistent with ORS 197.455(4)(b)(B).

B. Applicable Oregon Administrative Rules(the “OARs”):

The OARs are adopted by the Oregon Land Conservation and Development Commission(“LCDC”)and implement the respective Goals. The OARs implementing Goal 12 are relevant to the Application notwithstanding that Goal 12 is not affected by the Application. No OAR implements Goal or Goal 8.

- a. **OAR 660-012-0060.** OAR Chapter 660, Division 12, “the Transportation Planning Rule(the “TPR”)", implements Goal 12. The TPR applies to the Application in addition to Goal 12 and is intended to evaluate the impact of a post-acknowledgment amendment on transportation facilities. OAR 660-012-0060(1) requires a determination of whether a post-acknowledgment amendment will “significantly affect” a transportation facility. “Significantly affect” includes the impacts listed in OAR 660-012-0060(1)(a)-(c). Among the listed impacts are the degradation of the performance of a transportation facility so that it would not meet state or County performance standards. This Application will not significantly affect a state or County transportation facility because it will reduce, not increase, the vehicle trips generated by any phase of a destination resort.

C. The Plan.

Relevant approval standards in the Plan’s goals and policies are those that are relevant to the Application because they relate to the proposed amendments. As with the relevant Goals, not every Plan goal and policy will be relevant to the Application. Only those Plan provisions shown below are relevant to the Application. The Plan does not contain specific approval standards for legislative amendments.

- a. **Destination Resorts, Section III, Goals and Policies.**

- i. **Plan Ordinance Provisions D and E(Plan at Page 82):**

- ”D. Uses in destination resorts shall be limited to visitor-oriented accommodations, overnight lodgings, developed recreational facilities, commercial uses limited to types and levels necessary to meet the needs of visitors to the resort, and uses consistent with preservation and maintenance of open space. Accessory uses may also be permitted.**

- E. The zoning ordinance shall include measures that assure that developed recreational facilities, visitor-oriented accommodations, and key facilities intended**

to serve the entire development are physically provided or are guaranteed proportional to the level of development through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilitated intended to serve a particular phase should be guaranteed through surety bonding if not constructed prior to sales in that phase.”

FINDING: The Application properly implements Plan Ordinance Provisions D and E because overnight lodging is a visitor-oriented accommodation that is a required part of destination resorts. The proposed amendments to the Plan and CCZO implement Plan Ordinance Provisions D and E by making the Plan and CCZO consistent with ORS 197.445(2)(b)(B).

D. The CCZO.

CCZO 18.68.020 provides for legislative amendments that are authorized by a property owner:

“Authorization to Initiate Amendments: The application for a hearing on any legislative matter may be initiated by any of the following:

- (1) Property owners by written application on forms provided by the director and upon payment of the required fee;**
- (2) Planning Commission on its own motion; or**
- (3) County Court on its own motion and order.”**

FINDING: The Application is submitted by a property owner. The Application includes the relevant County forms and the required fee.

6. Conclusion.

The County can find for the reasons contained in the Application that the Application has been properly submitted and processed, that the appropriate County forms are included with the Application and the required application fee has been paid, the County has given the property notice for a legislative amendment and has coordinated the Application with affected governmental entities and that the Application contains substantial evidence demonstrating that the relevant approval criteria have been satisfied.

The Applicant respectfully requests that the Planning Commission recommend approval of the Application to the County Court and that the County Court approve the Application.

