



**Crook County Community Development
Planning Division**

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FINAL DECISION

**PERMIT: 217-23-001604-PLNG
(Modification of Development Plan)**

DECISION DATE: November 8, 2023

**OWNER/
APPLICANT:** RMG Destinations, LLC
2170 SW Wilson Avenue, Suite 100
Bend, Oregon 97702

AGENT: Michael Robinson
210 SW Wilson Avenue, Suite 100
Bend, Oregon 97702

LOCATION: The subject property is identified by the Crook County Tax Assessor as map and tax lot numbers 161400000-2200, -3900, -4100, 161500000-2100, -3100, -3200. The property is in the southwest corner of Crook County, south of Powell Butte, east of Brasada Ranch destination resort, and north of Alfalfa Road.

REQUEST: Applicant requests modification to the approved Development Plan (CU-DES-003-06) as modified per file number 217-18-000334-PLNG. The request seeks to amend the Development Plan to conform to the County Code and Comprehensive Plan, so that only 50 overnight lodging units must be constructed prior to the close of sale of individual lots or units.

Concurrently, Applicant seeks to modify the Final Development Plan approval (217-19-000370-PLNG), which is addressed in a separate staff report for file number 217-23-001063-PLNG.

I. APPLICABLE CRITERIA

Title 18, Zoning
Chapter 18.116 Destination Resort Overlay

II. BACKGROUND

ZONING: Exclusive Farm Use (EFU-3) (CCC 18.16) with Destination Resort Overlay (CCC 18.116).

LAND USE HISTORY: The Development Plan for Hidden Canyon destination resort was originally approved by the Crook County Planning Commission in June 2007 (CU-DES-003-

06). The approved plan authorizes a combined 3,675 permanent dwellings and overnight lodging units, commercial uses, and recreational uses. In 2018, a modification of the Development Plan was approved (217-18-000344-PLNG). The 2018 modification sought updates to the recreational and commercial uses contemplated within the resort and amendments to the conditions of approval based on an updated Transportation Impact Analysis.

In 2019, the Final Development Plan was approved based on the original development plan as modified in 2018.

Subsequently, in 2021, the Applicant requested a vested rights determination (217-21-000666-PLNG) for the approved Final Development Plan.

**LEGISLATIVE
AMENDMENTS:**

In July 2023, the Crook County Court approved legislative amendments to the Crook County Comprehensive Plan and County Code to conform with ORS 197.445(4)(b)(B), which requires 50 overnight lodging units be constructed or guaranteed prior to the sale of individual lots or units. Specifically, in the Crook County Comprehensive Plan, Chapter III “Land Use”, the fourth paragraph was amended as follows:

Rentable units may be phased 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.

Likewise, CCC 18.116.040(3)(a)(i) was amended 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 CCC 17.40.080 and 17.40.090.*

III. FINDINGS OF FACT:

Chapter 18.116 Destination Resort Overlay

Section 18.116.110 – Final development plan review and procedure.

(1) Following approval of the development plan, the applicant shall submit for review a final development plan that meets the requirements of CCC 18.172.040 and addresses all conditions of the development plan.

(2) The planning commission shall review a final development plan. The planning commission shall approve a final development plan if it conforms to the approved development plan and its conditions of approval.

(3) If the planning commission finds that the final development plan is materially different from the approved development plan, the applicant shall submit an amended development plan for review. "Materially different," as used in this subsection, means a change in the type, scale, location, or other characteristics of the proposed development such that findings of fact on which the original approval was based would be materially affected. Submission of an amended plan shall be considered in the same manner as the original application, except that the review of an amended plan shall be limited to aspects of the proposed development that are materially different from the approved development plan.

Finding: As the Planning Commission previously found in the 2018 modification decision (217-18-000334-PLNG), CCC 18.116.110 allows for modifications of development plans and requires consideration of the modifications in the same manner as the original application, except that the scope of review must be limited to only those aspects of the proposed development that are materially different from the approved development plan.

"Materially different," as used in this subsection, means a change in the type, scale, location, or other characteristics of the proposed development such that findings of fact on which the original approval was based would be materially affected.

The only proposed change to the approved development plan, as modified, is to the total number of overnight lodging units that must be constructed or guaranteed prior to the sale of individual lots or units.

The applicable approval criteria are addressed below. Approval criteria that are not relevant to the proposed modification are not addressed in this staff report. Except as specifically addressed below, all other prior findings and conditions of approval from the original development plan (CU-DES-003-06), as modified (217-18-000334-PLNG), remain in effect.

Section 18.116.040

(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 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 CCC 17.40.080 and 17.40.090.

(ii) The remainder shall be provided as individually owned lots or units subject to deed restrictions that limit their use to 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.

Finding: The original Development Plan (CU-DES-003-06) included the following condition of approval (Condition of Approval #2):

The resort shall contain a minimum of 150 units of overnight lodging, as defined in Statewide Planning Goal 8, ORS 197, and CCC 18.116.030(5). The applicant shall construct for financially assure the 150 units of overnight lodging prior to the of individual lots, consistent with ORS 197.445(4). The applicant may not phase the 150 overnight lodging units in increments of 50 because Crook County has not implemented ORS 197.445(4)(b).

Crook County has now implemented ORS 197.445(4)(b)(B). Accordingly, the Applicant proposes to amend the last sentence of Condition of Approval #2 to read: “The Applicant may phase the 150 overnight lodging units in increments of 50 because Crook County has implemented revised ORS 197.445(4)(b)(B).”

The Applicant can comply with CCC 18.116.040(3)(a)(i) through an agreement and security in favor of the County in accordance with CCC 17.40.080 and CCC 17.40.090. Accordingly, condition of approval #2 should be amended as suggested by the Applicant.

IV. CONCLUSION

Based on the information provided by the Applicant, other information in the record, and on review of the applicable state and county requirements, the Crook County Planning Commission approves the requested modification to the Development Plan (CU-DES-003-06), as modified by 217-18-000334-PLNG, subject to the following conditions of approval.

V. CONDITIONS OF APPROVAL

1. The last sentence of Condition #2 in the Development Plan (CU-DES-003-06), as modified by 217-18-000334-PLNG, is amended to state: “The Applicant may phase the 150 overnight lodging units in increments of 50 because Crook County has implemented revised ORS 197.445(4)(b)(B).”
2. The applicant shall meet all the original conditions of approval (CU-DES-003-06), as modified by the decision in record file number 217-18-000334-PLNG, and as modified by this modification decision (217-23-001604-PLNG).

DURATION OF APPROVAL: The Hidden Canyon destination resort Final Development Plan approval was vested (217-21-000666-PLNG). This modification is not a substantially new application and the grounds for granting the vested determination remain valid. Accordingly, the vested determination stands. Any expiration shall be in accordance with the vested determination.

Les Williamson, Acting Chairperson
Crook County Planning Commission

Will Van Vactor, Director
Community Development Department

CC: Owner/Agent
CC Depts.
CC Fire & Rescue

NOTICE TO PERSONS PROVIDING TESTIMONY

The above approval may be appealed in writing to the Crook County court no later than 4:00 p.m. on twelve calendar days from the effective date of this approval on payment of an appeal fee of \$3500.00 plus 20% of the initial application fee. Any submitted appeal must comply with CCC 18.172.110.

Appeals must be submitted to the Crook County planning Department, 300 NE Third Street, Prineville, Oregon, and must be received together with the appeal fee by the Planning Department no later than the above time and date.