Revised Memo in Objection to the Modification Application for the Crossing Trails Destination Resort, DR 08-0092

Submitted to the Crook County Planning Commission, Director of Development and County Attorney's office, via email 23 June 2022
Annette Kolodzie and Karen Jones (the "Objectors")
P.O. Box 126 Powell Butte, Oregon 97753
atkjuniper@gmail.com

As a preliminary matter, Annette Kolodzie and Karen Jones, interested parties as landowners along S. Parrish Lane, **formally request**:

1. that this Memo be entered into the record for the Modification Application for DR 08-0092;
2. to receive notice of any hearing or decision related to Crossing Trails Destination Resort for DR 08-0092;
3. to be allowed to present testimony/evidence at any and all hearings or appeals related to Crossing Trails Destination Resort for DR 08-0092;
4. that the County conduct a hearing, prior to any hearing on the substance of the Modification Application for DR 08-0092, that the Conditional Use Approval for Crossing Trails is VOID, or if it will not agree to a separate hearing, that this point be on the top of the agenda at the meeting tentatively set for July 27, 2022, or the date the meeting occurs;
5. that the County issue a final decision of some type that the Conditional Use Approval DR 08-0092 is not VOID, that can be immediately appealed or the subject of some action, such as an injunction or temporary restraining order, prior to a hearing on the substance of the Modification Application;
6. that the County revoke the Conditional Use Approval for Crossing Trails, pursuant to Crook County Code 18.172.100 (1)(b), on the basis that for over 13 years the owner and CU holder did nothing to exercise the permit for the use for which it was granted;
7. if the County does not revoke the Conditional Use Approval as requested in #6, that the County conduct a hearing, prior to any hearing on the substance of the Modification Application for DR 08-0092, regarding the revocation of the Conditional Use Approval for Crossing Trails, pursuant to Crook County Code 18.172.100 (b), on the basis that for over 13 years the owner and CU holder did nothing to exercise the permit for the use for which it was granted, or if it will not agree to a separate hearing, that this point be on the top of the agenda at the meeting tentatively set for July 27, 2022, or the date the meeting occurs;
8. that the County conduct a hearing, prior to any hearing on the substance of the Modification Application for DR 08-0092, that the Modification Application is, in fact, a new Conditional Use application rather than a modification of DR 08-0092, or if it will not agree to a separate hearing, that this point be on the top of the agenda at the meeting tentatively set for July 27, 2022, or the date the meeting occurs; and

9. that the County issue a final decision of some type that that the Modification Application is not, in fact, a new Conditional Use Application for a new Destination Resort rather than a modification of DR 08-0092, that can be immediately appealed or the subject of some action, such as an injunction or temporary restraining order, prior to a hearing on the substance of the Modification Application.

Summary of points below

This memo is an objection to the Applicant's "Modification"[1] Application for the Crossing Trails Destination Resort (DR 08-0092). To summarize the arguments below, for the County to process or take any action other than to deny outright the "Modification" Application is for it to ignore the Crook County Code (CCC or the Code), the law supporting the Code, and all the conditions of the Final Decision approving Crossing Trails. The County is expending its resources and money (using staff time, hiring professionals to analyze the Application and write reports, etc.) and causing the residents to expend their resources and money to contest an application to modify a **VOID** Conditional Use (CU) approval for Crossing Trails (CU Approval). The original approval by the County to develop Crossing Trails does not exist according to the Code of this County. There is nothing that can be modified, and Crook County should so rule immediately.

A critical point to be recognized by the County is that the burden to prove there is a valid CU approval to seek to modify is on the Applicant. But by failing to require the Applicant to abide by the Code and the conditions of the CU Approval and by the County itself not adhering to the Code and the conditions of the CU Approval, the County has improperly placed the burden on the community to establish that the CU Approval is void. That burden on the community, with the risk of having the character of our community destroyed if we do not prevail on this and all issues on the substance of "Modification" Application, resulting in the destination resort being approved and initiated, is misplaced, contrary to the Code, and grossly unfair. Thus, we make requests #4, #5, #6, and #7 above, that the community is given the opportunity to seek injunctive relief to stop this unauthorized decision to process the "Modification" Application. Importantly, it is not that the community does not recognize that, at appropriate times, it must seek to protect its rights and interests by expending the time and money to properly oppose a conditional land use application. The community did so previously with respect to the Crossing Trails application and we would do so again, if required. We find it egregious, however, that we are forced to undertake such a long, expensive, arduous battle against a well-funded applicant when the Code rightfully protects us from having to do so.

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[1] "Modification" in this memo is in quotes because the Modification Application is not really a modification of the original CU approval. It is, in fact, a new application for a Destination Resort. The proposed modification substantially changes everything about Crossing Trails, from a new applicant, to a change in amount and type of housing, to a different recreation facilities plan (*e.g.*, page A-6, Section 5 Program Modifications of the Introduction to the Modification Application), to reliance on well water drawn from the Powell Butte aquifer rather than water provided by Avion and drawn from the Deschutes aquifer, to a changed sewage handling plan, etc.

Point 1 - There exists no valid Conditional Use Approval for Crossing Trails, therefore no Approval that can be modified

The Applicant, the County, and the Objectors agree on the period of time for which a CU approval is valid. CCC 18.172.060, 18.160.070. The CU permit is valid for 4 years, plus up to four 2-year extensions are allowed -- **totaling 12 years**. And, no one disputes that the Crook County community development director ("Director") could grant the four extensions (CCC 18.172.060 (2)) as a matter of course. However, what the Director could not do is unilaterally invent a longer period of validity for the CU Approval. Nothing under 18.172.060, nor any other provision of the Code, nor other authority gives the Director the power to apply a different period of validity in favor of Crossing Trails.

Moreover, the County completely misses the point about the requirements the Code imposes on the holder of the CU Approval within those 12 years, in order for the CU Approval to remain valid. The owner and original Applicant could not sit on its hands during the entire 12-year period and then have a new Applicant file a "Modification" Application at the last second (or, as will be shown, after its expiration) in order to rescue the CU Approval. The Code demanded that the holder of the CU Approval within this 12-year period substantially complete Crossing Trails, if the CU Approval was not to become "void". The argument relating to the requirements of CCC 18.160.070 (3) are addressed in point 2 below. To this day, nothing, except the filing of paper with the County, has been done towards completing Crossing Trails.

1. The 2009 CU Approval is VOID by operation of time

a. the CU Approval expired under the Code's timeline

When the 12-year period of validity for a CU approval starts and ends are the governing factors. CCC 18.172.060 defines the "Approval Period and Extensions" for land use approvals, and section (c) refers to 18.160.070 as establishing the 4-year validity period for Conditional Uses, plus two-year extensions. According to 18.172.060 (b)(2) the start date of the 12-year clock is "the date the decision becomes final." "The decision", of course, is for "A land use approval". CCC 18.172.060 (2). Section 18.172.090 (3) of the Codes defines when a "land use decision" becomes final. It is "the date the decision is reduced to writing and signed by the hearing authority." A CU approval becomes "void" after the 12-year period. CCC 18.160.070.

In this case, the pivotal point is that the clock started according to the Code when Crook County issued its final land use decision. There was one, and only one, **"final land use decision"** by Crook County relating to the CU application by Crossing Trails. That was the "Crook County Court Findings and Decision, Crossing Trails Development Plan, DR-08-0092", reduced to writing and signed on **January 2, 2009**.

The County agreed that under the Crook County Code, the CU Approval Final Decision was January 2, 2009. The County told that explicitly to the CU Approval holder by letter of October

30, 2020 (attached as Attachment A), saying, "After consultation with Crook County Counsel, the Community Development Department finds that the correct date to mark Crook County's approval of the Destination Resort is January 2, 2009."

Thus, approval was void by operation of time alone on January 2, 2021, a year before the "Modification" Application was filed. By all rights, that should be the end of the story and Crossing Trails should be dead. But, apparently the County and the CU Approval holder concluded the clear time of validity of the CU Approval under the Code should not apply here.

The County sent a second letter to the CU Approval holder on November 10, 2020 (Attachment B), withdrawing the first, correct letter and adding 22 more months to the CU Approval. The County had no authority to do that and no valid basis on which to vary the time of validity of the permit.

b. the LUBA decision does not add time

The County was correct in its first letter of October 30, 2020 – the remand of *Eder et al v. Crook County*, 60 Or Luba 204 (2009) and the County Court's decision on remand had nothing to do with the CU Approval.

LUBA affirmed the County Court's final land use decision on the CU application. The only issue remanded by LUBA and decided by the County Court upon remand on November 3, 2010 (Attachment C, p.3) was:

> Whether "**the $6,850 appeal fee the county charged to process their appeal was excessive. ORS 215.422(1)(c) limits the appeal fee a county may charge for land use permit appeals.** (emphasis in original)

The decision by the Court on remand on November 2, 2010 was not a "land use decision". There was a final decision of the Court on the issue of appeal fees, but that had nothing to do with the CU Approval. The Court's Final Decision of January 2, 2009, a land use decision, was affirmed by LUBA, and the County Court did not revisit on remand any part of that land use final decision. The Court said so, stating that the issue on remand was the appeal of excessive appeal fees, and "Therefore the County Court accepted testimony and evidence on this issue alone at the remand hearing." (Attachment C, pages 1, 3, and 8 of the Court's order)

The Court's decision of November 3, 2010 is wholly irrelevant to the start date of the CU Approval timeclock. The County was correct under the Code when it wrote its original letter of October 30, 2020, informing the owner and CU Approval holder that it only had an extension of the Approval until January 2, 2021, and no longer. (Attachment A)

c. purported reliance by the CU Approval upon erroneous information of the County does not add time to the permit

That leaves the County and Applicant to take the position that the date of the Final Decision for the purpose of CCC 18.172.090 (3) is changed from January 2, 2009 to November 3, 2010 because the County made a mistake in its prior letters of extension to the owner, erroneously using the date of the County Court decision on remand from LUBA regarding appeal costs as the date of final approval of the CU permit. The County's justification for adding almost 2 years of the life to the Crossing Trails approval apparently is that the Code provisions do not apply to this owner because there was a "history" of getting the date of the final land use decision wrong. The Director at that time explained, "After further consultation with County Counsel, and based on the history of using the November 3, 2010 date as the date of final approval date for Crossing Trails Destination Resort, I am revising the timeframe outlined in the October 30, 2022 letter... Using the November 3, 2010 decision date...(t)he fourth and final extension is granted through November 3, 2022."

Purported reliance by the CU holder on such an error by the County cannot keep Crossing Trails alive. The burden is on the Applicant to show the law is otherwise. Without contending this is the definitive authority, the decision in *Jacobsen v. City of Winston*, 51 Or LUBA 602 (2006) states the principle that undermines the position currently taken by the County and Applicant.

> In *City of Grants Pass v. Josephine County*, 25 Or LUBA 722 (1993), a city planner provided a citizen with erroneous information regarding the date on which a local decision became final. Relying on that erroneous information, the petitioner filed a notice of intent to appeal (NITA) with LUBA. We dismissed the appeal, which was filed late based on the erroneous information, stating: "**The fact that petitioner may have relied on erroneous information from a county planner is of no import. A participant in local land use proceedings must ascertain for itself, from the local code, what it must do to protect its rights.**" *Id.* at 728... (emphasis added)

The entire basis for the existence of a **valid** CU Approval to which to attach the "Modification" Application is apparently that the holder of the approval failed to read the Code and for **12 years** relied on an error by the County. To put this position in perspective, that means of the owner, the prominent land use attorneys, the land use consultants, the owner representatives, and others involved in the original CU application and this one, no one, not one person, in 12 years read the Code provisions and the law relating to the length of time their approval was valid, in order to protect their interests and rights under the CU Approval. Even after they were put on notice by the County's October 30, 2020 letter that there could be a question about the expiration date of their approval, the owner/CU holder apparently did not ascertain for itself the true date its CU Approval expired. That total lack of diligence cannot be rewarded by adding 2 years to the CU Approval. Any reliance by the previous or current applicants on the "history" of error are "of no import."

Of course, it is obvious what happened. All reason suggests that the holder of the CU Approval must have known it expired January 2, 2009 and realized the only hope was to rely on a mistake in the County's letters to give longer life to the CU permit. The owner/CU holder had more than a decade to discover that the County made an error and to ascertain the real date of expiration of the CU extension. The owner simply intended to play the County's error as a card in the game of keeping its approval alive.

The bottom line is that County changed its position once before on the extension expiration date (unfortunately to an erroneous position), and it can change it again to be on the right side of the law. The Applicant has a remedy of immediately appealing such a decision and proceeding with its Modification Application a slightly later time, if an appellate authority rules in its favor.

2. The 2009 CU Approval is Void by failure to comply with the CCC by taking action to initiate development action

Assuming only for the sake of argument that the CU Approval is not void by time, it is certainly void by the holder's failure to act on the Approval as required by CCC 18.160.070 (1). A hugely important mistake that both the Applicant and County are making is assuming a holder of a CU permit can wait until all extensions are about to expire (or, in fact, have expired) and then start from scratch with a new Applicant, new design, new deadlines, and new conditions of approval, all in the guise of a "Modification" Application. The rights under a CU approval only last for 12 years if the holder takes steps required under 18.160.070 (1) to initiate development action within that time. If that is not done, the conditional use is "void". CCC 18.160.070 (1). Paragraph (3) of 18.160.070 defines "initiate development" as

> ...substantial construction towards completion of the conditional use permit has taken place. Substantial construction has occurred when the land and/or structure has been physically altered or the use changed and such alteration or change is directed toward completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.

There has been no "substantial construction towards completion" by the CU Approval holder. There have been no changes to the land and no efforts to complete Crossing Trails in the 13 ½ years since the Final Decision.

Applicant hopes to start a whole new 12-year clock on the destination resort by the artifice of filing an application to "modify" the prior CU Approval. To make that ploy work, they must rely on the County to ignore the fact that no development required by the Code to be initiated on Crossing Trails has occurred since the Final Decision. Filing papers are no more effective as "initiating development" than is sticking a sign in the ground on the property saying, "Beware - Substantial Construction Underway".

It is only the fault of the CU owner that development initiation required by 18.160.070 (1) cannot possibly occur by November 3, 2022. For any construction to begin between now and November

3, a final development plan (FDP) must be submitted for review and approved by the County. CCC 18.116.110 (1, 2). The Conditions of Approval (CA) in the Final Decision prescribe numerous substantial and time-consuming actions that must be completed before an FDP can be approved by the County[2]. Then there are the hosts of things that have to happen to begin construction, including permitting for all the relevant aspects of a 580-acre destination resort. It is assumed that neither the County nor the Applicant would make the outlandish argument that "substantial construction" on Crossing Trails has occurred to date or could possibly occur by November 3, 2022, even if that date was operative. The Code is not ambiguous. The failure of the holder of the CU Approval to act on the permit after all these years is fatal. The CU Approval is **void** under CCC 18.160.070. Filing a purported "Modification" of that Approval cannot revive it.

By taking any action at all to process the "Modification" Application, the County and the CU Approval holder are pretending that the County Code did not require actions and activities of each of them years ago in order for the CU Approval not to be void.

2. The 2009 CU Approval is not valid because of failure to comply with the Conditions of Approval

In addition, both the Applicant and County completely disregard the fact that there was not blanket CU Approval for Crossing Trails; there was an Approval conditioned by the County Court (p. 48 of the Final Decision). Crossing Trails has made NO effort for more than a decade to begin to comply with any of the conditions of approval ordered by the Court, many of which are pre-construction conditions. The County has made NO effort for more than a decade to enforce the conditions imposed in the final land use decision. No conditions on which the conditional use approval were predicated have been met and they cannot be met before its expiration. The approval is invalid because there has not been compliance with the conditions of its grant.

Point 2 - The County should have long ago revoked the 2009 CU Approval

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[2] Excerpts from the Conditions of Approval (CA) in the Final Decision of January 2, 2009 pertaining to performance that has to happen prior to FDP approval:

1. Applicant submits a plan for approval by the Commission that included mitigation measures detailed in the Andrews Agricultural Impact Study (CA 17)
2. Applicant enters an MOU with the County requiring Applicant to implement on-site mitigation measures in the Wildlife Mitigation Plan in CA 22. (CA 22)
3. Applicant obtains County road access permits from the County Roadmaster (CA 33)
4. Applicant has an MOU with ODOT to establish the timing of improvements to the highways and roadways as required by ODOT's directions (CA 35)
5. Applicant completes MOU with the County and ODOT to facilitate contributions of Applicant for its share of funding for traffic facility improvements (CA 36)
6. Applicant enters MOU with County requiring Applicant to pay actual cost to improve affected roads (CA 37)
7. Applicant pays cash obligations upon which development is conditioned (CA 40)

Applicant desperately relies on filing a "Modification" under CCC 18.172.100 (1)(e) to paper-over the failures to abide by the terms of the Code and the Final Decision. That is the wrong section that applies here. Section 18.172.100 (1)(b) the appropriate section in this case. It allows the County to revoke a permit on the grounds that "The use for which the permit was granted is not being exercised within the time limit set forth by the commission or this title." It is undeniable that nothing has been done on Crossing Trails relating to the development of a destination resort – the use for which the permit was granted. Even if the CU Approval was not void for the reasons listed above, the County should revoke the permit now pursuant to CCC 18.172.100 (1)(b) and stop the illegitimate activities occurring related to the "Modification" Application.

In summary, by taking any action at all to process the "Modification" Application, both the County and the Applicant must ignore that there are County Code provisions that required actions and activities of the County and CU permit holder years ago and that there were Conditions of Approval for the Final Decision. Both are wrong. In fact, there is no valid Approval to be modified.

Attachment A

Crook County

217-20-000846-PLNG-PLNG

October 30, 2020

OWNER: 818 Powell Butte, LLC
Eugene Gramzow
21059 Avery Lane
Bend, Oregon 97702

Dear Mr. Gramzow:

I am in receipt of your request for an extension on **CU DR-08-0092, Crossing Trails Destination Resort.** The property is located at: Township 15 South, Range 15 East, Section 17, Tax lots 100, 106, 109, and 110. The Crook County Court approved a destination resort on approximately 580 acres of land zoned EFU-3 with a Destination Resort (DR) overlay on January 2, 2009, on an appeal to the Crook County Court (the board of county commissioners) from the Crook County Planning Commission.

The expiration date the County has used in responding to prior Crossing Trail extension requests has been November 3, 2010, the date of Crook County Court's decision on the Land Use Board of Appeals' (LUBA) remand. After consultation with Crook County Counsel, the Community Development Department finds that the correct date to mark Crook County's approval of the Destination Resort is January 2, 2009. Although the Court's decision was appealed to LUBA, LUBA affirmed the Court's January 2, 2009 approval of Crossing Trails. The remand from LUBA was solely limited to the question of whether the appellants paid the appropriate amount in appeal fees – rather than substantive issues related to the approval of the destination resort.

Original approvals for destination resort developments are granted for four years. Crook County Code 18.172.060(2) authorizes the County Planning Director to grant up to four extensions. These extensions are granted for two- year time periods.

Using the January 2, 2009 decision date, the original approval extended to January 2, 2013. Under the County's code, this approval can be extended out to a date not later than January 2, 2021. For these reasons, Crook County is able to extend the development plan approval out to January 2, 2021, but is unable to extend the approval thereafter.

Please let me know if you have any questions.

Respectfully,

A Beier

Ann Beier, Director

Attachment B

Crook County

217-20-000846-PLNG-PLNG

November 10, 2020

OWNER: **818 Powell Butte, LLC**
Eugene Gramzow
21059 Avery Lane
Bend, Oregon 97702

Dear Mr. Gramzow,

I sent an initial response to your request for an extension on **CU DR-08-0092, Crossing Trails Destination Resort on October 30, 2020.** The property is located at: Township 15 South, Range 15 East, Section 17, Tax lots 100, 106, 109, and 110. The Crook County Court approved a destination resort on approximately 580 acres of land zoned EFU-3 with a Destination Resort (DR) overlay on January 2, 2009, on an appeal to the Crook County Court (the Board of County Commissioners) from the Crook County Planning Commission.

The expiration date the County has used in responding to prior Crossing Trail extension requests has been November 3, 2010, the date of Crook County Court's decision on the Land Use Board of Appeals' (LUBA) remand. After further consultation with County Counsel, and based on the history of using the November 3, 2010 date as the final approval date for the Crossing Trails Destination Resort, I am revising the timeframe outlined in the October 30, 2020 letter.

Original approvals for destination resort developments are granted for four years. Crook County Code 18.172.060(2) authorizes the County Planning Director to grant up to four extensions. These extensions are granted for two-year time periods. Using the November 3, 2010 decision date, the original approval extended to November 3, 2014 (Four years after the final decision). Two-year extensions were granted as follows:

1. To November 3, 2016.
2. To November 3, 2018.
3. To November 3, 2020.

The fourth and final extension is granted through November 3, 2022. No extensions are allowed after that date.

Please let me know if you have any questions.

Respectfully,

Ann Beier, Director

Attachment C

Page 1 of the Court's Order

Crook County Planning Department
300 NE 3rd Street, Prineville, OR 97754
(541)447-8156
Fax (541)416-3905
ccplan@co.crook.or.us

BEFORE THE CROOK COUNTY COURT
FINAL DECISION

October 20, 2010

IN THE MATTER OF THE REMAND FROM LUBA OF THE COUNTY COURT DECISION IMPOSING A LOCAL APPEAL FEE

APPLICATION NO.
DR-08-0092
Appeal No:08-281(Alexander et al)

LUBA No 2009-018
***Eder et al v Crook County*, 60 Or LUBA 204 (2009)**

I. SUMMARY

A. APPELLANTS:

Jan Wilson, Attorney for :Tom, Alexander, Curt and Patty Burrell, Gary and Mollie Eder, Dennis Hildebrand, Carrol Hancock, Nancy Knoche, John & Karen Lang, Dale Tompkins.

B. PROPOSAL: REMAND from LUBA of a County Court Decision

C. HEARING: October 6, 2010

D. BACKGROUND

The Crook County Planning Commission approved the Crossing Trails Destination Resort on September 9, 2008. The written decision of the Planning Commission was issued on October 22, 2008. A timely appeal of that decision was filed by *Alexander et al* (also referred to as *Eder et al* by LUBA) and ODOT. After several hearings the County Court ultimately affirmed the Planning Commission decision on January 2, 2009. That decision was appealed to the Land Use Board of Appeals (LUBA) who heard the appeal on the application, Crossing Trails Resort. The

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dropped their appeal. Therefore the only fee at issue in the proceeding was the $3525.00 paid on behalf of Alexander et al.

The Crook County Court held a hearing on this remand on October 6, 2010.

II. PROCEDURE ON REMAND AND CRITERIA

LUBA heard the appeal on this application, Crossing Trails Resort, after approval by the Crook County Court. The approval of Crossing Trails Resort was affirmed, however, LUBA remanded the appeal on the following issue:

Whether **"the $6,850 appeal fee the county charged to process their appeal was excessive. ORS 215.422(1)(c) limits the appeal fee a county may charge for land use permit appeals."**

Therefore the County Court only accepted testimony and evidence on this issue alone at the remand hearing.

The entire record at LUBA was also included in the record on remand. For ease of reference some excerpts were attached to the staff report.

III. WRITTEN TESTIMONY AND EVIDENCE SUBMITTED SINCE THE LUBA REMAND

Staff submitted a memorandum detailing the actual cost of the Crossing Trails Appeal ("2010 Actual Cost Memo"). *Exhibits to Staff Report pages 32-36.* LUBA found that the Court should have allowed *Alexander et al.* to submit the 2008 Staff Memorandum discussing appeals fees during the local appeal. Therefore that memorandum was also included. *Exhibits to Staff Report pages 37-58.* Staff also included an email dated August 25, 2010 from staff to appellants' attorney.

IV. ORAL TESTIMONY AT THE REMAND HEARING

In order to submit testimony or evidence persons or parties must have participated, either orally or in writing, in the local review process. The attorney for appellants, Jan Wilson as well as Mollie Eder and Gary Eder participated in the hearing on remand.

V. LEGAL CRITERIA

A. ORS 215.422(1)(c) (Emphasis added)

c) The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer, planning commission or other designated person. **The amount of the fee shall be reasonable and shall be no more than the**

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VII. CONCLUSION

The County Court affirms the imposition of the $6850 appeal fee and finds that the fee did not violate ORS 215.422(1)(c)

~~Dated this 20th day of October 2010.~~ Nov. 3rd, 2010

Crook County Court

Judge Mike McCabe

Commissioner Lynn Lundquist

Commissioner Ken Fahlgren

APPEAL OF DECISION
TO LAND USE BOARD OF APPEALS

The County Court Decision is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals. You must appeal to the Land Use Board of Appeals (LUBA), within 21 days of the date the decision became final which is October 20, 2010. For appeal information, contact LUBA, 550 Capitol Street NE, Suite 235 Salem, Oregon 97301-2552, 1-503-373-1265.